ASUCI JUDICIAL BOARD

Alex Wang,

v.

John Robb,
Ivan Fonseca,
Reema Saad.

Petitioner represented by Mr. Anthony Mansfield.
Defendant represented by Ms. Aleena Malik.

Ruling

Dated: October 26th, 2020

Synopsis:

On October 6th, 2020, petitioner brought suit against defense alleging violations of the ASUCI Bylaws. Specifically, petitioner alleged that the ASUCI Senate attempted to unlawfully circumvent the process in the Bylaws to amend the budget, as enumerated in §7.3.4 and §27.1. Defendant also insisted that R56-19, R56-27, and R56-28 were unlawful on procedural grounds, therefore requiring the Senate to maintain regulations under the current bylaws. On October 6th, under *Mansfield v. Senate* (2020), the Judicial Board, ruling the Senate in contempt for violating an order of the Court, struck down R56-19, R56-27, and R56-28, thereby, on grounds of a lack of standing, eliminating their consideration from this case. On October 6th, the Judicial Board issued a preliminary injunction against the legislations in question, R56-22 and R56-23. On October 12th, the Court extended the injunction, until October 19th. On October 12th, Chief Justice Gandall set the date of the preliminary trial to be held on Wednesday, October 14th. Defendant responded on October 14th in oral arguments that the Senate was merely following the orders of the administration, and that such administrative orders superseded the process found in the bylaws. On a grant of certiorari, the Judicial Board held: (1) that R56-22 and R56-23 explicitly violate provisions of the Bylaws and therefore are unlawful and must be overturned; (2) that administrative problems that de facto prevent legislation from being implemented do not justify ignoring the processes found in the bylaws, wherein parts of the legislation are lawful; (3) that unlawful parts of a legislation may be severed to permit implementation of lawful elements, if the unlawful elements are administrative in nature, and not elements of the ASUCI governing documents.

Gandall, K., Craw M., Knight L., Mendez H., Wolfe J., Ortiz N., and Lopez M., joined the majority.

Chief Justice Gandall delivered the unanimous opinion of the Judicial Board,

On October 6th, 2020, Alex Wang, Senate President (herein petitioner) brought suit against the ASUCI Senate, alleging violation of the ASUCI Bylaws for the passage of R56-22 and R56-23 (Appendix A). Specifically, petitioner alleged that the ASUCI Senate attempted to unlawfully circumvent the process in the Bylaws to amend the budget and rescind prior budget appropriations, as enumerated in §7.3.4 and §27.1. Petitioner also argued that R56-19, R56-27, and R56-28 were unlawful on procedural grounds. Petitioner finally requested that President Pro-Tempore Reema Saad and the authors of R56-22 and R56-23, John Robb and Ivan Fonseca, be added as defendants. Defendants objected, arguing Wang must provide his own representation because his status as Senate President required him to represent himself as well as the Senate.

On October 7th, the Judicial Board met and made several preliminary determinations. First, the Board ruled that, pursuant to injunction 04, requests for hearings on R56-19, R56-27, and R56-28 lacked standing. The Board therefore rejected these elements of the petition. Second, the Board concurred with petitioner's request to add defendants, holding that petitioner had standing to sue President Pro-Tempore Reema Saad as well as authors John Robb and Ivan Fonseca. Third, the Board, citing the *Damavandi* precedent, concurred with the petitioner's request for an injunction against R56-22 and R56-23 on showings of reasonability and potential irreversible harm caused by the large expenditures of resources. Finally, the Board ordered a preliminary hearing on October 12th.

On October 12th the Board met. Upon a motion by the defense to defer the trial, the preliminary hearing was delayed to October 14th. On October 14th, Court was held. The Judicial Board determined, furthermore, that no formal hearing was necessitated and therefore immediately moved into deliberations.

This case has three fundamental legal discussions. First, given the number and impact of injunctive power, a more formal thorough legal ruling is offered to their implementation and consistency. In doing so, we specify the standards to which reasonability and harm are to be reached. Second, the extent of and how to interpret orders by the administration is discussed, and as we show, such regulatory mechanisms are handled differently in severability than the constitutional prerogative set by Justice Gerald in *JUDICIAL RULING ON R54-38* (2018). Third, we discuss the application of the ASUCI Bylaws §7.3.4 and §27.1 and their subsequent violation by R56-22 and R56-23.

Accordingly, R56-22 and R56-23 are hereby overturned, with the provisions related to such under prior legislations either declared unlawful, or, as specified, declared legal and sent to be implemented by relevant administrative bodies.

I.

The Court opens our analysis by reviewing the relevant context that each legislation is set in, along with the lengthy and necessary legislative background for arriving at today's ruling.

First, we review the background to R56-22, "Budget Correction." On May 21st, 2020, Senator Lindsey and Elsherif brought before the Senate CR55-06, "The 2020 Lindsey-Pavey Budget Omnibus," which constituted the annual ASUCI budget appropriations. The act was then amended on May 26th under the B55-21 "[Updated] Lindsey-Pavey Budget Omnibus," which was notably approved only immediately before the Senate passed a new set of bylaws under R55-83, "The 2020 Bylaws Transparency and Efficiency Act." In doing so, the Senate acted with the explicit goal to provide extensive procedural safeguards for what the authors deemed, in citing Chief Justice Disney in Judicial Ruling on R54-03, a compelling interest "to protect and foster minority political voices." In effect, these new bylaws, amongst various other processes, not only required under §27.1 that one-third of all annual appropriations go towards clubs, but also created a full prohibition against amending the annual budget, unless through a positive recommendation by all Joint Committees and a unanimous vote of 30 Senators by the Senate: "The Annual Budget may not be amended, and may only be rescinded by a positive vote of thirty (30) properly seated Senators. Prior to any motion to rescind, Senators must request a positive recommendation from all Joint Committees." §7.3.4. As a result, the budget was essentially de facto set for the 2020-2021 academic year, unless several extensive procedures for amendment were properly met.

Two problems allegedly emerged from the legislation, as contended by defendants and professional staff. Specifically, on August 19th, Robert Schumm, ASUCI Associate Director of Finance and Business Operations, sent a memo to the Senate and Executive offices arguing that the B55-21 "[Updated] Lindsey-Pavey Budget Omnibus," not only put ASUCI into a small deficit of $3,434.00, but violated the ASUCI Bylaws §27.1 of the ASUCI Bylaws by allocating $700,000 rather than $581,757.34 to ASUCI's RCO distribution committee, Student Programming Funding Board (SPFB) (Appendix B). As a result, Schumm contended in his memo that a new budget amendment would need to be passed to reallocate funds within the existing budget to meet the requirements of the bylaws and solve the deficit.

Following these recommendations, the Senate passed R56-22, "Budget Correction", that reappropriated vast sums of funds from different departments, in effect meeting the guidelines set forth by the Schumm memo. Petitioner Wang, subsequently, pleaded to the Court that the legislation violated §7.3.4 of the Bylaws by ignoring the statutory requirement of a positive recommendation by all Joint Committees and a unanimous vote of 30 Senators.

Second, the context of R56-23, "The University Compliance Act," and subsequent attempts at repeals of various legislations it is associated with are noted. On February 4th, 2020, Senator Bryce Lindsey and Ryan Salatti introduced B55-04, "The 2020 Student Infrastructure Investment Act", which invested in various physical infrastructure projects, Registered Campus Organizations (RCOs),

as well as providing a complex student subsidy scheme for private grants and parking appeals. Most impactfully, the act appropriated a total of one million, one hundred thousand dollars ($1,100,000).

On April 2nd, 2020, Senator Bassam Elsherif and Joshua Wolfe submitted B55-12, "The 2020 Student Life Investment Act", which invested in physical assets for the Disability Service Center. The act, aimed at supporting the welfare of students, thereby appropriated two hundred and fifty thousand dollars ($250,000) to various pieces of equipment, ranging from laser printers to a motorized cart that was wheelchair accessible.

On April 21st, 2020, Senator Wolfe and Lindsey proposed B55-16, "The 2020 Esports Investment Act," which appropriated fifty thousand dollars ($50,000) to the UCI Esports Arena for new physical assets, ranging from a trophy case to new sound systems.

On May 21st, 2020 Senator Lindsey and Zanipatin authored B55-19, "The Student Education Investment Act," which sought to appropriate eight hundred sixty five thousand six hundred seventy nine dollars and forty five cents ($865,679.45) to both the school of Chemistry and to the school of Education for various physical assets, ranging from new furniture to new fume hoods for the chemistry laboratories.

Finally, on May 28th, 2020 Senator Frousiakis and Lindsey proposed and passed B55-22, "The 2020 Interfaith Center Revival Act." This act, in effect, appropriated five hundred forty thousand ($540,000) from ASUCI reserves to UCI Facilities to completely renovate the now-closed UCI Interfaith Center.

