

Notice of Complaint

The University of Houston Student Government Association's Department of Justice is responsible for enforcing the law, defending the interest of the Student Government Association, and ensuring the fair and impartial administration of the Constitution and Bylaws of the Student Government Association.

Since the passing of the Resolution for Recall on October 6th members of the Executive and Legislative branch have repeatedly attempted to discredit the authority of the Attorney General to conduct and schedule the Special Election. The SGA constitution provides the Attorney General the authority to schedule and conduct the Special Election. In simpler terms, the Attorney General is solely responsible to direct the course of; manage or control a Recall Election. As the manager of the Election, I am responsible for ensuring the legality and integrity of this election.

I can no longer in good faith state this was a fair election.

The complete disregard the SGA Governing Documents, along with the Special Election Code's provisions on campaigning has now led to more than half of the senate to be suspended until the end of the year. Multiple stipend members have violated the code and defended their actions with nothing more than "I do not want to follow this." What SHOULD have been a procedure to remove one person from office, is now the end of this administration's ability to meet quorum for the remainder of the year.

The interference by members of SGA have provided a result that was garnered without respect to the Special Election Code. I cannot in good faith allow the evidence before me to not be considered an organized effort within this organization to influence the election in their favor. They have denied the student body the opportunity to have an unbiased vote.

The Attorney General has found multiple members of the 58th administration to have broken the following statues of the Special Election Code:

Article 4, Section 2, Clause 1: *A member of the Student Government Association may not participate in or assist an organization in campaigning on behalf of their cause.*

Article 4: Section 3: Clause 1: *No candidate, involved party or known associate of, may make threats towards any individual or group. This includes but is not limited to: physical threats, emotional threats, social threats, or any threat which might prove distressful to an individual or group's physical, emotional, and/or financial well-being.*

Article 4: Section 3: Clause 2: *No candidate, involved party or known associate of may offer anything of value nor threaten or promise any particular action to a member of the Attorney General, or a member of the Justice Department with the intention of incentivizing or causing undue influence in the recall election process.*

The Attorney General strongly believes the 58th administration to have broken the following statues of our bylaws:

Title I: Composition and Structure of the Senate: Article 2: Authority Limits: Section

2: No motion or vote within the Senate may suspend the rules within the Bylaws or Constitution without a Student Government Bill to amend the Bylaws being passed and enacted according to the exact process outlined in Title I, Article 10, Section 6, Clause 1 of the bylaws.

Title I: Composition and Structure of the Senate: Article 7: Committees of the Senate Section 4: Committee on Internal Affairs: Responsibilities of the Committee on Internal Affairs will include but are not limited to: Senate Appropriations, enforcement of the Student Government Constitution, Bylaws, Statues, and Rules, amendments of the Student Government Association Constitution, Bylaws, Statues and Rules.

Title IX: Code of Ethics: Article 2: Core Values Section 2: Acting responsibly: Student Government Association officials are aware that their decisions and actions affect the University of Houston as a whole, and therefore Student Government Association officials will hold each other accountable for the discipline and management of behavior becoming of a Student Government Association official.

Title IX: Code of Ethics: Article 4: Additional Provisions and Guidance: Section 1: No official will knowingly misrepresent the truth while acting in their capacity as an officer of the UH Student Government Association.

Title IX: Code of Ethics: Article 4: Additional Provisions and Guidance: Section 4: Each member must discharge their duties in good faith and with due regard for the welfare of the entire Student Body

Title IX: Code of Ethics: Article 4: Additional Provisions and Guidance: Section 6: Each Student Government official must represent both Student Government Association and UH in a dignified manner.

Title IX: Code of Ethics: Article 4: Additional Provisions and Guidance: Section 8: Each Student Government official, while acting in an official capacity, will represent the student body by maintaining a professional demeanor

Therefore, the Office of the Attorney General is using the guidance of the below statues to hold the administration accountable for their actions:

Title IX: Code of Ethics: Article 3: Accountability Section 1: Members of the Student Government Association should encourage their colleagues to adhere to the Code of Ethics by holding each other accountable while striving to be examples themselves. Members should ensure enforcement, while at the same time showing their commitment to the Code and Core Values to the rest of the Student Body.

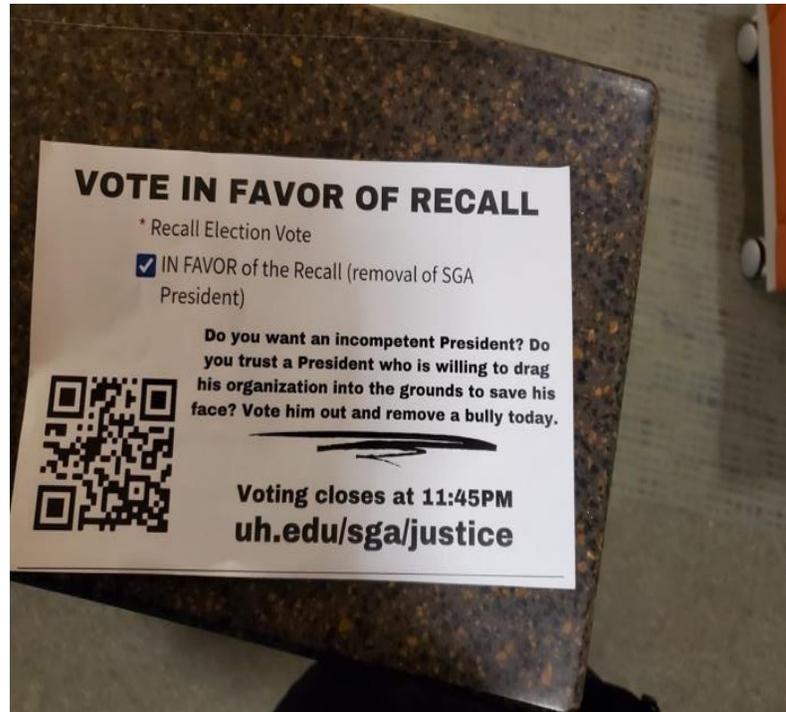
The following evidence that will show an organized effort within this organization to influence the election in by invalidating the Recall Election Code:

