

Name of Complainant

Leo Cavinder

Emaillcavinde@iu.edu**Date**

Feb 23, 2025

Complaint

The campaign period for the Spring 2025 election period began on February 11, 2025 (see RB § 3-3-1(c)). At 12:00 AM, both the ACTION and COMPASS tickets painted bridges, with ACTION taking the one near the Neal-Marshall Black Culture Center (see attached Photos A, B, C) and COMPASS taking the one near the Hudson & Holland Scholars Program/East Parking Garage.

The ticket candidates (i.e., Zach Goldberg and Ava Smith) and their staff stayed up until roughly 4:00 AM on 11th to paint the bridge by Neal-Marshall and one of the bridges by the Student Health Center. The ticket came back out the next day and spent an additional roughly two hours painting letters on the bridges. Further, the cost to paint the bridges was \$272.90, 13.645% of ACTION's budget.

ACTION took the bridge near the Neal-Marshall Black Culture Center because the ticket had scheduled days to table near it. Voters would be able to see the purple bridge with "ACTION" and a table nearby with ACTION campaign materials, giving voters an incentive to come up and ask questions, such as what ACTION is.

On February 23, 2025, ACTION became informed at around 5:00 PM that people were painting over the bridge claimed by ACTION. Specifically, they were painting over the entirety of the bridge in red and white spray paint: "VOTE EMPOWER MARCH 3RD – 5TH ON BEINVOLVED!" (see Photo D).

RB § 3-8-10(a)(2) makes it an election violation for any person or ticket to deface, destroy, remove, or otherwise alter campaign material of a candidate or ticket. EMPOWER did not seek written consent from ACTION to paint over the bridge as required under the bylaw (see RB § 3-8-10(a)(2)).

EMPOWER may argue that there was a similar instance last year (i.e., where FUSE painted over UNITED's bridge) and that complaint was dismissed, and, as a result, find that the conduct is acceptable. However, we reject that claim for several reasons. First, the claim last year may not have been addressed to the same standard of scrutiny nor involve the exact same circumstances. Second, dismissing a violation one year does not set a precedent for allowing violations to occur in the future. Allowing the defacement of campaign materials this year would undermine the integrity of the election rules that are designed to protect campaign materials. Regardless of the similar complaint last year, upholding this election rule is necessary to reinforce its deterrent effect—ensuring that all candidates have equal protection of campaign materials. So, while we acknowledge the dismissal of last year's complaint, this complaint should be accepted this year to maintain the integrity of the election rules and to prevent the normalization of defacing campaign materials.

Further, EMPOWER may argue that they asked several people who informed them that it was permissible to paint over the bridge. We note that they did not seek an advisory opinion (see RB § 3-7-7.5) asking if their planned act to paint over the bridge was permissible, and, as such, they assumed the risk by not doing so.

We believe that this defacement warrants a more severe instance of campaign interference, a Class C election

violation. First, as noted earlier, the campaign and its staff spent a significant amount of time, roughly six hours combined, outside in cold weather to paint the bridge. Unlike designing a flyer or writing chalk, painting a bridge is a significant and deliberate action that requires significant planning ahead of time. Second, we note the substantial financial expense it takes to paint a bridge. Again, this was not cheap chalk nor a ten-cent piece of paper, but rather weather resistant paint. If this does not qualify as a more severe instance of campaign interference, then we do not know what would.

For all the reasons listed herein, we respectfully request that the panel award six (6) points to the EMPOWER ticket for their engagement in campaign interference with respect to the bridge near Neal-Marshall.

We note for the panel that another complaint has been filed for the bridge near the Hudson & Holland Scholars Program/East Parking Garage. We respectfully urge the panel to maintain its precedent of taking each instance of prohibited behavior and weight it separately, not collectively (see, e.g., UNITED v. Election Commission, SBSC-2024-03, finding that two GroupMe messages without an opt-out were two separate instances of prohibited election conduct).

Citation

RB § 3-8-10