Taken together, these laws, collectively referred to as "The Investment Acts" by administration, constituted an enormous expense to ASUCI reserves, essentially depleting the fund. Problems again emerged, this time from the Vice Chancellor's office, that the legislative acts were not permissible under UCI policy (Appendix C). Specifically, on August 5th, the Vice Chancellor issued a memo outlining the provisions of each act that were not in accordance with university policy for various reasons. Several primary reasons were cited: firstmost, the memo contended that university policy both prohibited specific RCOs from being funded and heavily regulated implementation even when funding was permissible. *See:* PACAOS Section 67.00 relates to "Fiscal Soundness and Fiscal Accountability"; PACAOS section 63.10; PACAOS section 86.11; PACAOS section 86.32; PACAOS section 86.33. Administration concluded that specific provisions of these acts violated such policies. Second, the Vice Chancellor argued, even if the acts were to be implemented, they may violate the UCI's Division of Finance and Administration guidelines that recommend a 15% to 20% reserve fund. Third, administrators contended that because the funds were not closely tailored to prohibit "operational costs", the Investment Acts ran afoul with PACAOS section 63.10. Finally, and most vaguely, administrators were concerned that the funds never articulated reasonableness. Within these lines of reason, the memo cited "established practices" that, while not codified, are customs of financial expenditure deemed binding by the university.

Again following recommendations by administrators, the Senate passed R56-23, "Compliance with University Policy Act," which rescinded the Investment Acts. Petitioner argues today that such an act violated §7.6.1 of the Bylaws, which insists that the Senate may not rescind or amend budget appropriations from another session: "This provision may not be used for those funds appropriated that were: (1) for a one-time expense; (2) from a different session of the Senate; (3) from the annual budget; (4) already spent."

II.

Next, the Court prefaces the merit of this case with an analysis of our procedural injunctive power. Indeed, both parties acknowledged that the Judicial Board, under §7.1.4.1 of the Judicial Board Policies and Procedures, was provided statutory authority to issue injunctions: "The Judicial Board, at its discretion, may hear motions from either the defense or plaintiff, and may order preliminary injunctive relief." Disagreement emerges, however, at where the Judicial Board draws a threshold at issuing such an injunction. As we explain, both precedent and the rules of order ask we apply a two-prong test to any injunction: reasonability, and harm. In doing so, we not only protect the government against frivolous lawsuits, but, in a similar spirit to Justice Menter's tolling standard in *Gandall v. ASUCI Elections Commission* (2018), protect the rights of those who may be harmed by unlawful governmental policy.

A.

First, we establish why reasonability and harm are the sufficient and necessary conditions needed for injunctive authority. First, our history and custom offers compelling insight into how our authority was often used. More concretely, because the idea of standing in the Judicial Board was not seen as completely necessary until the advent of such statutory demands in 2019, cases would generally be ruled upon without any form of hearing. For example, one of the most contentious cases during the 2017 election season, *Petrosyan v. Elections Commission ex rel. Natoolo*, et. al (2017), completely lacked any hearing, despite allegations that the defendant confessed to violations of the ASUCI Elections Code: "Appellant points out that Natoolo originally believed each of the contributions in this case to be contributions of goods. Indeed, during the hearing before the Elections Commission, Natoolo admitted that she believed the contributions constituted goods, opting to defend herself on other grounds." *Ibid*, At 7. Moreover, cases such as *Gandall v. Elections Commission* (2017) saw the Judicial Board simply extending deadlines, instead of halting harmful action, thereby defeating any harm:

> *Just as the Commission may not frustrate our appellate jurisdiction by failing to issue a ruling on a case, neither may they time-bar an appeal by committing an irreparable procedural violation. When a litigant's appeal is late due to a failure attributable to error or misconduct on the part of ASUCI, rather than*

> *to his own negligence, we are highly likely to accept the appeal regardless of its lateness*. At 7.

As a result, the use of injunctive relief was often a rare one in ASUCI procedural history. Additionally, many governmental agencies would simply take the use of an injunction as grounds to drop litigative action entirely, as we noted was the case in *Damavandi*: "While the Elections Commissioner would drop the case as a result of a Judicial Board injunction against suspension..." *ASUCI Senate v. Yan* (2020), at 13.

A further examination of the general field of parliamentary law is also informative. In general, the Judicial Board, both in precedence and in reference to Demeter's, refers to the interpretation of bylaws "[to] the same principles [sic] which govern the interpretation of statutes and contracts." *Demeter* 217.[1] (*See also*: *Janani v. ASUCI Senate* (2020), for a general example of cross applying generic legal principles in statutory interpretation: " it is a general rule of common law, ejusdem generis, and of parliamentary procedure, 'principle of interpretation (3)', that general or ambiguous rules hold less authority and yield to more specific one." *Janani*, at 6. While the rich history of Federal jurisprudence on injunctions is far beyond relevance for our context, it provides a compelling similarity between common law practice and ASUCI jurisprudence. Indeed, similar to our case today, Federal jurisprudence often lacks clear instruction from the legislature on injunctive power: "Absent the clearest command to the contrary from Congress, federal courts retain their equitable **power** to issue **injunctions** in suits over which they have jurisdiction." *White v. First American Registry, Inc*., 378 F.Supp.2d 419 (2005). As such, while the legislature may issue statutory requirements to govern injunctions, the lack of such guidelines does not prohibit us from adopting those customs inherent to legal processes in the common law system, i.e. those precedents established by the Supreme Court. *See also:* "...we concur with the Menter court that certain case precedent may be useful in conveying certain ideas." *Knight v. Elections Commission* (2020), at 13. In short, we use these general legal outlines as guidelines into the proper injunctive process.

As such, while case law itself is not often a sufficient guide to understand the formal reasoning behind injunctive action, our historical precedence offers insight to the process. In *Flores v. Fund the Clubs* (2020), the court not only reviewed the ideas leading up to *Damavandi v. ASUCI Elections Commission* (2019), but included the entire *Damavandi* petition, which included an asking for injunctive relief. Outside of the importance of *Damavandi*'s administrative deference requirements is the issuance of Judicial relief prior to a preliminary hearing - that is, an injunction. While the Board never formally published a ruling on the case, the tradition has since held true in the judiciary to analyze harm, which for *Damavandi* was the suspension of his election campaign pending investigation for alleged plagiarism, as a significant element of the injunction. Moreover, during *Flores* deliberations, Chief Justice Abundis concurred with the then Associate Justice Gandall that harm was a primary element of the Board's decisions in *Damavandi*.

[1] We recognize the link to Demeter's is only persuasive as to parliamentary law in general, not binding.

Because of the deep historical connotation and practice, and in lieu of a statute specifying otherwise, we apply harm as a significant factor to our analysis.

Finally, while custom is not technically binding upon objection, *see, e.g.* RONR (12th ed.), 2:25, the parliamentary rules allow an analogous taking of action to the point of order. Indeed, the parliamentary rules demand that an objection to the violation of the rules meet two grounds: first, upon an objection to the violation of the rules: "It is the right of every member who notices a breach, he corrects the matter immediately." RONR (12th ed.), 23:3. Second, the breach must have standing, that is, a harm: "...it is undesirable to raise points of order on minor irregularities of a purely technical character, if it is clear that no one's rights are being infringed upon and no real harm is being done." RONR (12th ed.), 23:4. Moreover, points of order, unlike the extensive due process requirements in normal trial procedure but similar to the injunctive power under our policies, "are not debatable."

This does not mean the injunctive power is unlimited. With the exception of continuing harms, such as a violation of the bylaws, points of order are also restricted by a strict statute of limitations, demanding that "if a question of order is to be raised, it must be raised promptly at the time the breach occurs." RONR (12th ed.), 23:4; "The point of order must be made at the time the breach of order occurs." Parliamentary Law, 147. As a result, many minor procedural technicalities, such as whether a motion was seconded, cannot be petitioned to the Judicial Board for injunctive relief.

Taken collectively from custom and the parliamentary code, we therefore establish a two-prong test for issuing preliminary injunctive relief: first, the case must be founded on reasonable grounds. This means that there must be a specified "breach of the assembly's rules." RONR (12th ed.), 23:2. However, more than just a breach of the rules, the petitioner must prove that the violation was so flagrant that there is little doubt in the Chief Justice's mind that such a rule violation is probable, either under an explicit provision or commonly adopted statutory principle. If not, the Court should simply review the case through the normal hearing process, with the case deferred to the full deliberative assembly of the Judicial Board: "When the chair is in doubt as to how to rule on an important point, he can submit it to the assembly for decision…" RONR (12th ed.), 23:18; "Our view respecting the function and office of the court in cases like this, no question being made that the by-law is unreasonable, against law, or contrary to public policy, is, that the court must construe and give effect to the by-law in the same manner and upon the same principles that it would construe and give effect to an agreement in writing made and entered into between private individuals." *State ex rel. Attorney General v. Conklin*, 34 Wis. 21 (1874), at 6. And second, the petitioner must have a showing of tangible harm, in which the rights of a member, or that of sufficient damage to the organization, is probable. This standard is generally more liberal than a showing of reasonableness, but must nonetheless exhibit standing. We leave this second prong up to the factual interpretation of the Chief Justice, and subsequently Senate.