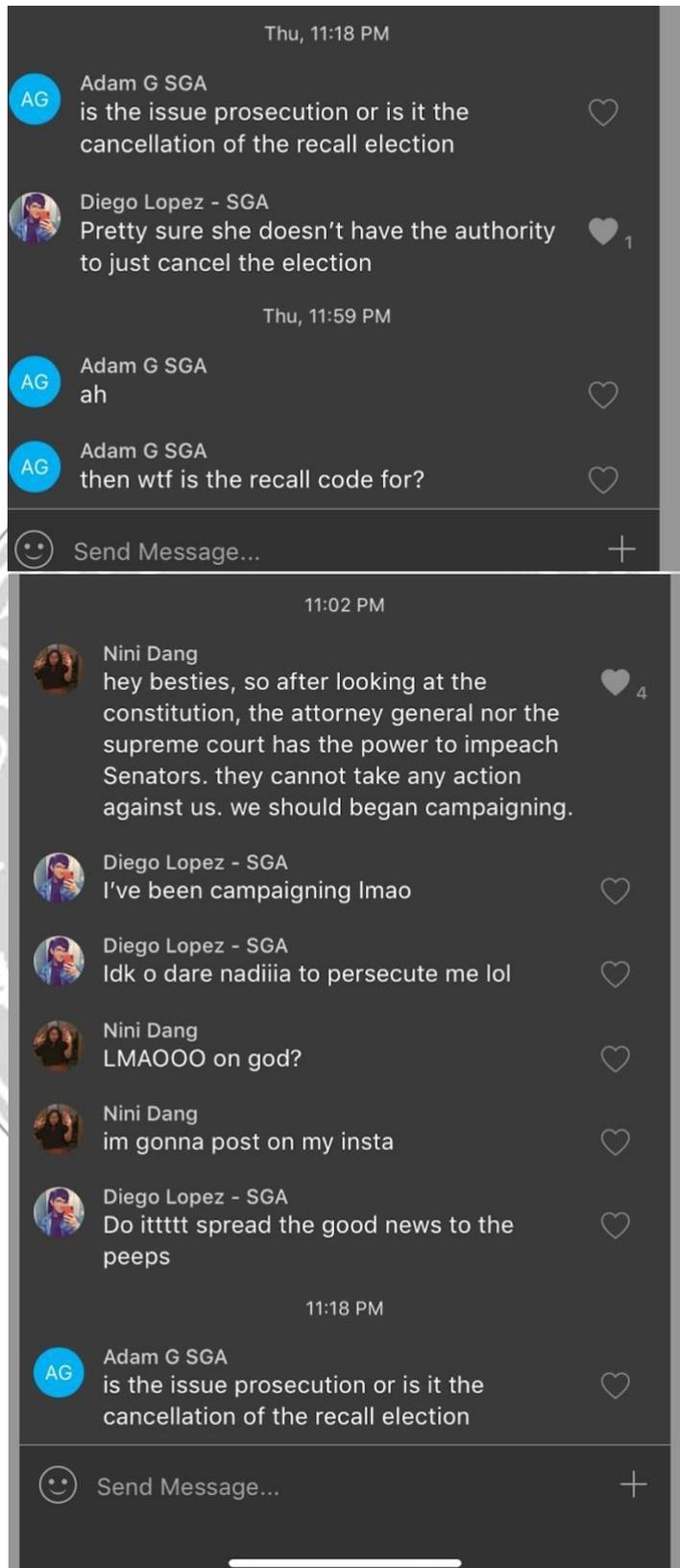
1. Attempted to illegally modify the Special Election Code through unconstitutional legislation¹
2. Actively participated in and organized campaigning efforts despite that being a violation of the code.²
3. Used statements in response to complaints to discredit and attack the Recall Election Code and the Attorney General rather than defending against the allegations in the complaints.

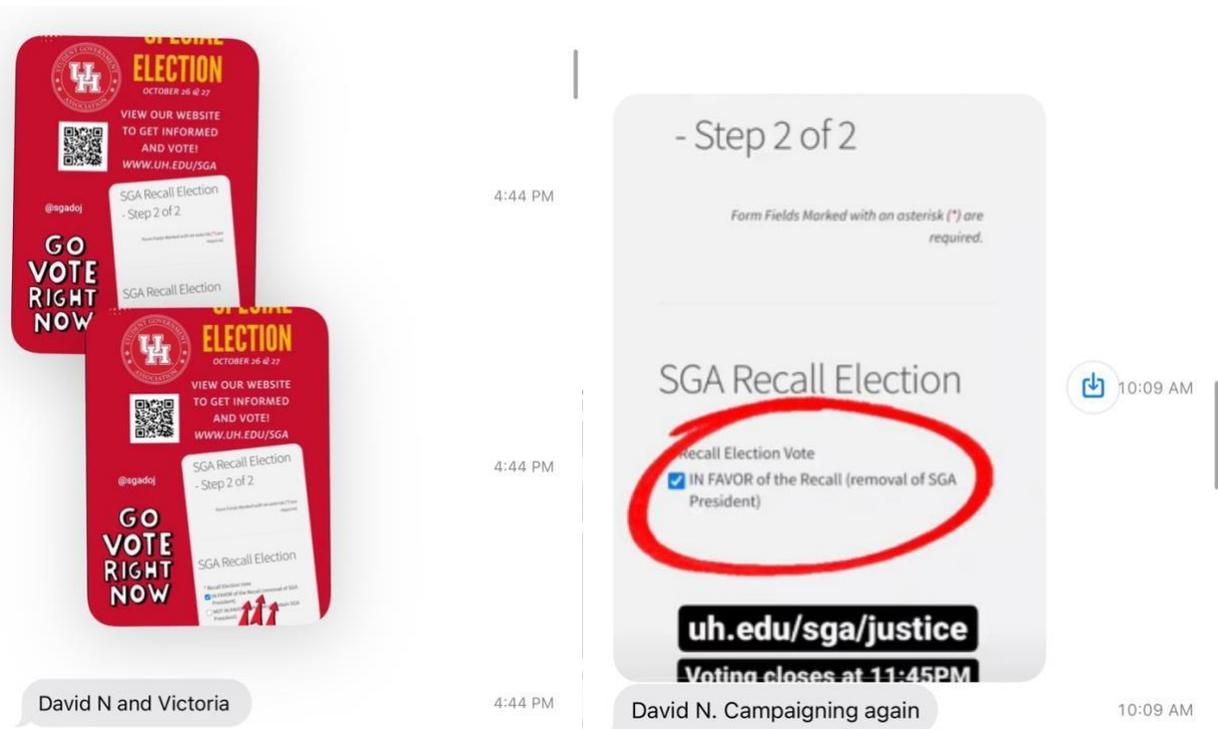
¹ Supreme Court Opinion 58-004 along with SGA Complaint 04.

² I would like to note that rather than filing complaints for the violations of their colleagues, they reshared them. This does not even fully encompass the campaigning efforts, just what was discovered.

4. Threaten the Attorney General to disregard the election code through multiple forms of intimidation and unprofessionalism. Directly affecting the emotional well-being of the chief manager of the election.







0 Views • 11h

Next >

The College Democrats at the University of Houston

recall election for the current SGA president, Arsalan Darbin. Many members of SGA hav...
reminder to vote in favor of recalling arsalan darbin! we love getting misogynists out of power 🍌

12:54 PM

Abe
Sophia ❤️ (Press Secretary)
reminder to vote in favor of recalling arsalan darbin! we love getting misogynists out of power 🍌 4

