ASUCI JUDICIAL BOARD

"All judicial authority of ASUCI shall be vested in the Judicial Board. The Judicial Board's authority shall extend to all judicial cases arising under [the ASUCI] Constitution; the various by-laws of ASUCI; all official actions of the Executive Officers, Legislative Council members, and ASUCI Commissioners; and any matters delegated to the Judicial Board by the Legislative Council."

JUDICIAL RULING ON R49-90

Associate Justice Lozano delivers the unanimous opinion of the Judicial Board.

Upon reviewing ASUCI legislation during its meeting on Tuesday, May 6, 2014, the ASUCI Judicial Board has found fault with Resolution 49-90, "Engineering Representative" (R49-90). The Board therefore issues this ruling regarding the resolution.

The Judicial Board possesses the authority to "interpret all parts of [the ASUCI] Constitution."[1] All legislation passed by the Legislative Council must be "necessary and proper … according to [the ASUCI] constitution."[2]

The Constitution creates an Elections Commission, which is generally composed of the Executive Vice-President, one Elections Commissioner, and three Deputy Elections Commissioners.[3] "Control of all elections and related activities shall rest with the Election[s] Commissioner, as empowered by the Election[s] Code",[4] which is created by the Legislative Council.[5]

The Elections Code states that a "special election" shall be held "in the event it is decided that a re-election is necessary because of disqualification of one or more but not all candidates" for a position.[6] While the Code does not specify who would make such a determination, the Constitution's broad grant of authority to the Elections Commissioner makes clear that the Commissioner holds the responsibility and authority to make any elections-related determination not otherwise properly delegated in ASUCI governing documents.

After the Fall 2013 ASUCI elections, the Elections Commission, appropriately utilizing authority granted to it by the Constitution and Elections Code,[7] determined that a special election should be held for the position of Engineering Representative.[8] Once the Commission has made such a determination, it is the Legislative Council's immediate responsibility to set the date and time for said special election.[9] Any expression of approval or disapproval by the Council in regard to the special elections process should be

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[1] *ASUCI Constitution*, Article VI, Section B(1)
[2] *Id.*, Art. IV, Sec. B(1)
[3] *Id.*, Art. IX, Sec. A(1)
[4] *Ibid.*
[5] *Id.*, Art. IV, Sec. B(9)
[6] *ASUCI Elections Code*, Art. IX, Sec. C
[7] As the ASUCI Constitution grants "control of elections" to the Elections Commissioner, not the Elections Commission, the Judicial Board generally understands the Elections Commission as acting under the direction of the Elections Commissioner, except in circumstances where ASUCI governing documents indicate otherwise.
[8] "[The] Elections Commission feels that the circumstances allow for a "Special Elections" [*sic*]". *ASUCI Legislative Council Resolution 49-43, "Fall Elections 2013 Special Elections"*
[9] *ASUCI Elections Code*, Art. IX, Sec. D

understood as merely symbolic.

In spite of the fact that the Council officially took note of its responsibility to schedule a special election,[10] the Council did not, in fact, schedule a special election. Instead, at a later date, the Council voted to approve R49-90, which purports to have a candidate "be duly appointed to the open Engineering Representative seat on ASUCI Legislative Council until the end of Fall Quarter 2014."

Such action constitutes an attempt to overrule the Elections Commission's decision on the necessity of a special election. Therefore, this resolution does not "accord [with the] Constitution",[11] as it infringes upon the Elections Commissioner's Constitutionally-granted authorities.

In addition, the Board has previously ruled that the minutes of a Legislative Council meeting must contain "each Council member's vote on [a] resolution and which members, if any, were not present for the vote", as required by the ASUCI Legislative Council By-laws, in order for a resolution to be considered valid.[12] As of the date of this ruling, the minutes[13] of the May 1, 2014 Legislative Council meeting do not follow these requirements in regard to R49-90. Even more egregiously, the vote count for R49-90, as displayed on the Resolution,[14] does not currently match the count listed in the minutes.[15]

The Judicial Board has determined that R49-90 is in contradiction with the ASUCI Constitution and Elections Code. Due to these issues relating to the resolution, the Board has unanimously voted to take action. Utilizing the authorities vested in it by the Constitution, the Board hereby declares that Resolution 49-90, "Engineering Representative", is not in effect and its implementation is barred.

IT IS SO ORDERED

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Oluwatobi Agbelemose, Vice-Chair

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Seena Forouzan, Chair

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Annette Lee, Justice

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Myron Lozano, Justice

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Kevin Tanaka, Justice

[10] "Let it be resolved, that Legislative Council approve a "Special Elections" [*sic*] for the office of Engineering Representative, to be held at a date determined by the Legislative Council". *ASUCI Legislative Council Resolution 49-43*
[11] *ASUCI Constitution*, Art. IV, Sec. B(1)
[12] *Judicial Ruling on R49-57*
[13] *http://www.asuci.uci.edu/legislative/minutes/print.php?id=403*
[14] "YEA: 10 NAY: 0 ABS: 0". *http://www.asuci.uci.edu/legislative/legislations/print.php?cnum=R49-90*
[15] "motion to call to question: i. 11 ii. 0 iii. 0". *http://www.asuci.uci.edu/legislative/minutes/print.php?id=403*