We want to reiterate that our ruling today is contingent on a lack of specified statutory requirement. Indeed, we derive our standard from a mix of custom and process, and while this opinion constitutes binding precedent, it can, unlike those opinions established on constitutional procedures, be amended or reaffirmed by the Senate under the correct method of amendment as specified in the Bylaws: "The Senate has primary policy-making legislative authority, and final administrative authority, for ASUCI." ASUCI Constitution, Sec. 2; "The ruling and its rationale serve as a precedent for future reference… When similar issues arise in the future, such precedents are persuasive in resolving them… If an assembly is or becomes dissatisfied with a precedent, it may be overruled, in whole or in part, by a later ruling of the chair or a decision of the assembly..." RONR (12th ed.), 23:10.

B.

Next, we apply our injunction standards to explain our reasoning in this case. Petitioner showed reasonability, which while not sufficient to make a ruling, convinced the Chief Justice and subsequently Board that there may be unlawful elements of the legislation. The Board, cross applying Senate minutes to the legislation, found that both provisions directly violated the due process requirements. For this reason, we held the injunction to be reasonable. Second, we found there be a tangible harm, as if implemented, the funds could potentially be expended, marking the damages as irreversible, and therefore irreparable by judicial remedy: "The Motions to rescind and to Amend Something Previously Adopted are not in order under the following circumstances… when something has been done, as a result of the vote on the main motion, that is impossible to undo." RONR (12th ed.), 35:6. This tangible harm emerged by the reallocation of millions of dollars between both resolutions, which could have possibly resulted in the spending of funds, effectively avoiding the opportunity for judicial remedy.

For these reasons, we held the injunctions permissible under the aforementioned cannon of law.

III.

Onto the merits of the case, we first investigate the claims related to R56-22, "Budget Correction." As we explain, R56-22 not only violates the Bylaws on face, but administrative deference to ASUCI Professional Staff is significantly different from those we have elsewhere referenced. As we conclude, because the Senate failed to adhere to the Bylaws, even under advisement by professional staff, R56-22 must be struck.

A.

The act of R56-22 is clear; that is, the Senate proposed and passed a piece of legislation amending the ASUCI Annual Budget: "Resolved, the Senate passes the updated ASUCI Executive Budget." The Bylaws, however, insist that the Senate must receive a positive recommendation by all Joint Committees, as well as garnering a positive vote by thirty senators, prior to amending the annual budget:

"The Annual Budget may not be amended, and may only be rescinded by a positive vote of thirty (30) properly seated Senators. Prior to any motion to rescind, Senators must request a positive recommendation from all Joint Committees." ASUCI Bylaws, §7.3.4. In our case today, it is undisputed that the Senate did neither. As such, the Senate's act runs afoul with the statutory requirements listed in §7.3.4. For this reason, we overturn R56-22.

B.

While the procedural act by the Senate is clearly in contradiction to the Bylaws, the defendant's have advanced several intriguing theories that we separately address. First, defense counsel argues that an administrative order given by a member of the ASUCI Professional Staff supersedes the Bylaws. Second, premised on an argument made on the Bylaws through a memo submitted by Robert Schumm from ASUCI Professional Staff, defendant points to a contradiction between the current bylaws and the budget.

As we explain, we reject both arguments. First, ASUCI Professional Staff, unlike other administrators, are members of our government, under our constitution, and dependent on ASUCI governing documents. For this reason, we find our jurisdiction, dependent on our Article 8 powers in the constitution, provides the Board with final authority on matters of constitutional and governing document interpretation. Second, because the Bylaws were passed after the budget, under the doctrine of *Ex Post Facto*, we reject arguments that the budget contradicts the Bylaws.

i.

Firstmost, we explore our traditional standards of deference to administrators, as it applies to the professional staff. While our case law has handled cases where administrators outside of Student Government and Student Media (SGSM) issue rulings - of which subsequently leans heavily on affirmative deference - we have yet to face a case where the Professional Staff has actually attempted to issue rulings themselves. To understand the extent of the power of professional staff, we examine the ASUCI Constitution. Article 14 of the ASUCI Constitution explicitly lists the power of professional staff, as falls under the ASUCI Executive Director:

> *(a) Serving as the official representative of ASUCI in all business and financial dealings;*
> *(b) Recommending policies for the administration of ASUCI operations, staffing, facilities, and auxiliary services to the Executive Cabinet;*
> *(c) Keeping a system of accounts, records, and books for ASUCI and its activities, which must be kept in standard form so that a true statement of ASUCI's financial status may be prepared at any time;*
> *(d) Supervising all ASUCI employees in accordance with University of California Policies and Procedures;*

> *(e) Hiring all ASUCI professional staff and ensuring there is equal representation between students and staff on any hiring committee;*
> *(f) Providing any information pertaining to the functioning of ASUCI on the request of the Senate or Executive Cabinet, given reasonable notice;*
> *(g) Supervising the collection and expenditures of all ASUCI funds, in accordance with University of California Policies and Procedures;*
> *(h) Investing money in the name of ASUCI with the approval of the Senate and in accordance with University of California Policies and Procedures;*
> *(i) Borrowing in the name of ASUCI with the approval of both the Executive Cabinet and the Senate;*
> *(j) Appointmenting and removing ASUCI professional staff employees; and (k) Acting as trustee for ASUCI in maintaining financial accounts for University of California, Irvine student organizations.*

All ten enumerated powers function to offer delegated authority - such as acting as a representative or in hiring staff - but none suggest that the professional staff have any power to interpret the law.[2] That power, indeed, lies solely with the Judicial Board: "To interpret all parts of the governing documents of ASUCI." ASUCI Constitution, Art. 8, Sec. 2(a). For this reason, in matters of law, we do not offer deference to the professional staff that we may to other administrators outside of ASUCI.

ii.

Having determined that professional staff opinion is not binding, although perhaps noted as persuasive, we investigate the specific arguments made in the Schumm memo as furthered by the defendants. Schumm first contends that there is a deficit in the budget and this must be fixed. However, at the time the budget was being passed, deficit spending was permitted so long as there were reserve funds: "*Deficit Spending.* The total expenses of ASUCI will not exceed the total income and reserves for that year. The Senate may not approve expenditures to be made during one (1) fiscal year for which the corresponding income must occur during a different budgetary period." ASUCI 2019 Bylaws, §7.1.2. Because deficit spending is permitted by statutory authority, we thereby reject that deficit spending is necessarily in contrast to the Bylaws.[3]

Second, in citing UC PACAOS Section 85.00 under Section 80.00 "Policy on Compulsory Campus-Based Student Fees," defendants argue the Senate improperly

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[2] While professional staff are not deferred to in interpreting the law, that does not mean their opinions are meaningless; indeed, in *Flores v. Fund the Clubs* (2020) We reiterated the importance of bureaucratic specialization: " Indeed, Judicial Board members are not experts in electronic mailing administrative protocol, nor do our governing documents ask us to do so." Flores, at 3. As such, professional staff may have persuasive opinions on topics under their jurisdiction, but in matters of law such specialization falls squarely to the Judicial Board.

[3] Moreover, as we explain in part IV, the practical effect of severance means there will be enough funds in the reserve accounts to meet the relatively small deficit.

established a Bylaw which would, in effect, be a reappropriation of student fees to a specific program or organization. PACAOS 85 reads:

> *Locking in a specific dollar amount to be appropriated for a specific program, organization, or service would be an example of an inappropriate redirection or re- appropriation action.*

We disagree. §27.1 of the ASUCI Bylaws only establishes the "*Minimum Expenditure*" necessary to be appropriated, which means the amount is not locked, but rather, flexible within a certain range. As a result, the amount is not fixed, but flexible to preferences by the Senate. Moreover, our parliamentary authority, in instructing us to accept interpretations that do not yield contradictions, forces us to prefer this conclusion: "when a provision of the bylaws is susceptible to two meanings, one of which conflicts with or renders absurd another bylaw provision, and the other meaning does not, the latter must be taken as the true meaning." RONR (12th ed.), 56:68. Even if this were not true, the Bylaws would not be at odds with UC PACAOS, because the Bylaws can simply be amended. That which is 'locked' infers that the amount cannot be changed, and must be at odds with the existence of an amendment mechanism. Without such a device, we hold that the budget, only establishing a minimum and not a locked amount, is not at odds with UC PACAOS Section 85.00 under Section 80.00.[4]

Third, defendant's argue that §27.1 of the ASUCI Bylaws, which establishes that one-third of the budget must be appropriated to SPFB, is violated as the Senate budgeted more than one-third. Indeed, defendant's argue, the Senate should have appropriated $581,757.34, not $700,000. Again, we contend that we are forced to recognize that this amount is merely the minimum expenditure, which, considering $700,000 is more than $581,757.34, makes the budget lawful.