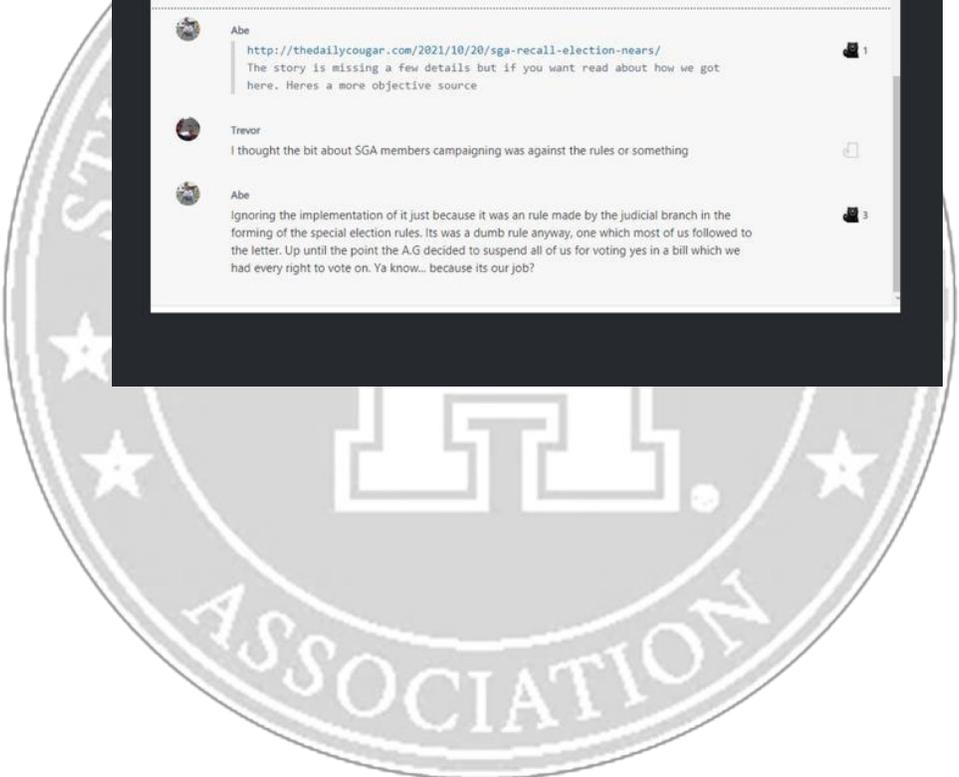
Hello everyone, in retaliation for passing a bill to address issues in the sga election code the Attorney General of sga has suspended 17 senators till December 31st. This is just another example in a long list of attempts to block senators from doing the jobs they were elected to do in a bad attempt to intimidate us. Some of the other things they attempted to do to us was to limit our speech, and not allow any member of sga to talk about recall except to say it was happening. Additionally has made no effort to apologize and learn from his mistakes, I implore you to vote yes on this recall so we can get rid of this incompetent bully of a president.

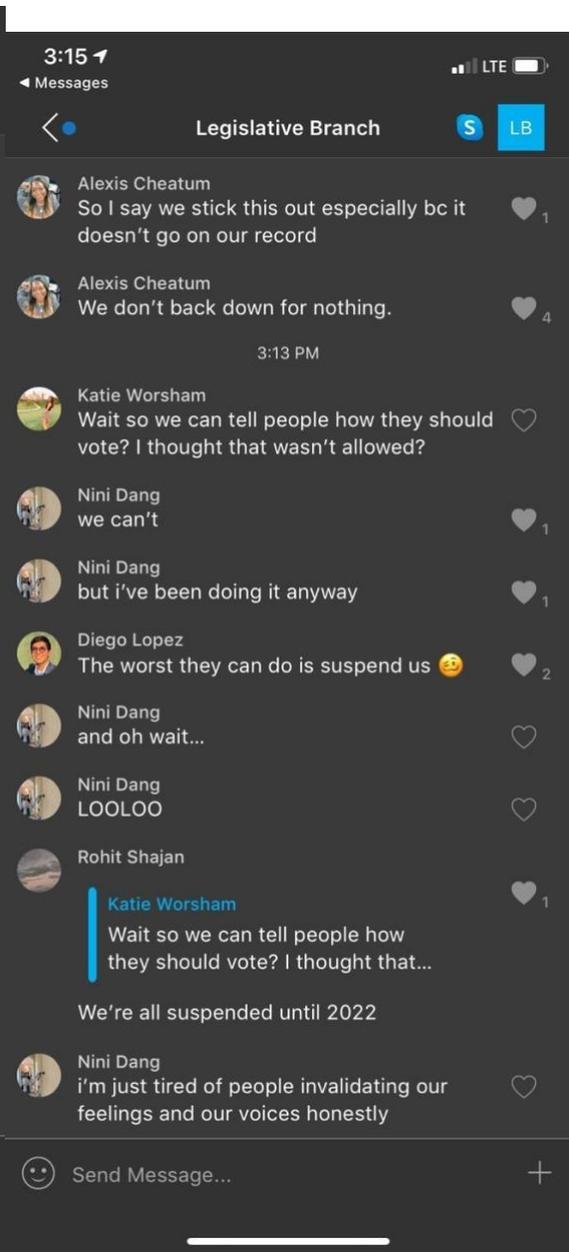
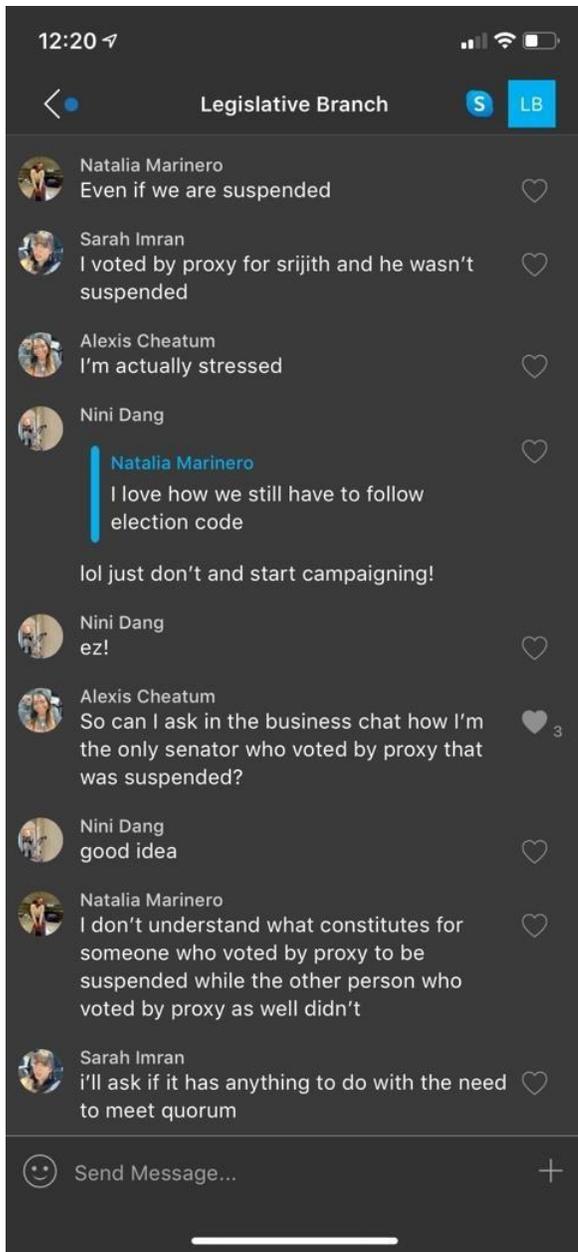
Alondra Torres
Just a reminder that the Supreme Court ruled that campaigning beyond the statements allotted is unconstitutional. 1

