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 R53-25: Creation of a Representative Seat for Extension Students

DISNEY, J., delivered the opinion of the Board, in which all other Members joined.

VICE CHIEF JUSTICE DISNEY delivered the opinion of the Board, in response to Gandall's petition to review the constitutional validity of R53-25.

Senate Resolution R53-25 establishes non-voting seats on the Senate for the purpose of representing organizations and officially recognized bodies on campus. The resolution creates six (6) such seats at maximum at any given time, reserving one for a representative of the University of California, Irvine Extension students, who holds "the rights to motions, authorship, and access, partake in closed sessions during or outside of Senate meetings, write reports on behalf of the Senate with due permission, to petition the Student Advocate General or Judicial Board within their official capacity, and to participate in non-binding polls or the division of the house in a non-voting capacity" (paragraph 11).

The Judicial Board has previously ruled on the place of extension students in ASUCI, and the Board's position has been consistent. In *Gandall v. Elections Commission (Winter 2017)*, the Board stated that, while there are not currently any positions in ASUCI for extension students, the constitution or By-Laws could be amended to include representation for extension students while preserving the constitutionally established precedent that extension students are not officially a part of the undergraduate class at UC Irvine. It is the opinion of the Judicial Board that Resolution R53-25 makes amendments to this effect to allow for the inclusion of extension students in the representative process.

I

It has been previously established in Article II, § 2 of the ASUCI Constitution that extension students are

currently substantially limited in their ability to acquire representation and participate in ASUCI, though their right to membership in the student government is ratified by Article II, § 1(a). The Judicial Board expressed their opinion in *Gandall v. Elections Commission (Winter 2017)* that this discrepancy in the constitution could be easily adjusted via a comprehensive amendment. The addition of a non-voting seat for extension students balances the concern of allowing a student who is not directly economically contributing to the activities of ASUCI to hold a position of legislative power while still upholding the ideal that all undergraduate students should have representation.

The Senate previously expressed concerns that, in order to create an ex-officio seat to represent a previously established group, the permission of this group was required. In this case, the Senate believed they must consult the Division of Continuing Education (DCE) in order to grant extension students ex-officio status. To address this concern, ex-officio observer seats can be created without any required request or consent from the organization or body that they are representing at the Senate's discretion. This extends to any major organization or entity whose members request such ex-officio status in the Senate, and any further addition of this nature is up to the Senate's discretion.

II

A

The Judicial Board is in concurrent opinion with the author of the legislation in that ex-officio representatives may hold all duties and privileges of an elected Senator with the exception of voting rights. As was discussed in Part I, Article II, § 2 prohibits extension

students from holding elected office. Any further senatorial rights shall be granted as many of them are not constitutionally granted specifically to elected Senate members. Article 6, § 2(a) specifically grants the Senate the express power "to enact legislation for the welfare and interest of the undergraduate students." According to the predominant interpretation by the Judicial Board, this passage gives the Senate the sole power to pass legislation via a vote, but not necessarily the exclusive power to draft legislation, as the constitution only discusses votes on legislation but not drafting. This implies that the Senate could choose to accept legislation drafted by any person, regardless of membership in Senate, may draft and present legislation to be considered, while the Senate maintains the exclusive ability to pass this legislation. By this reasoning, if the Senate can accept legislation drafted by any student, there is no constitutional issue with permitting ex-officios to draft and present legislation.

Furthermore, because the By-Laws specify that the Senate must hold public meetings while allowing scheduled time for any public comments, the Senate is therefore authorized to allow ex-officio participation as well, including contributing to debate and motions. The Senate would be justified in concluding that any fairly representative structure should allow the representative of each group to be able to participate in discussion for the purpose of promoting that entity's interests and providing its members with a voice in government.

We therefore hold that powers the Constitution expressly grants to the Senate shall remain limited to *bona fide* senators, though the Senate has the discretion to create seats with other powers.

B

R53-25 resolves that the only voting privilege allotted to ex-officios is that of a poll vote for the purposes of roll call. These votes shall also be made available to the public along with the votes of the bona fide Senators so that students may see how their representatives voted. This poll vote is defined at "any vote which is not binding to the passage of any resolution, bill, or impactful, legally binding substantive vote" (paragraph 13). By this definition, this poll vote can not be considered part of any quorum vote necessary to pass a bill. This will not affect quorum fulfillment or procedure in joint committees, however, as joint committee membership can be expanded at the Senate's discretion according to the ASUCI By-Laws.

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We reiterate that this issue is one that can be resolved by the Senate at its own discretion. The proposed amendments included in R53-25 are within the Senate's jurisdiction to enact, and our opinion reflects that these amendments are fully constitutional given the aforementioned qualifications. Any further amendments to this resolution may be internally discussed by the Senate, who may consult with the Judicial Board regarding any changes. Thus, if this resolution is passed by the Senate in its current form, its adoption will be accepted by the Judicial Board and our ruling on the matter shall stand.

It is so ordered.

Suchith Shantharaj, Chief Justice

Reece Disney, Vice Chair

Roxana Bokaei, Associate Justice

Aviel Menter, Associate Justice