IV.

Finally, we handle R56-23, which deals primarily with rescinding several pieces of investment legislation passed during the 2019-2020 Senate. Central to the defendant's argument is that parts of B55-04, B55-12, B55-16, B55-19, and B55-22, all of which are large investment schemes aimed at directly appropriating over a million dollars to various schools and institutions across UCI, violate administrative rules, and therefore are wholly unlawful. As we explain, while we concur with the defendant that the administration has indeed overturned specific parts of the legislation, our Bylaws equally compel us to continue the implementation of those lawful provisions.

A.

[4] We reiterate that this ruling is tantamount to an internal one premised within ASUCI, as contention to its merit emerged not from a higher university official, but from professional staff, who, similar to this Board, derive their authority from the ASUCI constitution.

We first handle whether the Senate lawfully repealed the legislation. If such occurred, it is not necessary to further examine how the administrative memos impacted the Investment Acts. Plainly so, R56-23 "repeals B55-04, B55-12, B55-16, B55-19, and B55-22," otherwise identified as the Investment Acts. For all legislations, otherwise known as 'bills' that rescind funds, the bylaws prohibit rescinding that of which was passed in a different session of the Senate: "*Prohibitions*. This provision may not be used for those funds appropriated that were: (1) for a one-time expense; (2) from a different session of the Senate." ASUCI Bylaws §7.6.1. Moreover, the ASUCI Parliamentary authority explicitly defines a session as a series of meetings in which business of continuous: "A session of an assembly, unless otherwise defined by the bylaws or governing rules of the particular organization or body, is a meeting or series of connected meetings devoted to a single order of business, program, agenda, or announced purpose." RONR (12th ed.), 8:2. At UCI, sessions are defined within the current Bylaws as biquarterly, but in prior editions had meant 'quarterly.' If there was any doubt that the Investment Acts were passed in a different Senate, it is wholly refuted by the formal adjournment of the Senate, as reflected by the minutes on June 4th.

Therefore, because R56-23 is based on rescinding the funds passed in a different Senate session, it runs afoul with §7.6.1's prohibition. Thus, R56-23 is unlawful and must be overturned.

B.

We now defer the rest of our discussion on how to handle the memo by the Vice Chancellor Banks. In *Flores*, we again cited our concern, as reflected by the *Damavandi* case, that the Judicial Board had begun to take on elements of a proto-administrative or bureaucratic agency, thereby delegating us powers normally reserved for Student Conduct: "Eventually, Student Conduct would find Mr. Damavandi innocent of all charges; however, such a precedent sets a necessary condition to adjudicating cases where our jurisdiction is muddled by deference to 'a higher authority': that a higher administrative office cannot, either in the written code or by explication to the Elections Commission, claim jurisdiction." *Flores v. Fund the Clubs* (2020), at 3. Central to this line of reasoning is the Court's concern of taking on something of a legislative capacity: "one must adhere to the law, only the law, and not to our vague understanding of the law as a 'living document,' at the will of our pens as magic is to the wand of a wizard. To do otherwise would be to pervert our duty as gatekeepers of the constitution, and doom our society to a virtual kritocracy, bent on imposing our will on the legislator and the people." *Ibid*, at 4. *See also:* "Judges are not experts in the field, and are not part of either political branch of the Government. Courts must, in some cases, reconcile competing political interests, but not on the basis of the judges' personal policy preferences. In contrast, an agency to which Congress has delegated policymaking responsibilities may, within the limits of that delegation, properly rely upon the incumbent administration's views of wise policy to inform its judgments. While agencies are not directly accountable to the people, the Chief Executive is, and it is entirely

appropriate for this political branch of the Government to make such policy choices -- resolving the competing interests which Congress itself either inadvertently did not resolve, or intentionally left to be resolved by the agency charged with the administration of the statute in light of everyday realities." *Chevron U.S.A., Inc. v. NRDC*, 467 U.S. 837 (1984), as cited by *Flores*, at 3.

However, our discussion in *Flores* dealt primarily with how to handle a case where administrative authority seems to hold jurisdiction, and our governing documents hold none. More specifically, petitioner Flores argued that Bryce Lindsey, an alleged member of the ASUCI Election Slate, 'Fund the Clubs', had unlawfully used the engineering school email to send out a 'political endorsement' in violation of Section 800-20 UCI's Administrative Policies and Procedures. Without actually analyzing the policy itself, the Judicial Board held that our jurisdiction could not extend past that which is explicitly authorized by our governing documents: "...because the constitutional rules constrain our jurisdiction to matters solely before the ASUCI governing documents, we decline to extend jurisdiction to cases involving administrative codes not bound in governing documents." *Flores*, at 2.

Unfortunately, the case before us today, rather than being about where the governing documents are silent, is focused on how to handle a contradiction between the governing documents and an administrative order. To do so, we first, acknowledge that, because ASUCI is a subsidiary body of the University, we are compelled to follow the higher governing authority outlined in administrative policy: "It shall be the responsibility of student governments, in consultation with the Chancellor or the Chancellor's designee, to ensure that their enabling documents, as well as all their programs and activities, are consistent with the status of such governments as official units of the University, and with the University's purposes for such governments as set forth in Section 61.10-15 of these Policies, as well as with all other provisions of these Policies and with implementing campus regulations." PACAOS 61.10.

Second, when tailoring our deference to this standard, we focus on specific elements of a regulation as ruled by administration on a case by case basis, rather than the regulation as a whole: indeed, as we reiterated in *Flores*, our jurisdiction only goes only as far as the ASUCI governing documents: "The Judicial Board has final judicial authority for ASUCI, which extends to all cases arising under the governing documents of ASUCI." ASUCI Constitution, Art. 8 Sec 1. This important distinction is not merely academic; indeed, traditional Judicial Board methods of overturning legislation, as those we utilized in *Knights v. Elections Commission* (2020) specified, normally prohibits "line item vetos." As a result, we may be required to overturn the whole, rather a part, of unlawful legislation: "In Re R54-38 we held that line item vetos, or that of which would allow the Judicial Board to strike certain sections of a legislation, were unconstitutional as, "The Judicial Board would therefore have de facto legislative powers with the explicit ability to edit legislation directly before allowing it to pass…" For this reason, Justice Gerald wrote In Re R54-38 that "this Board has never ruled only one part of a legislation to

be unconstitutional, but rules on a legislation in its entirety." As such, in finding legislation unconstitutional, we strike the entire legislation, rather than any specific part of the act." *JUDICIAL RULING ON R54-38* (2019), as cited by *Knight*, at 13. In both *Knight* and *JUDICIAL RULING ON R54-38* the Court specifically focused on the concern that if the Judicial Board began to utilize severability at will that we would come to represent the legislative branch. Today, we hold that no such fear is warranted, as our ruling is completely contingent on specific rulings issued by the administration. In essence, we are only clarifying the role of administrative rulings for the government, rather than casting such rulings ourselves. Equally part of this standard, we hold no sway or argumentation to the actual merit of administrative decrees, only to their applicability to ASUCI.

Moreover, as we find, severability is not only not distinct from the standard set forward in our prior cases, but a rather normative method used in adjudicating more complicated disputes. Our authority to sever unlawful statutes from larger schemes therefore extends from three sources of authority.