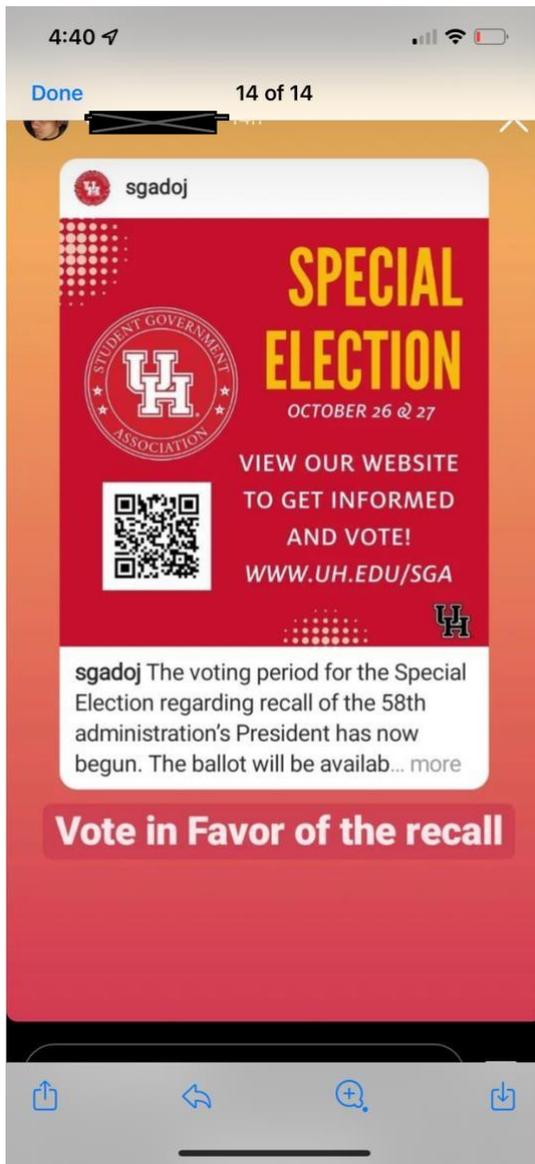
Abe
<http://thedailycougars.com/2021/10/20/sga-recall-election-nears/>
The story is missing a few details but if you want read about how we got here. Heres a more objective source 1

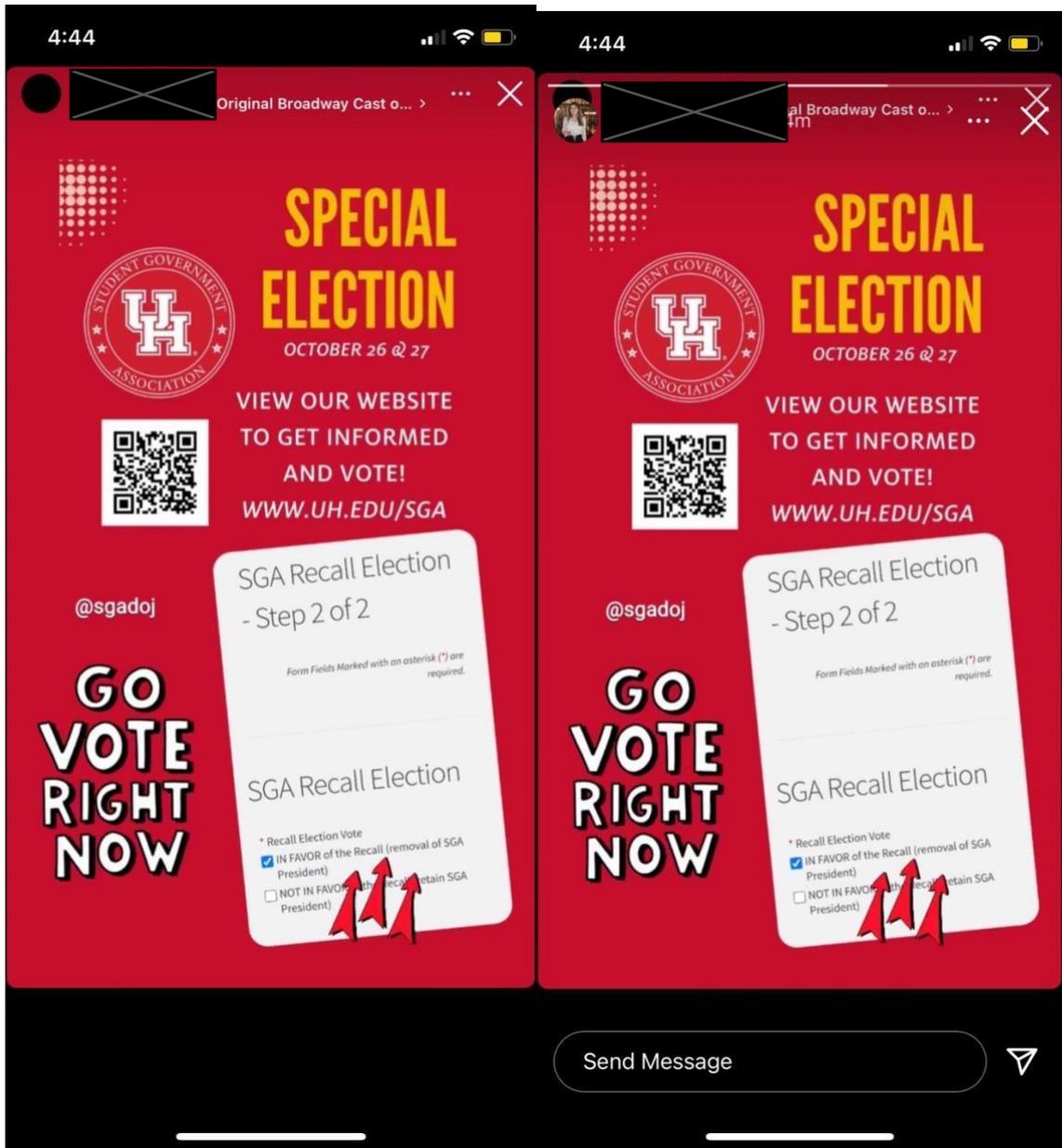
Trevor
I thought the bit about SGA members campaigning was against the rules or something 1

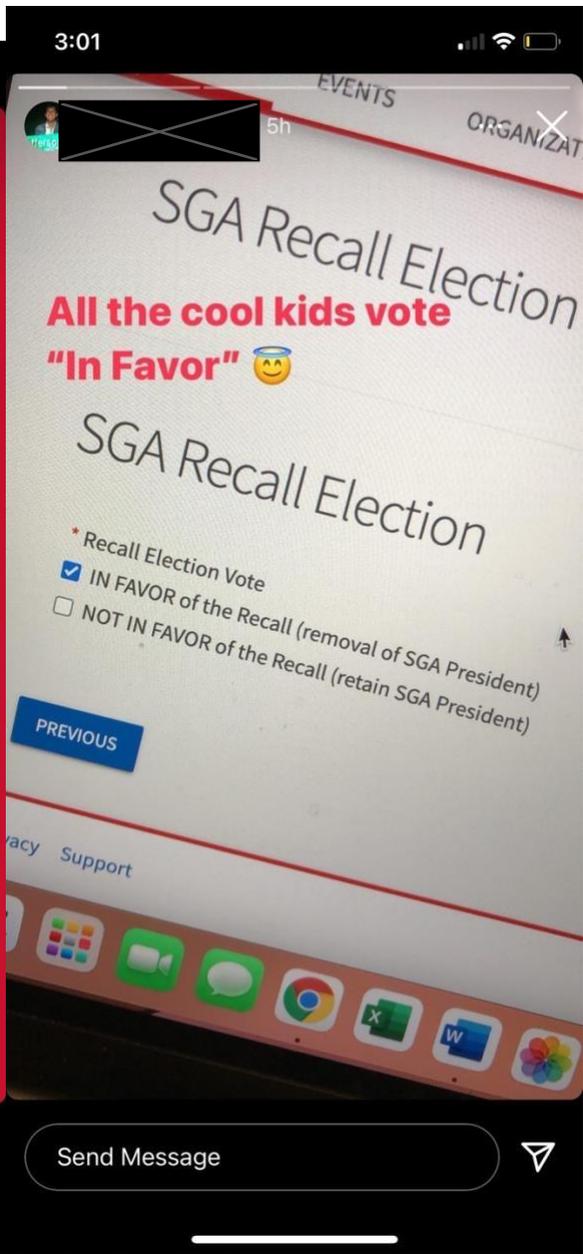
Abe
Ignoring the implementation of it just because it was a rule made by the judicial branch in the forming of the special election rules. Its was a dumb rule anyway, one which most of us followed to the letter. Up until the point the A.G decided to suspend all of us for voting yes in a bill which we had every right to vote on. Ya know... because its our job? 3

