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"

DECISION ON FORMAL HEARING of R51-63 and R51-65

Upon holding a formal hearing on Tuesday, March 15th, 2016 at 6:30pm, the Judicial Board has heard and reviewed the arguments, vital evidence, and testimony of the plaintiffs Rosales and Holland, and Defendant Phan, on petitions for R51-63: *Student Center Fee Initiative* and R51-65: *Anteater Media Collective (AMC) Referendum*, Chair Lee, Vice-Chair Barton, Justice Grubbs, and Justice Shantharaj reached the decision listed below.

The decision of the board is as follows: The Judicial Board has the power to review and deem unconstitutional any of the clauses within subordinate documents to the Constitution. With this power of Judicial Review, the Board has decided to strike down Article VII Section D of the ASUCI Bylaws:

> "*If a council member abstains on a vote, that member is voluntarily refraining from voting. Abstentions are therefore non-votes and shall not be counted as either yes or no, but shall count in the total number of votes,"*

due to its inconsistency with the ASUCI Constitution. By removing this inconsistency Judicial Board has then defined what an abstention vote means - it does not count towards the total number of votes required. Furthermore, the Judicial Board has defined what a "Formal Vote" of ⅔ of Legislative Council means. This is defined as the total number of council seats (vacancies included) with the number of present abstentions subtracted from that number and then it must be ⅔ majority of that number.

This number was reached by Judicial Board because it was determined, after striking down Article VII Section D of the Bylaws, that abstentions aren't counted towards the total number of votes necessary for a ⅔ majority. Thus, it is the total number of seats with the number of present abstentions subtracted. Likewise, vacant seats and non-present members do not have a vote, but due to the necessary representation of academic units, the seats are counted in the total number of seats of Legislative Council. They are non-votes. Therefore, it is not voting by proxy because they are not voting at all, nor are they counted as an abstention which would influence the results one way or another. Judicial Board reached this number through careful consideration of all arguments.

For R51-63, the vote required for the legislation to pass will be calculated as follows:

26 total seats - 1 abstention= 25 total seats, ⅔ of that is 17 votes.

Thus, R51-63 passes with a vote count of 17-2-7 where one member abstained. .

For R51-65, the vote required for the legislation to pass will be calculated as follows:

26 total seats - 1 abstention= 25 total seats. ⅔ of that is 17 votes.

Thus, R51- 65 fails with a vote count of 16-2-8 where one member abstained.

The Legislative Council, represented by Defendant Phan, was not at fault in regards to the procedures followed in conducting the vote on legislations R51-63 and R51-65. The Judicial Board would like to go on to commend the ASUCI Legislative Council for seeking the legal advice of the ASUCI Judicial Board prior to conducting the vote, as the language behind the voting procedure was vague. It was in their best interest and within their constitutional power to seek help from the Judicial Board on this matter. We hope that the Legislative Council will continue to seek advice when they come across language that is vague. Legislative Council is an vital part of student government as they serve to represent the voices and needs of the students.

The Judicial Board also commends both plaintiffs Rosales and Holland for following the procedures necessary to petition the voting on the legislation, and for appealing to the Judicial Board. By utilizing their rights as constituents, the plaintiffs were able to seek justice in a constitutional matter and allow due process to take place.

In reviewing the petitions submitted by plaintiffs Rosales and Holland on R51-63 and R51-65, the Judicial Board sees it fit to take action based on the petitions and arguments provided. In reviewing the language in both the ASUCI Constitution and the ASUCI By-Laws, the Judicial Board invokes its constitutional power of Judicial Review and has chosen to strike down Article VII, Section D of the ASUCI By-Laws, due to its inconsistency with the Constitution and its implicit voting by proxy. Furthermore, it has decided the proper interpretation of the language, “Formal Vote of ⅔ of the Legislative Council” which is specified by the voting formula above. Therefore, Judicial Board has answered the Constitutional question that was brought before the board and its interpretation will be followed from here on.

IT IS SO ORDERED.

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Annette Lee, Chair William Joe Barton, Vice-Chair

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Samuel Grubbs, Associate Justice Suchith Shantharaj, Associate Justice