First, parliamentary law only requires we sever unlawful elements of a resolution. The ASUCI Parliamentary rules, more specifically, ask that "any action [that] has been taken in violation of applicable procedural rules prescribed by federal, state, or local law" or that which is "in violation of a fundamental principle of parliamentary law" must be declared "null and void." RONR (12th ed.), 23:6. Sufficiency, however, is derived from an understanding of the motion division of a question; that is, any main motion, of which RONR (12th ed.), 1), 10:13 classify as a resolution, can be "separated to be considered and voted on as if they were distinct questions." RONR (12th ed.), 27:2. Moreover, the parliamentary authority is clear that a motion may only not be severed, if and only if, parts of a resolution are, in effect by passing one, inseparable from one another: "A motion cannot be divided unless each part presents a proper question for the assembly to act upon if none of the other parts is adopted, and unless the effect of adopting all of the parts will be exactly the same - no more, no less - as adoption of the compound main question." RONR (12th ed.), 27:5. For example, if the board was faced with a question wherein the establishment of a special committee and the instructions to that special committee were in question, we would be unable to sever establishing the committee from the instructions, as doing so would yield the instructions absurd: "... if it is moved to establish a committee and give it instructions, this motion is indivisible because, should the part establishing the committee fail, the part giving the committee instructions would be absurd." RONR (12th ed.), 27:5. As a result, for deliberative assemblies, the parliamentary rules allow us to sever parts of a resolution for separate consideration.[5]

Second, the common law tradition in the United States has often utilized severability. Since *Marbury v. Madison*, 1 Cranch 137, 2 L.ED. 60 (1803), when the Justice Marshall severed part of the Judiciary Act of 1789, the Court has frequently

[5] Again, the mere parliamentary permission to sever does not mean severing is always appropriate under our case precedent. We again reiterate that the Board cannot sever a resolution if the unlawful nature of the legislation exists within the ASUCI governing documents.

often applied a rather "modest presumption in favor of severability." *National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012), at 691. Of course, similar to our own case law, the Courts have often echoed a concern that "severance of statutory provisions risks 'rewrit[ing] a statute and giv[ing] it an effect altogether different from that sought by the measure viewed as a whole." National Federation of Independent Business, citing *Railroad Retirement Bd. v. Alton R. Co.,* 295 **U.S**. 330, 362, 55 S.Ct. 758, 79 L.Ed. 1468 (1935), at 692. To balance these interests, the Court first seeks to determine if a statute can survive severance; that is, if part of the statute is held unconstitutional, if such a piece can be separated from the legislation as a whole. And even if it can survive, the legislation must be more than coherent, but function in a manner consistent with the legislator: "Even if the remaining provisions will operate in some coherent way, that alone does not save the statute. The question is whether the provisions will work as Congress intended. The 'relevant inquiry in evaluating severability is whether the statute will function in a *manner* consistent with the intent of Congress.'" *Ibid*, at 692. *See also*: *Alaska Airlines, Inc. v. Brock,* 480 U.S. 678, 684, 107 S.Ct. 1476, 94 L.Ed.2d 661 (1987). Second, we aim to determine if the legislative branch would have implemented the resolution even if the provisions were taken out: "...even if the remaining provisions can operate as Congress designed them to operate, the Court must determine if Congress would have enacted them standing alone and without the unconstitutional portion. If Congress would not, those provisions, too, must be invalidated." *National Federation of Independent Business*, at 693. See also: *Free Enterprise Fund, supra,* at 509, 130 S.Ct., at 3162.

Importantly, more contemporary precedence also demands that the Judicial Board prefer solutions that are limited in scope. Indeed, in *Barr v. American Association of Political Consultants, Inc.,* 140 S.Ct. 2335 (*2020)*, the Court examined a dispute between polling organizations and the Federal Communications Commission (FCC), with plaintiff's contending that the Telephone Consumer Protection Act's (TCPA), in restricting robocalls, violated the first amendment. While the Court concurred with the plaintiffs, thereby striking part of the statute, the Court more importantly held that only those provisions which were subject to constitutional questions were to be struck: "The Court's cases have instead developed a strong presumption of severability. The Court presumes that an unconstitutional provision in a law is severable from the remainder of the law or statute." Ibid, at 2350. Moreover, the Court found there was a general presumption in favor of severability in order, very similar to Justice Gerald's concern, to prevent the Court from resembling a legislator: "The Court's presumption of **severability supplies a workable solution**—one that allows courts to **avoid judicial policymaking** or *de facto* judicial legislation in determining just how much of the remainder of a statute should be invalidated.[7]The presumption also reflects the confined role of the Judiciary in our system of separated powers—stated otherwise, the presumption manifests the Judiciary's respect for Congress's legislative role by keeping courts from unnecessarily disturbing a law apart from invalidating the

provision that is unconstitutional." *Ibid*, at 2351. For this reason, when analyzing rulings by administration, we generally favor legal solutions that only affect parts of the legislation that are subject to legal scrutiny. In totality, this solution further protects against, rather than materializes as, Justice Gerald's fear of an activist judiciary.

As we conclude, the Gerald requirement under *JUDICIAL RULING ON R54-38* (2019) demands that we strike down whole provisions only if those provisions are subject to scrutiny solely within ASUCI governing documents. Because the question of the Investment Acts legality are tailored strictly to regulations outside of ASUCI governing documents, we adopt a different approach to reconciliation, focused on examining the rulings by a higher authority, namely, the university administration. Functionally, our test therefore operates to make two determinations: first, if the legislation was held problematic by university regulations, or by those enumerated in ASUCI governing documents. And second, pursuant to parliamentary rules and clarification given by the Supreme Court in *National Federation of independent Business*, we seek to determine whether the statute can survive severance.

C.

In applying our rules today, we pivot to examining the actual Investment Acts. As we explain, each part of the Investment Acts, handled individually, can be separated in provisions that are lawful and those which are not.[6]

i.

First, we examine B55-04, "The 2020 Student Infrastructure Investment Act." Administration, most significantly, ruled that, for RCO provisions, proper notice was not given: "the Investment Acts did not comply with the requirements in PACAOS sections 86.11, 86.32, 86.33, and 86.40 with regard to the funding allocated to RCOs." Banks Memo, at 3. Therefore, those funds associated with RCOs must be struck. The administration names several other element that 'could' or 'may' be problematic, but we do not apply these as they are suggestions, not rulings: "Moreover, it appears several funding allocations within the Investment Acts **could** be in violation of PACAOS section 63.10, because the funding could be used for the operational cost of the organization." Banks Memo, at 3. "[t]o promote transparency and practice sound business controls, all requests for funds **should** be accompanied by documentation that articulate the reasonableness, appropriateness, and accuracy for the request." Internal Audit Report. Finally, pursuant to the administrative requests, we remove those funds that are not specifically line itemed: the Investment Acts could be used to fund the operational costs of an organization, including those of the student advisory councils in SIIA, as well as

[6] Following administrative advice, we acknowledge the legislation is not wholly at odds with the rulings, as it can be corrected: "or correct the legislation so they comply with all applicable University policies and sound business practices." Banks memo, at 4.

departments provided with a "miscellaneous" line item in the Investment Acts." Banks Memo, at 4.

Therefore, we remove §7.1, §8.1, §9.1, §10.2.1 (10), §10.2.2 (5), §10.2.3 (19), §11.2 (22), §11.2 (23), §12.1, and §13.1, thereby returning $299,607 to the ASUCI reserves. All other funds are hereby returned to be lawfully implemented.

ii.

Second, we examine B55-12, "The 2020 Student Life Investment Act." Similar to B55-04, we hereby strike all RCO provisions. Likewise, we remove those funds that are not specifically line itemed.

In doing so, we strike §6.3. Funding Line Item Limitations (31), for $31,087, and §6.3. Funding Line Item Limitations (29), for $30,000. Thus, we return $61,087 to the ASUCI reserves. All other funds are hereby returned to be lawfully implemented.

iii.

Third, we examine B55-16, "The 2020 Esports Investment Act." Applying the RCO strikes and removal of those funds not specifically line itemed, we hereby remove the following provisions: §6.3.2. "free arena happy hours", for $16,000; §6.3.2. "New player nights", for $4,000; and §6.3.3, for $5,500. Thus, we return $25,500 to the ASUCI reserves. All other funds are hereby returned to be lawfully implemented.

iv.

Fourth, we examine B55-19 "The 2020 Student Education Investment Act." Applying our standards from (i), we hereby strike §8.2.5, and return $25,500 to the ASUCI reserves. All other funds are hereby returned to be lawfully implemented.

v.

Finally, we address B55-22, "The 2020 Interfaith Center Revival Act." Applying the standards specified, we find no funds in contrast with the regulations set forth by the administration. Therefore, we send the legislation back to be implemented.

vi.

A central concern to administration was that the prior Senate depleted the reserve funds of ASUCI below the 15% recommendation. However, the funds returned from severed provisions clearly recover this amount. Therefore, because the concern is de facto met, we do not find it to be compelling.

