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 R50-27

The Judicial Board delivers this opinion unanimously.

Upon reviewing ASUCI legislation during its meeting on Wednesday, December 11, 2014, the ASUCI Judicial Board has found fault with Resolution 50-27, "Appointment of ASUCI At-Large Representative" (R50-07). The Board therefore issues this ruling regarding the resolution.

The Judicial Board possesses the authority to "interpret all parts of [the ASUCI] Constitution." A.S. Const. art. VI, § B, cl. 1. All legislation passed by the Legislative Council must be "necessary and proper … according to [the ASUCI] constitution." A.S. Const. art. IV, § B, cl. 1.

ASUCI is responsible for "foster[ing] recognition of the rights of students." A.S. Const. preamble, ¶ 2. The Constitution enumerates certain "basic rights of students", and "it is binding on ASUCI to recognize … and … protect" those rights. A.S. Const. art. XII, § A. The fifth enumerated right is "the right to influence decisions which affect them." A.S. Const. art. XII, § A, cl. 5.

The Constitution states that "Legislative Council membership *shall be* apportioned in the following manner: Elected Membership," "Ex officio, non-voting membership," and "Appointed, non-voting membership." Appointed members consist of representatives from "officially recognized governing bodies." Ex officio members consist of the Executive Cabinet. Elected members consist of "at-large" members as well as members representing Academic Units. These provisions create exclusive and exhaustive Legislative Council membership categories; no other type of Council membership may be created. A.S. Const. art. IV, § C (emphasis added).

R50-27 purports to appoint a Legislative Council member to represent the undergraduate student body at large. However, the Constitution states that such at-large representatives "shall be *elected by and from* the undergraduate students at-large." A.S. Const. art. IV, § C, cl. 1 (emphasis added). In other words, this provision requires that a) at-large Council members must be undergraduate students at the time of their election and b) the exclusive method of selecting

at-large Council members is an election in which the electorate is the undergraduate student body.

The Resolution at hand states that "it is the duty and responsibility of the ASUCI Legislative Council [as] outlined in the Constitution and the Legislative Council By-Laws to fill any vacancies by appointment." Res. 50-27, cl. 2. This is correct in that the Legislative Council By-laws lay out a process for filling vacancies on the Legislative Council by appointment. *See* A.S. By-laws (III)(E). However, the Constitution does not lay out such a process for Council vacancies. As we explain above, the Constitution requires an election as the exclusive method of selecting at-large Council members. As by-laws are established under the authority of the Constitution, by-law provisions cannot override Constitutional requirements. *See* A.S. Const. art. IV, § A; *see also* A.S. By-Laws (II)(A). Therefore, we find that R50-27 violates Article IV, Section C, clause 1 of the ASUCI Constitution.

The selection of an at-large representative on the Legislative Council is clearly a decision which affects the undergraduate students. ASUCI is "the official undergraduate student government body." A.S. Const. art. I. The Council is "the supreme policy-making body" thereof. A.S. Const. art. IV, § A. The Council also "appropriates all ASUCI fee income." A.S. Const. art. IV, § 2. Voting ASUCI members (i.e., undergraduate students) are required to pay the ASUCI fee. A.S. Const. art. II, § A. Therefore, the constitutional clause specifying elections "by and from" the undergraduate student body to select at-large representatives is in furtherance of the students' "right to influence decisions that affect them." We therefore find that R50-27 violates Article XII, Section A, clause 5 (the "Fifth Right") of the ASUCI Constitution.

Additionally, the Legislative Council is required to "keep a journal of its proceedings which shall be published." A.S. By-Laws (III)(B)(9). These published proceedings "must contain each Council member's vote on a resolution and which members, if any, were not present for the vote … in order for a resolution to be considered valid." *Judicial Ruling on R49-90* (internal quotation marks omitted). The text of R50-27 states that it was passed at the November 25, 2014 Council meeting; as of the date of this ruling, the minutes of that meeting do not include any mention of the Resolution.[1,2]

The Judicial Board has found that R50-27 violates the ASUCI Constitution. Using the authorities vested in the Board by the Constitution, we hereby declare that, as of the date of this ruling,

---

[1] http://www.asuci.uci.edu/legislative/minutes/print.php?id=428

[2] The November 20, 2014 Council meeting agenda (http://www.asuci.uci.edu/legislative/agendas/print.php?id=208) also lists R50-27 as an agenda item. As of the date of this ruling, however, no minutes have been published for the November 20 meeting.

Resolution 50-27, "Appointment of ASUCI At-Large Representative," is not in effect and its implementation is barred.[3]

IT IS SO ORDERED

_____

Oluwatobi Agbelemose, Judicial Board Chair

_____

Annette Lee, Judicial Board Member

_____

myron lozano, Judicial Board Vice Chair

_____

Kevin Tanaka, Judicial Board Member

[3] The Vice Chair reiterates their position on the status of unilateral Judicial Board rulings, as stated in *Judicial Ruling on R50-07*.