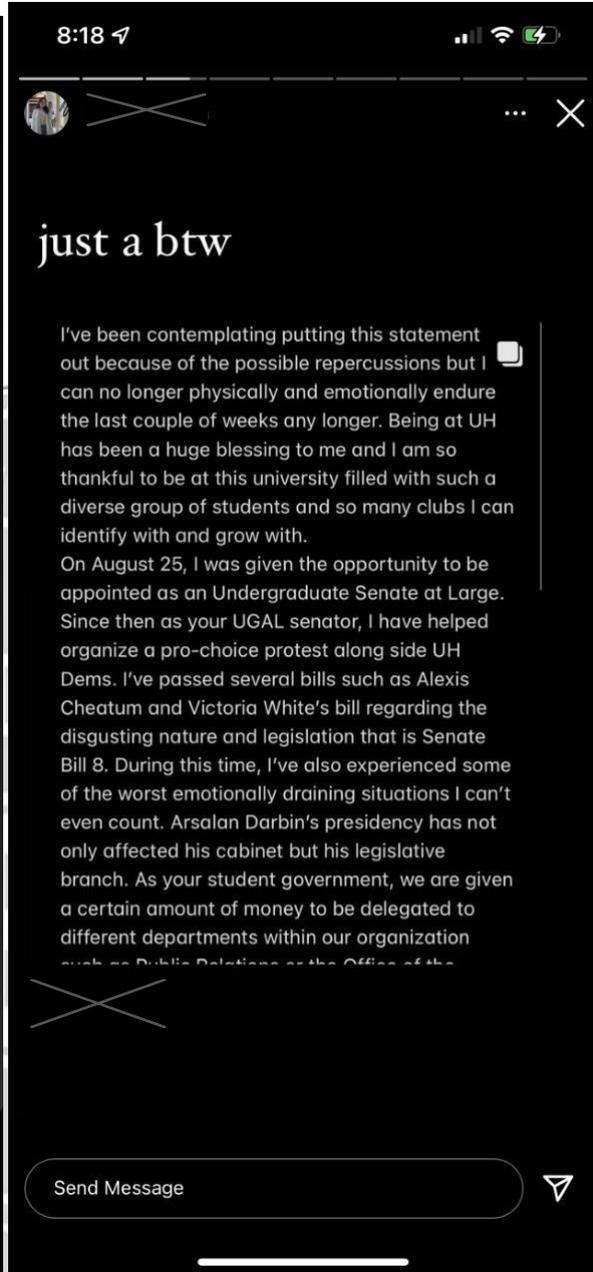
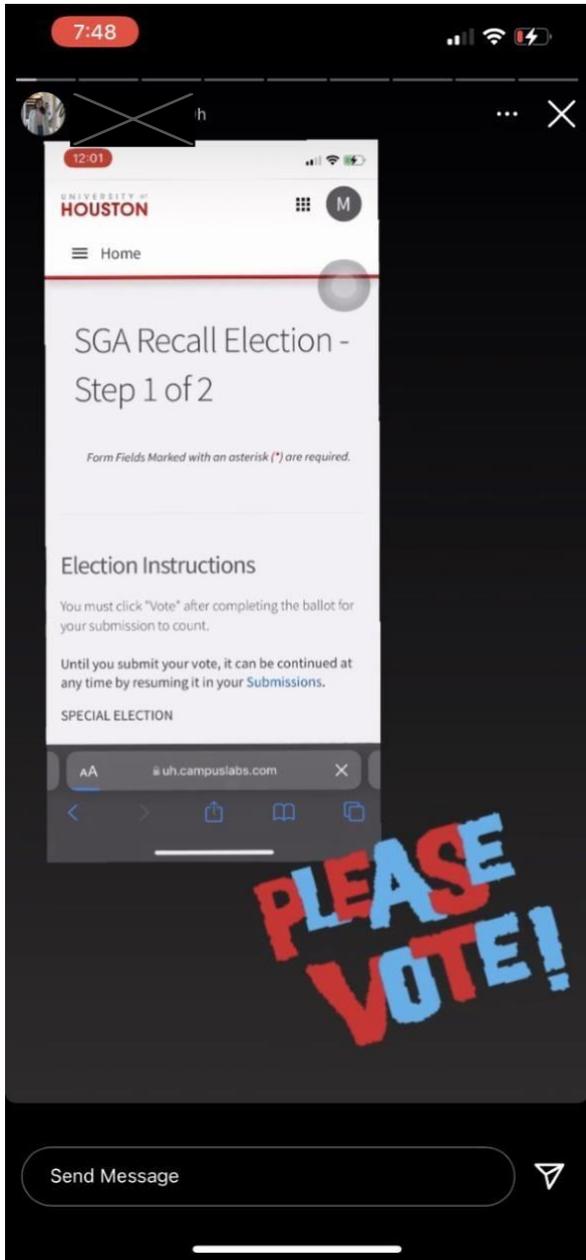