*** * ***

In *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), the Supreme Court held in a landmark case that the President, similar as the

government today asks we do for the Senate, offer extra-constitutional powers due to extraordinary circumstances. While this Court remains firm in its role under the constitution, it is perhaps Justice Jackson, writing in concurrence, that echoed a more broad concern for the future of a free people:

> *The essence of our free Government is* ***"leave to live by no man's leave, underneath the law"****—to be governed by those impersonal forces which we call law. Our Government is fashioned to fulfill this concept so far as humanly possible… With all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations.*
>
> *Such institutions may be destined to pass away. But it is the duty of the Court to be last, not first, to give them up.*

The case before us today is not the first time the Court has been forced to interpret, and often favor, poorly written or even malicious laws. But it is not the merit of the law itself, but rather the word of the law, that we interpret. In *ASUCI Senate v. Yan* (2020) - a case mired by the scandal of impeachment for the ASUCI President - we echoed the lessons of Harper Lee's *To Kill a Mockingbird*, for the law's protective custody, and ultimate necessity, for rights of man. *In Knight v. Elections Commission (2020)*, we shortly reminisced on this theme, citing the romantic elements of the law from Bolt's famous legal literary, *A Man for All Seasons*. And just as Bolt's Roper asks us to "cut down every law in England [to get after the devil]," this Court boldly assets Moore's response:

> *Oh? And when the* ***last law was down****, and the* ***Devil turned 'round on you, where would you hide, Roper, the laws all being flat?*** *This country is planted thick with laws, from coast to coast, Man's laws, not God's! And if you cut them down, and you're just the man to do it, do you really think you could stand upright in the winds that would blow then?* ***Yes, I'd give the Devil benefit of law, for my own safety's sake!***

Without further pontification, the Court reiterates what we have time and time again: extraordinary circumstances do not justify extra-constitutional powers.

As such, we first hereby order that R56-22 be overturned, and the ASUCI Budget implemented pursuant to orders in prior legislation.

Second, we hereby order that the following provisions of the Investment Acts be struck, with corresponding unaffected provisions being sent back to administration for implementation, or for the Senate, through the prescribed method to amend the bylaws, to rescind such acts. The Senate may appropriate the struck provisions, as they would with any normal ASUCI Reserve bill.

B55-04
The 2020 Student Infrastructure Investment Act

Unlawful Provision	Expenditure ($)
§7.1.	35,000
§8.1.	35,000
§9.1.	35,000
§10.2.1. (10)	8,760
§10.2.2. (5)	800
§10.2.3. (19)	47,190
§11.2. (22)	25,000
§11.2. (23)	6,057
§12.1.	45,000
§13.1.	61,800

Total Funds Returned to ASUCI Reserve: $299,607.

B55-12
The 2020 Student Life Investment Act

Unlawful Provision	Expenditure ($)
§6.3. Funding Line Item Limitations (31).	31,087
§6.3. Funding Line Item Limitations (29).	30,000

Total Funds Returned to ASUCI Reserve: $61,087.

B55-16
The 2020 Esports Investment Act

Unlawful Provision	Expenditure ($)
§6.3.2. "free arena happy hours"	16,000
§6.3.2. "New player nights"	4,000
§6.3.3.	5,500

Total Funds Returned to ASUCI Reserve: $25,500.

B55-19
The 2020 Student Education Investment Act

Unlawful Provision	Expenditure ($)
§8.2.5.	7,000

Total Funds Returned to ASUCI Reserve: $7,000.

B55-22
The 2020 Interfaith Center Revival Act

Unlawful Provision	Expenditure ($)

Total Funds Returned to ASUCI Reserve: 0.

Therefore, the rulings and corresponding legislations of the Senate are overturned, and professional staff enjoined to implement the legislations as specified.

It is so ordered.

Kimo Gandall
Chief Justice

Madison Craw
Vice Chief Justice

Joshua Wolfe

Heriberto Mendez

Associate Justice

Associate Justice

Nick Ortiz

Associate Justice

Logan Knight

Associate Justice

Mario Lopez

Associate Justice

Appendix A: Motion and Petition

Motion to Freeze
Motion to issue preliminary injunction against R56-26 and R56-27

Harm and Reasonability

As the ASUCI Senate President, the Senate changing the ASUCI Bylaws and Judicial Board Policies and Procedures not in accordance with the processes stipulated in the bylaws endangers the government from properly functioning and discards the ability of ASUCI Joint Committees and the Judicial Board from providing their approval, which I am part of. Such actions leads to confusion and deteriorates the authority between branches laid out in the Constitution.

As a member of the 55th Senate, the current Senate improperly repealed funding legislations and incorrectly amended the budget passed by last year's Senate which I was part of. Therefore, my actions as well as the student body representatives was discarded as it undoes the actions of their representatives for last academic year. The actions taken by the Senate did not comply with the procedures set in the ASUCI Bylaws.

Memorandum of Facts and Law

The ASUCI Senate discarded the procedures and rules established within the ASUCI Bylaws to amend the Judicial Board Policies and Procedures (R56-26) and ASUCI Bylaws (R56-27), to remove funds from the annual budget omnibus (R56-22), and to amend funds appropriated by a different session of the Senate (R56-23). The ASUCI Senate took these improper actions on October 6th, 2020.

Legislative actions of the ASUCI Senate must be conducted in accordance with the procedures defined by the ASUCI Bylaws. Secondly, memorandums from professional staff can not be misinterpreted nor used to circumvent the procedures outlined in the ASUCI Bylaws.

Re: [R56-26] Emergency ASUCI Bylaws

To amend the ASUCI Bylaws, the Senate must follow the process described in *§9.*

Amendments in the bylaws. The procedures outlined in *§9.1.1.* and *§9.1.2.* describe the initial process before the ASUCI Senate can vote on a bylaw amendment:

> §9.1.1. *Noticed Motion*. The Senator proposing any amendment must provide a one (1) week notice prior to review by the Joint Committees.
> §9.1.2. *Review by Joint Committees*. Each specified joint committee, by the specified time, order, and vote, shall review and provide a positive recommendation of the bylaw amendment(s) and or revision(s):

The process requires that notice is provided and then the ASUCI Joint Committees established under Article XI of the ASUCI Constitution review the proposed amendments. These processes have not yet occured. Therefore, the ASUCI Senate is not in compliance with the ASUCI Bylaws and is unable to approve bylaws amendments.

Re: [R56-27] The Emergency Judicial Reform Act

The Senate is unable to amend the Judicial Board Policies and Procedures as the ASUCI Bylaws have deferred full power over the Judicial Board policies to the Judicial Board under §2.3. and §11.1. of the bylaws:

> §2.3. *Judicial Deference*. The Judicial Board shall be deferred full power over their Judicial Board policies, and any other rules relevant to the trial process.
> §11.1. *Code deference*. The Judicial Board shall be given the power to define, amend, and revise the Judicial Board policies. The Chief Justice shall retain authority over the standing rules of the Judicial Board.

As shown, the ASUCI Senate does not hold the authority to amend the Judicial Board Policies and Procedures without the approval of the Judicial Board.

Re: [R56-22] Budget Correction

The ASUCI Associate Director sent a memorandum on August 19, 2020 regarding corrections required to the ASUCI 20-21 budget. The first issue is correcting a $3,434.00 deficit by reducing the current amount of funds allocated appropriately in order to achieve a zero-sum budget. The Senate must address this by removing $3,434.00 from program costs in a(n) ASUCI office(s) as outlined

in §7.6.1. of the ASUCI bylaws. The ASUCI Senate is attempting to abuse this by changing the entire budget instead of removing $3,434.00 in programming costs. Amending the budget in this way is not allowed, as specified by §7.3.4. of the ASUCI bylaws.

> §7.3.4. *Changes to the Annual Budget*. The Annual Budget may not be amended, and may only be rescinded by a positive vote of thirty (30) properly seated Senators. Prior to any motion to rescind, Senators must request a positive recommendation from all Joint Committees.

As shown, removing $3,434,00 should occur in accordance with the ASUCI Bylaws.

The second issue with the Annual Budget revolves around §27.1. of the ASUCI Bylaws. §27.1. Describes minimum expenditure funding to clubs:

> §27.1. *Minimum Expenditure*. ASUCI shall appropriate one-third (⅓) of the Annual ASUCI budget after career salaries and benefits for UCI Student Government & Student Media (SGSM) professional staff and SGSM administrative expenditures, to support undergraduate majority, Registered Campus Organizations through the Student Programming and Funding Board (SPFB).

The ASUCI Associate Director interpreted §27.1. as out of compliance with UC PACAOS Section 85.00 under Section 80.00 "Policy on Compulsory Campus-Based Student Fees". Section 80.00 states

> *The redirection or re-appropriation of any existing mandatory student government fee, i.e., ASUCI, AGS, GSMSA or AMSG, is not appropriate or in accordance with University or Regental delegated authority. Locking in a specific dollar amount to be appropriated for a specific program, organization, or service would be an example of an inappropriate redirection or reappropriation action.*

The ASUCI Associate Director points out that the passed ASUCI Budget Fiscal Year 20-21 reflects an allocation of $700,000 to SPFB. The ASUCI 20-21 budget was passed before the current ASUCI Bylaws containing §27.1. became binding. Therefore, §27.1. would only affect the formation and passing of the ASUCI

budget for fiscal year 21-22, which would take place in the Spring Quarter of 2021. Therefore, to be in compliance with policy, the Senate ought to remove *§27.1.* of the ASUCI Bylaws by following the procedure to amend established in *§9. Amendments* of the bylaws.

