ASUCI JUDICIAL BOARD

"The Judicial Board has final judicial authority for ASUCI, which extends to all cases arising under the governing documents of ASUCI, all official actions of ASUCI officials and staff, and any matters delegated to the Judicial Board by the Senate or Student Advocate General."

JUDICIAL RULING ON Gandall V. ELECTIONS COMMISSION

Justice Lee writing of the majority, in which, Justice Anderson, Justice Fuoroli, Justice Khosravi join. Justice Shantharaj abstains.

Upon reviewing the *Petition against Unjust Exclusion,* submitted by plaintiff, Kimo Gandall, on December 15th, 2016, Judicial Board convened on Wednesday, January 11th at 5pm to interview the plaintiff and reached a decision on the petition on Wednesday, January 18th, 2017.

In the case of *Gandall v. ASUCI Elections Commission,* petitioner, Kimo Gandall, has requested the ASUCI Judicial Board to review and overturn the ASUCI Elections Commission's decision to bar him from running in ASUCI's Winter 2017 special election and from his positions as a Senate Intern and ASUCI Health Representative - due to his status as an extension student. The plaintiff argues that under Article 2, section 1, subsection (a) of the ASUCI Constitution, "any person registered as an undergraduate student during the fall, winter, spring, or summer quarter or as an extension student at the University of California, Irvine may be a member of ASUCI", thus giving him the ability to become an ASUCI member. However, under Article 2, section 2, it states that "a student becomes a member by paying the ASUCI fee", but as an extension student, there is no established system for extension students to pay the fee.

Gandall v. ASUCI Elections Commission, has raised questions about the status of extension students under the ASUCI constitution and the power they hold. Due to the lack of clarification on definitions and processes, the ASUCI Judicial Board has carefully evaluated the Constitution, along with the petition and evidence presented to make its decision. After an extensive deliberation, the Judicial Board reached a conclusion that affirms the Elections Commission's ruling on the ineligibility of the plaintiff to be a senatorial candidate in ASUCI election.

Although extension students are mentioned in the Constitution, the intent of the Constitution to include extension students is to ensure they receive the same basic rights as students listed in Article 3, section 1, subsection (e) to (t). These rights are to ensure their academic freedom and rights to education are protected. However, some rights, such as conducting research and participating in ASUCI in Article 3, section 1, subsection (a) to (d) are reserved for solely for UCI undergraduate students. Thus, the Judicial Board deems that in the aforementioned sections, the ASUCI Constitution has different provisions for its

undergraduate students and extension students; thus the privileges that apply to the former do not necessarily apply to the latter.

In addition, the Judicial Board deems that participation in elections for Senate, Executive Cabinet, and the Office of the Student Advocate General comes with the same requirements as those allowed to vote for those positions. It is a logical argument that a student, regardless of academic standing and campus involvement, that is not allowed to vote in a general election may not run for candidacy in that same election. Thus, under the current Constitution, if the plaintiff were given a method to become a full member of ASUCI through a special-circumstance payment of the ASUCI fee, he would still be ineligible to run for elected ASUCI positions.

The ASUCI Constitution, in its current form, does not include seats and positions for extension students. Representation in the Senate and other ASUCI positions are calculated and created solely based on the undergraduate enrollment numbers; therefore, giving a seat to an extension student would take representation away from UCI undergraduate students - that it, representation that is meant to be filled by a member of the undergraduate students. If extension students were given the eligibility to run for positions in the future, special seats would need to be allocated for them to ensure equal representation.

The Judicial Board would like to clarify: while it sustains the decision of the Elections Commission, it encourages the ASUCI Senate to reevaluate the current Constitution and its legislative gaps, contradictions and ambiguities that this petition have brought to light. The Board recognizes the merit of amending the Constitution to account for the extension student population at UCI that, while not serving as members of the undergraduate student body, are still students, subject to the same environment and policies that all registered students are subject to. The case brought to the Judicial Board was called a "Petition against Unjust Exclusion". This aptly named and comprehensively written document highlights that the Constitution, in its ambiguous and oftentimes confusing wording, indirectly paves a path towards that very exclusion. This is something to keep in mind in the discourse that follows this decision.

Utilizing the powers vested in the Judicial Board by the ASUCI governing documents, we hereby declare the decision of the Elections Commission constitutional, mindful of the precedent this decision sets for future cases.

IT IS SO ORDERED

Annette Lee, Chief Justice

Laura Anderson, Associate Justice

Kooshan Khosravi, Associate Justice

Michael Fuoroli, Associate Justice