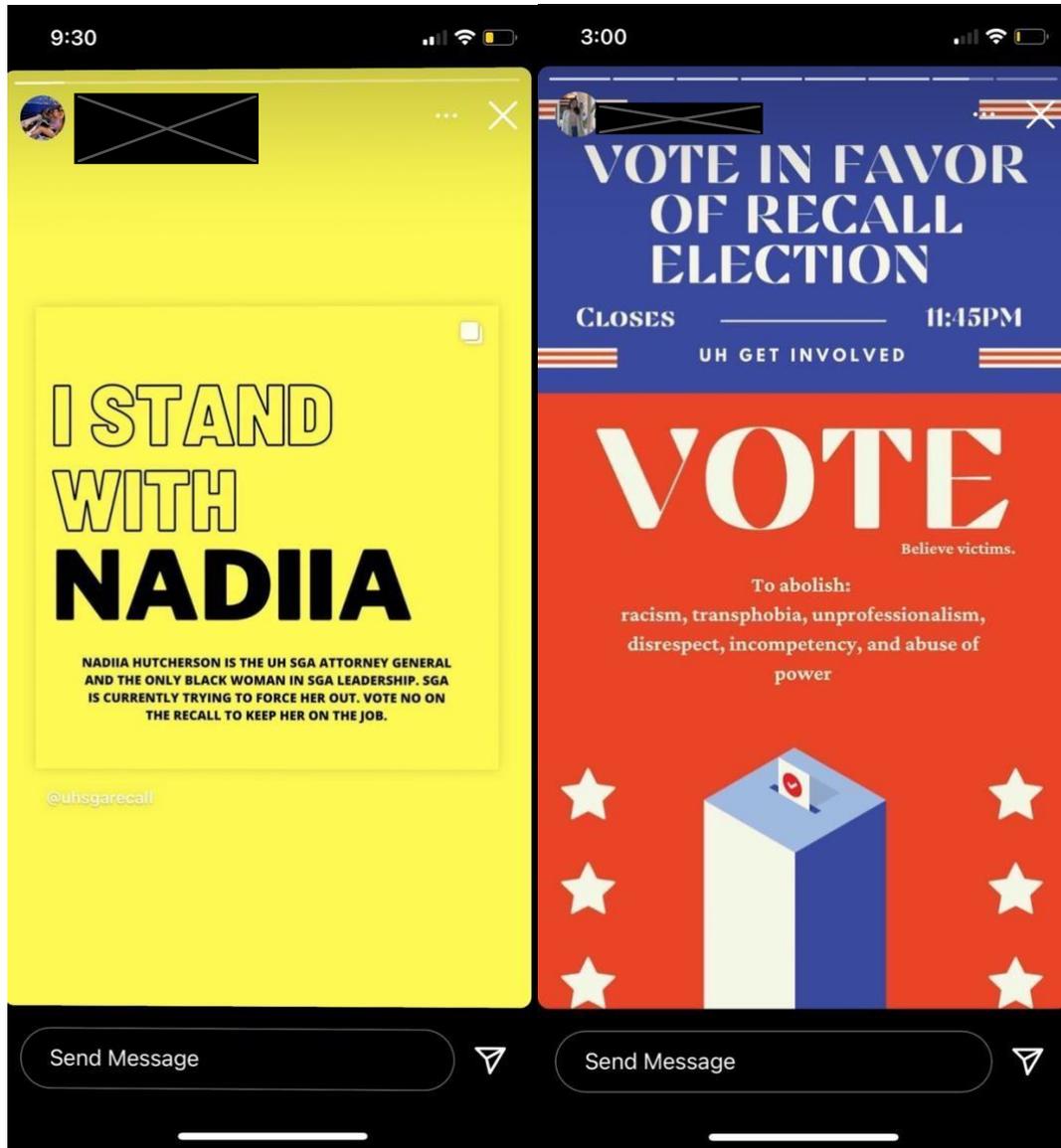


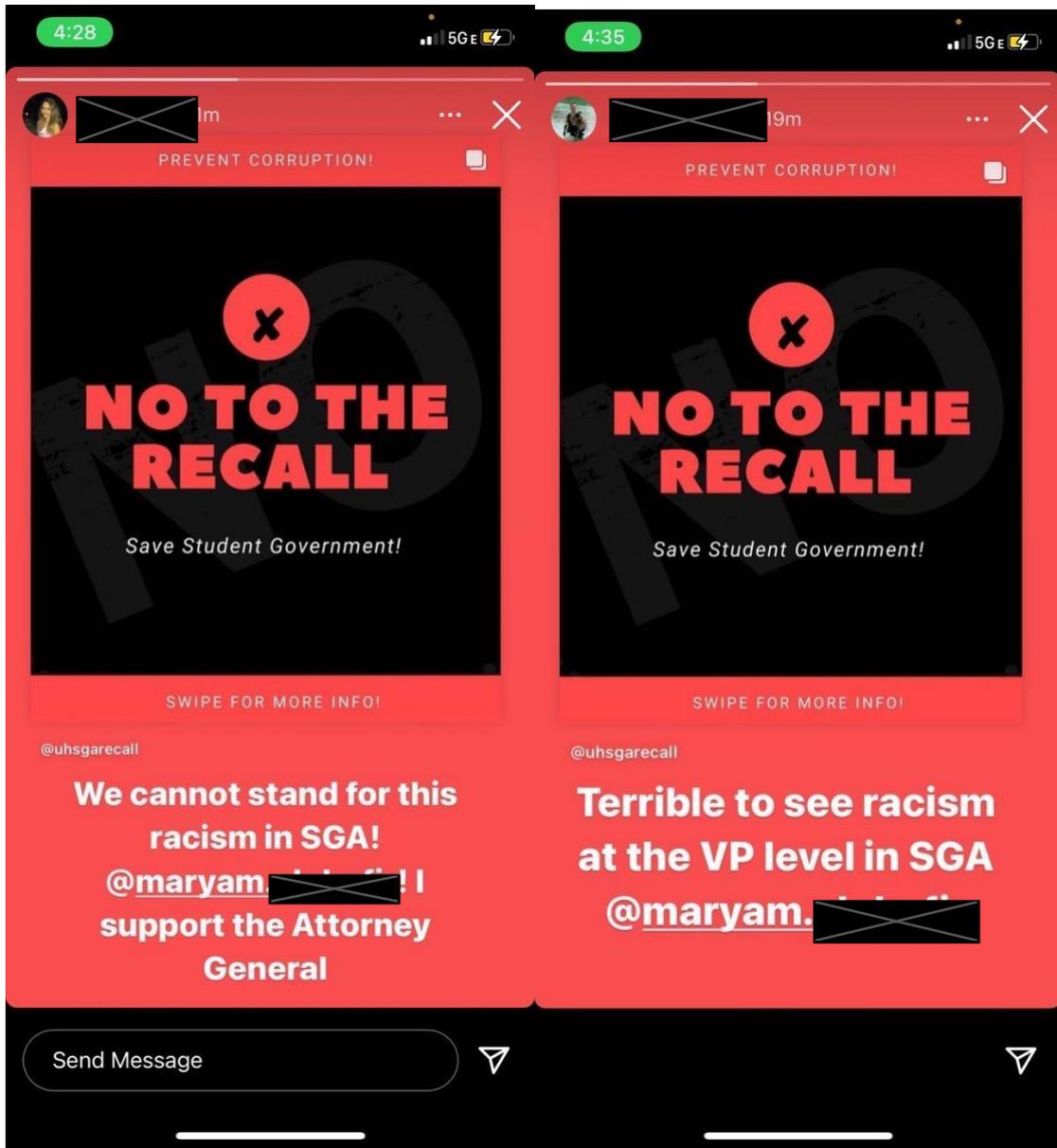














Hi @Nadiia Hutcherson , is there a specific code or reason other senators who voted by proxy were not suspended except for one? I need it to be broken down a bit more. 10

you spelt my name wrong @Nadiia Hutcherson 4

does that mean i'm not suspended? idk a navid hassan 5

Navid change your name before she fixes it lol 1

@Nadiia Hutcherson Can I get one too because I actually wanted to vote, but my sleep schedule got in the way 3

This chat is to be kept professional and harassment will not be tolerated. @Keith T. Kowalka 2

harassment? id say spelling my name wrong is pretty rude 3

Just asking a question, respectfully :) 1

This chat is to be kept professional and harassment will not be tolerated.... 2

I believe Navid, Alexis, and Omar have genuine concerns about what this suspension means. It's very unclear for all of at the moment.

7:14

5G



58th UH SGA: Social



5U

6:23 PM



Any update on the 5pm public announcement?