Because of this, the $700,000 allocated to SPFB in the 20-21 budget, which is $118,242,66 more than one-third of the Annual ASUCI budget, is not required to be reallocated as §27.1. was not binding when the $700,000 was allocated by the 55th Senate Session.

Re: [R56-23] Compliance with the University Act

The Vice Chancellor of Student Affairs sent a memorandum on August 5th, 2020 regarding [B55-04] The 2020 Student Infrastructure Investment Act, [B55-12] The 2020 Student Life Investment Act, [B55-16] The 2020 Esports Investment Act, [B55-19] The 2020 Student Education Investment Act, and [B55-22] The 2020 Interfaith Center Revival Act, herein referred to as the Investment Acts. The Investment Acts collectively spent $2,805,697.45 from ASUCI's reserves balance of $2,840,298.38. These allocations at the time would reduce ASUCI's unrestricted reserve fund balance to $34,600.93 which would be 1.29% of ASUCI's annual budget for Fiscal Year 19-20.
This depletion to 1.29% raised concerns, as this scenario fails to meet University guidelines for retaining a reserve fund balance of between 15 – 20%. To remedy this, the Vice Chancellor of Student Affairs suggested cuts be made or legislations be rescinded to address and correct this issue. This is no longer required, however, because the unrestricted ASUCI reserves now stands at $845,800.26, which equates to 31.5% of ASUCI's annual budget of the $2,680,305 for Fiscal Year 2019-2020. This increase in unrestricted reserves came from leftover funds not spent in the 19-20 Fiscal Year. Therefore, the reserves are beyond the 15-20% fund balance suggested by the University guidelines and no legislation is required to be rescinded to achieve this goal.

Another issue raised was funding to specific registered campus organizations (RCOs) in the Investment Acts. The Vice Chancellor of Student Affairs found issues of compliance with PACAOS section 63.10, 86.11, 86.32, 86.33, and 86.40. The issue is that these funds were not made publicly available to all RCOs. This funding should have instead been made available through SPFB which is available to all RCOs. To resolve this, the funding for RCOs should be repealed,

not the entire legislation.

The final issue arises from line item expenditures within the Investment Acts labelled "miscellaneous". The concern over the "miscellaneous" appropriations comes from the possibility that it could be used to fund the operational costs of an organization, which would be against PACAOS policies.
To rectify these issues, the Vice Chancellor of Student Affairs' returned the Investment Acts to the ASUCI Senate so the Senate can either rescind or correct the legislation so they comply with all applicable University policies and sound business practices. To comply with all University policies, the Senate only needs to rescind the line item expenditures that allocate funds labelled "miscellaneous". No legislations are required to be rescinded in their totality, as the ASUCI reserves are at 31.5% of the 19-20 Annual Budget. Therefore, rescinding the Investment Acts is not required nor allowed according to §7.6.1. of the ASUCI Bylaws.

Furthermore, rescinding the issues documented would result in an increase of $393,194 accumulating the unrestricted reserves to $1,238,994.26, or 46.23% of ASUCI's annual budget for Fiscal Year 2019-2020. Therefore, the ASUCI Senate would have $702,933.26 available to expend in ASUCI reserves from the conservative 20% reserves guideline, and $812,949.50 available to expend in ASUCI reserves from the 15% reserves guideline according to ASUCI's annual budget for Fiscal Year 2019-2020.

CONCLUSION

I am requesting the Judicial board to:

1. Freeze ASUCI office budgets
2. Freeze ASUCI Reserves
3. Issue preliminary injunction on R56-26
4. Issue preliminary injunction on R56-27

Until the issues presented have been resolved before the Judicial Board.

Petition for Hearing

PETITION FOR A HEARING

Statement of the Case

The ASUCI Senate discarded the procedures and rules established within the ASUCI Bylaws to amend the Judicial Board Policies and Procedures (R56-26) and ASUCI Bylaws (R56-27), to remove funds from the annual budget omnibus (R56-22), and to amend funds appropriated by a different session of the Senate (R56-23). The ASUCI Senate took these improper actions on October 6th, 2020.

Argument

Legislative actions of the ASUCI Senate must be conducted in accordance with the procedures defined by the ASUCI Bylaws. Secondly, memorandums from professional staff can not be misinterpreted nor used to circumvent the procedures outlined in the ASUCI Bylaws.

Re: [R56-26] Emergency ASUCI Bylaws

To amend the ASUCI Bylaws, the Senate must follow the process described in *§9. Amendments* in the bylaws. The procedures outlined in *§9.1.1.* and *§9.1.2.* describe the initial process before the ASUCI Senate can vote on a bylaw amendment:

> §9.1.1. *Noticed Motion*. The Senator proposing any amendment must provide a one (1) week notice prior to review by the Joint Committees.
> §9.1.2. *Review by Joint Committees*. Each specified joint committee, by the specified time, order, and vote, shall review and provide a positive recommendation of the bylaw amendment(s) and or revision(s):

The process requires that notice is provided and then the ASUCI Joint Committees established under Article XI of the ASUCI Constitution review the proposed amendments. These processes have not yet occured. Therefore, the ASUCI Senate is not in compliance with the ASUCI Bylaws and is unable to

approve bylaws amendments.

Re: [R56-27] The Emergency Judicial Reform Act

The Senate is unable to amend the Judicial Board Policies and Procedures as the ASUCI Bylaws have deferred full power over the Judicial Board policies to the Judicial Board under §2.3. and §11.1. of the bylaws:

> §2.3. *Judicial Deference*. The Judicial Board shall be deferred full power over their Judicial Board policies, and any other rules relevant to the trial process.
> §11.1. *Code deference*. The Judicial Board shall be given the power to define, amend, and revise the Judicial Board policies. The Chief Justice shall retain authority over the standing rules of the Judicial Board.

As shown, the ASUCI Senate does not hold the authority to amend the Judicial Board Policies and Procedures without the approval of the Judicial Board.

Re: [R56-22] Budget Correction

The ASUCI Associate Director sent a memorandum on August 19, 2020 regarding corrections required to the ASUCI 20-21 budget. The first issue is correcting a $3,434.00 deficit by reducing the current amount of funds allocated appropriately in order to achieve a zero-sum budget. The Senate must address this by removing $3,434.00 from program costs in a(n) ASUCI office(s) as outlined in §7.6.1. of the ASUCI bylaws. The ASUCI Senate is attempting to abuse this by changing the entire budget instead of removing $3,434.00 in programming costs. Amending the budget in this way is not allowed, as specified by §7.3.4. of the ASUCI bylaws.

> §7.3.4. *Changes to the Annual Budget*. The Annual Budget may not be amended, and may only be rescinded by a positive vote of thirty (30) properly seated Senators. Prior to any motion to rescind, Senators must request a positive recommendation from all Joint Committees.

As shown, removing $3,434,00 should occur in accordance with the ASUCI Bylaws.

The second issue with the Annual Budget revolves around §27.1. of the ASUCI Bylaws. §27.1. Describes minimum expenditure funding to clubs:

> §27.1. *Minimum Expenditure*. ASUCI shall appropriate one-third (⅓) of the Annual ASUCI budget after career salaries and benefits for UCI Student Government & Student Media (SGSM) professional staff and SGSM administrative expenditures, to support undergraduate majority, Registered Campus Organizations through the Student Programming and Funding Board (SPFB).

The ASUCI Associate Director interpreted §27.1. as out of compliance with UC PACAOS Section 85.00 under Section 80.00 "Policy on Compulsory Campus-Based Student Fees". Section 80.00 states

> *The redirection or re-appropriation of any existing mandatory student government fee, i.e., ASUCI, AGS, GSMSA or AMSG, is not appropriate or in accordance with University or Regental delegated authority. Locking in a specific dollar amount to be appropriated for a specific program, organization, or service would be an example of an inappropriate redirection or reappropriation action.*

The ASUCI Associate Director points out that the passed ASUCI Budget Fiscal Year 20-21 reflects an allocation of $700,000 to SPFB. The ASUCI 20-21 budget was passed before the current ASUCI Bylaws containing §27.1. became binding. Therefore, §27.1. would only affect the formation and passing of the ASUCI budget for fiscal year 21-22, which would take place in the Spring Quarter of 2021. Therefore, to be in compliance with policy, the Senate ought to remove *§27.1.* of the ASUCI Bylaws by following the procedure to amend established in *§9. Amendments* of the bylaws.

Because of this, the $700,000 allocated to SPFB in the 20-21 budget, which is $118,242,66 more than one-third of the Annual ASUCI budget, is not required to be reallocated as §27.1. was not binding when the $700,000 was allocated by the 55th Senate Session.