7:12 PM



Nadiia H.

Sure. Since my original message there are a number of violations of special election code.. what should've been an email just about that non-election related suspension is now a bigger issue that will be addressed tomorrow or Friday. I won't put a time frame on it.



The suspension referenced in the advisory opinion today is for voting on a bill that the court deemed unconstitutional. The vote on 10/20 and the legislative branch were aware of it at multiple stages within the bills process. Because there are questions regarding proxy voting I am having that list verified.

The complaint and the court decision are on the DOJ website. - the email regarding the suspensions was sent privately to those it applies to along with our advisor.

Any other questions that are expecting an answer from me should be in an email with Me, Chief Justice and Keith. 👍



Nadiia H.

Y'all have a good night. 💕



Damn imagine getting suspended for having an opinion



New Messages



Imagine getting suspended for voting 🤔🤔🤔🤔



Send Message...



3:18 ↗

◀ Search

< 58th UH SGA: Business  

 SGA Recall Election Code.pdf (789 KB)

 Nadiia Hutcherson
I have requested to have these documents shared with list-serv, and they will be on the website tomorrow morning. Goodnight.

   11

Oct 13, 2021 at 8:32 PM

3re... Ro... Da... Die... Nin... Sa... Vic... Om...

Wed, 8:51 PM

3:18 ↗

◀ Search

< 58th UH SGA: Business  

 Navid Hasan  11

Wed, 8:51 PM

 Karenina Urquieta
Hey y'all this is a reminder that if you have any suggestions to make to the Election Code (the normal one for the spring) to lmk by 8 am tomorrow, if you need more time reach out to me privately. All suggestions should be emailed to sgaelect@central.uh.edu  2

  impartial judiciary be like lemme support the president  7

Oct 13, 2021 at 8:51 PM

He... Da... Bre... Ro... Nin... Ab... Om...

 Karenina Urquieta



Corruption bad



Oct 13, 2021 at 8:59 PM



Da... Bre... Na... Nin...

11:51 AM

12:32



Wednesday
7:46 PM

Edit



Nadiia H.



Imagine people posting about stopping racism in the organization while... lol

Is that really the rational behind the suspensions?
Are you suspending racists or people that voted on a bill?



Nadiia H.

Omar Alhakeem



Is that really the rational behind the suspensions? Are you suspending ra...

that voted on a bill



Nadiia H.

i thought we were just sharing what was funny.. my bad



7. Describe in detail the alleged violation. *

Include the location, the act itself, and any such relevant facts.

Attorney General Hutcherson is in direct violation of the following clauses due to the following posts attached yesterday: Article 4 Section 1 Clause 1: Campaigning is defined as the intentional direct or indirect solicitation of votes, the purposeful bolstering of one's personal brand and/or name, and/or any form of personal, group, or mass advertising initiated by the candidate or involved parties with the purpose of effecting the Recall Election outcome. Article 4 Section 1 Clause 3: "Indirect solicitation of votes" is defined as an intentional attempt to obtain votes through materials that can be seen or heard by potential voters. First, I would like to point out that indirect solicitation of votes translates to soliciting votes by means other than direct communication. This could be in person, through text, by phone, etc. knowing that it will sway the votes in one way or another. Nadiia Hutcherson is spreading false statements and feeding propaganda concerning the Vice President being racist without any evidence. This is obviously a smear campaign against the Vice President to bolster Arsalan Darbin's reputation and solicit votes to him by putting blame on an unrelated party. To spell it out in the simplest terms, making the Vice President look like she is unfit to lead would make students vote to keep Arsalan Darbin in office. It is the job of the current acting Attorney General to investigate indirect solicitation of votes as they are not clear cut cases. They must consider what the consequences of the indirect solicitation are. In this case, it is clear that the Attorney General is purposefully trying to damage the reputation of the Vice President by releasing statements publicly to the Cougar without consulting with the Vice President. There is no evidence that the Vice President is racist nor has a comment ever been given in public by anyone including the Attorney General herself that the vice president specifically is racist or has said or acted in a racist manner. This came directly in response to the recall. In addition, the Attorney General has teamed up with Daniel John's and the UH College Republicans to spread these lies to further bolster Arsalan's image. Let us not forget that the Attorney General herself publicly said several times that Arsalan Darbin is her friend. In addition, the Attorney General spends a lot of her time with the president. Arsalan is continuously found with the Attorney General in her office DURING a recall election. The Attorney General is supposed to remain impartial during this time but it is clear that she has chosen a side and taken action upon that. If these claims were true, why did the Attorney General opt out of consulting with her advisors or consulting with EOS. Why did she not bring these claims up earlier? Why is it now? Is there any evidence to actually back up these claims? Or is it just because it goes against her political interest as she pretends to be impartial?

Under Article II, Section 2.01 in our UH SGA Constitution, SGA cannot “abridge the rights, immunities, or privileges granted to students under the Constitution of the United States of America, the Constitution of the State of Texas, U.S. federal law, or the laws of the State of Texas”. In these past few weeks, I have felt as if my constitutional rights have been violated as I have been suppressed from responding against personal attacks and slandering or making a simple post on my personal Instagram. I find this witch hunt game that the President, his involved friends, and the Judicial Branch are playing very foolish and a waste of valuable time. Suppressing victims' truths, stalking members' social media, suspension of an entire branch for doing their jobs, violating constitutional rights, attacking democratic principles; Is this all necessary? The corruption has plagued the impartiality that you all so claim to have. First, we throw away our governing documents, and now the Department of Justice is suppressing the very freedoms that American society was founded on. I have every right to post to my private social media page. I have neither directly or indirectly campaigned. Campaigning is defined as an organized effort which seeks to influence the decision making process within a specific group. My effort was not to influence but merely a statement of my opinion. If that is flagged as a campaign violation, I personally do not know what is left of the integrity of the Judicial Branch. It is sad when democracy is not being practiced but completely abused by power hungry, selfish individuals.

In addition, regarding the second complaint, the post was only up for about 20 minutes before I removed it and yet someone was so stealthy and quick to screenshot and had so much free time to submit a report. Rather than stalking people's accounts, I would advise whoever is targeting and going after me and my colleagues to put use of that time elsewhere. This is all but a petty war waged by those who are trying to save face against silenced victims.

Good morning! Hope all is well with you and that you are taking care of yourself. Like I said before in the evidence provided, I knew there would be consequences sooner or later and I no longer care about the repercussions against me. It is unfair and unjust that I cannot campaign about an election that has led to harassment towards me and others. It's unfair that the people directly affected by this situation cannot use their own voice to speak up on what happened to them. I think it's goofy that I even have to defend myself by speaking up. Just yesterday, I received almost five flyers from individuals saying to vote no on the recall. I've seen a website slandering people who weren't even involved as much as I was. This whole election code should have been amended with the changes that Senator Moeller and Senator Shajan created. There is again NO REASON why I shouldn't be allowed to speak. Have a good day!

Sincerely,
Mahny Dang
University of Houston | Class of 2022
March For Our Lives | Outreach Director

Attorney General Hutcherson,

Ignoring the fact that the Attorney General is not responsible for filing or receiving complaints, outside of the election season, I will continue with my defense.

As stated in the University of Houston Student Government Association (UH SGA) constitution, under Article II, Section 2.01, UH SGA cannot, "abridge the rights, immunities, or privileges granted to students under the Constitution of the United States of America, the Constitution of the State of Texas, U.S. Federal Law, or the laws of the State of Texas." It is my opinion that my rights have been violated here. In order to examine whether or not my rights have been violated, one can examine previous Supreme Court Cases, which ultimately are the benchmark for the U.S. Constitutional interpretation. First and foremost, the case of *Tinker v. Des Moines*. In this case, a group of students found themselves suspended from school, simply for wearing a black armband in protest of the Vietnam War. The parents of these students sued, and eventually appealed their case to the Supreme Court. The court, in a 7-2 opinion, reasoned that students, "did not lose their First Amendment rights to freedom of speech when they stepped onto school property,"¹ and that, in order to curtail such speech, "the school officials must be able to prove that the conduct in question would "materially and substantially interfere" with the operation of the school."² Seeing as I made posts to my personal Instagram account, off school property, and on my own accord, this could not possibly violate any aspect of that opinion. The Recall Election Code, drafted by the Attorney General, expressly contradicts this opinion, in preventing anyone in UH SGA from campaigning, while allowing other students to campaign without fear of repercussion. Seeing as campaigning, and spreading information, is an essential element of an election, students should be allowed to campaign for whomever they choose, without fear of repercussions. Myself, and my fellow colleagues in SGA have effectively found ourselves silenced, and in fear of our jobs, under an Attorney General who has admitted to seeing other students campaign, and has done nothing about it. And, as of this morning, 17 of our Senators have also found themselves suspended indefinitely, all for simply voting on a bill that was presented at a senate meeting. This whole process presents a massive overstep of power, a violation of the First Amendment of the U.S. Constitution via *Tinker v. Des Moines*, and, by extension, a violation of the UH SGA Constitution.

Either all campaigning can continue, or none of it can continue, however, seeing the massive sum of flyers that have been distributed on President Darbin's behalf, and the Attorney General's knowledge of such flyers, it would be foolish to assume that ending campaigning wholesale would be the correct course of action. Therefore, in the spirit of democracy, and upholding the constitution, which both things the Justice Department should (in theory) favor, campaigning should continue. It makes no sense that I get punished for a post on my private instagram account (which no DOJ member nor the president have access to), while Daniel Johns and his colleagues continue to spread false claims and misinformation against fellow cabinet members and members of the senate. If you claim to be impartial, then actually show that. Take action against these misinformation spreaders, and uphold the truth, as you all claim

¹ <https://www.oyez.org/cases/1968/21>

² <https://www.oyez.org/cases/1968/21>

to do. These people, such as Mr. John, not only are spreading misinformation, but are hurting the reputation of SGA within the UH community. In an opinion, authored during the most recent election, Chief Justice Eddie Muñoz set the precedent that parties or individuals can be held accountable for the actions of their supporters in an election. Therefore, it is my opinion that if I am facing a suspension for a post on my personal, private instagram, President Darbin should face the same punishment for flyers that are obviously created and distributed on his behalf. If you claim to be impartial, uphold the law for both sides of this election, do not attack myself and my colleagues simply for existing within the Student Government Association and exercising our freedom of speech. This is a gross violation of our rights to freedom of speech and privacy. I urge the Department of Justice to consider what impartiality means, and to consider the consequences of silencing every member of this organization.

Brendan J. Bennett



Good afternoon,

Thank you for sending me a notice of this complaint at 9:00 am on a Monday and for so graciously giving me 5 hours to respond on a weekday. I find it malicious to be sending this out on a Monday when students are busy and expect me to respond before the end of a class day. This is not sufficient time to defend one self and you should take that into consideration as an impartial party. This is telling of your character knowing that you threatened me with a complaint Wednesday night in front of the entire university as our meetings are public.

I have been accused of violating the following clauses:

Article 4: Section 3: Clause 1: No candidate, involved party or known associate of, may make threats towards any individual or group. This includes but is not limited to: physical threats, emotional threats, social threats, or any threat which might prove distressful to an individual or group's physical, emotional, and/or financial well-being.

Article 4: Section 3: Clause 2: No candidate, involved party or known associate of may offer anything of value nor threaten or promise any particular action to a member of the Attorney General, or a member of the Justice Department with the intention of incentivizing or causing undue influence in the recall election process.

I would like to clarify that the images used against me for this accusation actually have nothing to do with the recall of Arsalan Darbin. As attorney general, I ask that you look at the source before coming to your final decision. The images referenced are specifically about the content mentioned on the uhsgarecall.com website. If you look, this website is calling for a recall against me and several other members of SGA. This has nothing to do with the current recall. This recall has still not been put into place officially and therefore I do not fall under this Recall Election Code you cited.

Furthermore this is an issue between me and a non-sga member and to my recollection both you and our advisor Keith, have stated that matters between SGA members and non-sga members that do not fall under the Recall Election Code are for me to handle separately without intervention of SGA. If however, by chance the person creating the website is an SGA member then this would be in direct violation of the campaigning clause:

Article 4 Section 1 Clause 1: Campaigning is defined as the intentional direct or indirect solicitation of votes, the purposeful bolstering of one's personal brand and/or name, and/or any form of personal, group, or mass advertising initiated by the candidate or involved parties with the purpose of effecting the Recall Election outcome.

In the end you should be investigating who is putting up this website and interfering with the recall election by spreading false information about me. You are targeting the wrong

person. SGA should work to protect its members against this type of bullying and harassment, not against them. It is clear that Daniel John's worked in collaboration with someone from SGA, notably Arsalan to campaign against election code and smear the reputation of other SGA members including myself. I ask you to answer a simple question. Who benefits from this website? The answer is clearly, Arsalan Darbin. I have spoken to CAPS about this issue as it has taken a toll on my mental health as well as my academics and they have referred me to EOS and to speak with Dr. Maxwell concerning the issue. I have spoken to EOS and they have informed me that they will be investigating the matter and that I may file a formal complaint if necessary.

Finally, I am glad that this issue has been brought to light through this complaint. You should be investigating who is behind such a website that holds false claims against numerous members of SGA and also asks for private information like student UH ID, majors, colleges, names, emails, etc as this is a threat to everyone's safety. It is clear that someone had to feed Daniel Johns information regarding personal matters within SGA. The only person who holds that knowledge and would be supportive of the stance of the website is Arsalan Darbin. This is clear campaigning.



The Recall Special Election Code drafted by Attorney General Hutcherson is simply a university organization document. This code by no means supersedes the Constitution of the United States of America, the Constitution of the State of Texas, US Federal Law, or the laws of the State of Texas. The First Amendment of the Constitution of the United States of America guarantees my right to freedom of speech and freedom of expression, while also barring laws that abridge my freedom of speech and freedom of press. There is a witch hunt occurring for those “in favor” of recall, while those not in favor have been unchecked in their campaigning thus far. I am extremely uncomfortable with the way my social media is being stalked by the Department of Justice and the SGA account via President Darbin. I am disheartened at the way the Recall Special Election Code has been exercised, the vagueness in the definition of campaigning, the suppression of my voice – even against slander, and the blatant violation of my First Amendment right. I am asking for fairness in sanctioning, for my right to due process to be recognized, and for the Department of Justice to reflect on what their motivations are in this recall and what end game they are trying to achieve.

With respect,



Nadiia Hutcherson

Attorney General