Re: [R56-23] Compliance with the University Act

The Vice Chancellor of Student Affairs sent a memorandum on August 5th, 2020 regarding [B55-04] The 2020 Student Infrastructure Investment Act, [B55-12] The 2020 Student Life Investment Act, [B55-16] The 2020 Esports Investment Act, [B55-19] The 2020 Student Education Investment Act, and [B55-22] The 2020 Interfaith Center Revival Act, herein referred to as the Investment Acts. The Investment Acts collectively spent $2,805,697.45 from ASUCI's reserves balance of $2,840,298.38. These allocations at the time would reduce ASUCI's unrestricted reserve fund balance to $34,600.93 which would be 1.29% of ASUCI's annual budget for Fiscal Year 19-20.
This depletion to 1.29% raised concerns, as this scenario fails to meet University guidelines for retaining a reserve fund balance of between 15 – 20%. To remedy this, the Vice Chancellor of Student Affairs suggested cuts be made or legislations be rescinded to address and correct this issue. This is no longer required, however, because the unrestricted ASUCI reserves now stands at $845,800.26, which equates to 31.5% of ASUCI's annual budget of the $2,680,305 for Fiscal Year 2019-2020. This increase in unrestricted reserves came from leftover funds not spent in the 19-20 Fiscal Year. Therefore, the reserves are beyond the 15-20% fund balance suggested by the University guidelines and no legislation is required to be rescinded to achieve this goal.

Another issue raised was funding to specific registered campus organizations (RCOs) in the Investment Acts. The Vice Chancellor of Student Affairs found issues of compliance with PACAOS section 63.10, 86.11, 86.32, 86.33, and 86.40. The issue is that these funds were not made publicly available to all RCOs. This funding should have instead been made available through SPFB which is available to all RCOs. To resolve this, the funding for RCOs should be repealed, not the entire legislation.

The final issue arises from line item expenditures within the Investment Acts labelled "miscellaneous". The concern over the "miscellaneous" appropriations comes from the possibility that it could be used to fund the operational costs of an organization, which would be against PACAOS policies.
To rectify these issues, the Vice Chancellor of Student Affairs' returned the Investment Acts to the ASUCI Senate so the Senate can either rescind or correct the legislation so they comply with all applicable University policies and sound business practices. To comply with all University policies, the Senate only needs to rescind the line item expenditures that allocate funds labelled "miscellaneous". No legislations are required to be rescinded in their totality, as the ASUCI

reserves are at 31.5% of the 19-20 Annual Budget. Therefore, rescinding the Investment Acts is not required nor allowed according to §7.6.1. of the ASUCI Bylaws.

Furthermore, rescinding the issues documented would result in an increase of $393,194 accumulating the unrestricted reserves to $1,238,994.26, or 46.23% of ASUCI's annual budget for Fiscal Year 2019-2020. Therefore, the ASUCI Senate would have $702,933.26 available to expend in ASUCI reserves from the conservative 20% reserves guideline, and $812,949.50 available to expend in ASUCI reserves from the 15% reserves guideline according to ASUCI's annual budget for Fiscal Year 2019-2020.

Prayer for Relief

My prayer for relief is as follows:

For *[R56-26] Emergency ASUCI Bylaws*, that the Judicial Board overturns the legislation and orders the Senate to follow the procedure outlined in *§9.1.1.* and *§9.1.2. of the ASUCI Bylaws.*

For *[R56-27] The Emergency Judicial Reform Act*, that the Judicial Board overturns the legislation and orders the Senate to seek approval in the ASUCI Judicial Board to amend the Judicial Board Policies and Procedures.

For *[R56-22] Budget Correction*, that the Judicial Board overturns the legislation and orders the Senate to remove $3,434.00 from program costs in a(n) ASUCI office(s) as outlined in §7.6.1. of the ASUCI bylaws.

For *[R56-23] Compliance with the University Act*, that the Judicial Board overturns the legislation and orders the ASUCI Senate to rescind the following expenditure line items in order to be inline with university policy within two weeks of their order:

For *[B55-04] The 2020 Student Infrastructure Investment Act,*

> *§7.1. Appropriation. The Engineering Student Council shall be appropriated thirty five thousand dollars ($35,000).*

§8.1. Appropriation. The Social Ecology Dean's Ambassador Council shall be appropriated thirty five thousand dollars ($35,000).
§9.1. Appropriation. The Information and Computer Science Student Council shall be appropriated thirty five thousand dollars ($35,000).
§10.2.1. FABworks (10). Eight thousand seven hundred sixty dollars ($8,760) for shipping and miscellaneous;
§10.2.2. Woodshop (5). Eight hundred ($800) for shipping and miscellaneous;
§10.2.3. Machine and Weld Shop (19). Fifty five thousand one hundred ninety dollars ($47,190) shipping and miscellaneous;

§11.2. Funding Line Item Limitations (22). Twenty five thousand dollars ($25,000) for Veterans and Dependents Appreciation Dinner - May 28th to recognize and celebrate graduating veterans and dependents, and continue to build networks with on- and off-campus supporters;
§11.2. Funding Line Item Limitations (23). Six thousand fifty seven dollars ($6,057) for shipping and miscellaneous;
§12.1. Appropriation. The Special Committee on Student Parking Appeals shall be appropriated forty five thousand dollars ($45,000).
§13.1. Appropriation. The Student Initiative Funding Committee (SIFC) shall be appropriated sixty one thousand eight hundred ($61,800) to spend on grants pursuant to the rules established in this act. Appropriations shall be determined by the committee, based on the criteria of this act.

For *[B55-12] The 2020 Student Life Investment Act,*

§6.3. Funding Line Item Limitations (31). Thirty one thousand eighty seven dollars ($31,087) for miscellaneous items;
§6.3. Funding Line Item Limitations (29). Thirty thousand dollars ($30,000) for awareness and outreach;

For *[B55-16] The 2020 Esports Investment Act,*

6.3.2. Esports Arena Life Expenses.

1. *Sixteen thousand dollars ($16,000) for free arena happy hours;*

2. *Four thousand dollars ($4,000) for new player nights;*

6.3.3. Other expenses. Five thousand five hundred eighty dollars ($5,500) shall be appropriated for other expenses as needed.

For *[B55-19] The 2020 Student Education Investment Act,*

§8.2.5. Miscellaneous and other. seven thousand dollars ($7,000) for miscellaneous, contingency, and other.

For *[B55-22] The 2020 Interfaith Center Revival Act,* no action required.

Appendix B: Schumm Memo

RE: ASUCI Budget Fiscal Yea 20-21r

During the Spring Quarter of Fiscal Year 19-20, the ASUCI Senate presented and passed the ASUCI Budget Fiscal Year 20-21 via https://www.asuci.uci.edu/senate/legislation/print/?legislation_number=B55-21.

After a review of this passed budget, I have determined there are two areas of that need to be reviewed and corrected to align per UC Policy.

Item 1
The ASUCI Budget Fiscal Year 20-21 has a deficit in the amount of $3,434.00. Therefore, this amount must be reduced from the current budget appropriately so that the budget is a zero-sum budget.

Item 2

UC PACAOS Section 85.00 under Section 80.00 "Policy on Compulsory Campus-Based Student Fees" states as follows via https://aisc.uci.edu/policies/pacaos/governance-and-fees.php:

"The redirection or re-appropriation of any existing mandatory student government fee, i.e., ASUCI, AGS, GSMSA or AMSG, is not appropriate or in accordance with University or Regental delegated authority. Locking in a specific dollar amount to be appropriated for a specific program, organization, or service would be an example of an inappropriate redirection or re- appropriation action."

The current ASUCI Bylaws, Section 27.1 "Minimum Expenditure" under Section 27 "Mandated Registered Campus Organization Funding", states as follows via https://docs.google.com/document/d/1hOXFx2yhf3Ox-C2C-PQkWsUJnWJ7s8dE61-e_xTcS1E/edit:

"ASUCI shall appropriate one-third (1/3) of the Annual ASUCI budget after career salaries and benefits for UCI Student Government & Student Media (SGSM) professional staff and SGSM administrative expenditures, to support undergraduate majority, Registered Campus Organizations through the Student Programming and Funding Board (SPFB)."

The passed ASUCI Budget Fiscal Year 20-21 reflects an allocation of $700,000 to SPFB. Unfortunately, the mandated amount of a one-third (1/3) allocation within the current ASUCI Bylaws, noted above, to SPFB violates UCI PACAOS Section 85.00. Therefore, the amount of $581,757.34, which equates to "...one- third (1/3) of the Annual ASUCI budget after career salaries and benefits for UCI Student Government & Student Media (SGSM) professional staff

and SGSM administrative expenditures,...” must be reallocated appropriately within the existing passed budget, as noted above.

Appendix C: Banks Memo

August 5, 2020

ASUCI Executive Cabinet
ASUCI President - Michelle Mallari
ASUCI External Vice President - Alan Calderon
ASUCI Internal Vice President - Hannah Quach
ASUCI Academic Vice President - Phil De Vera
ASUCI Student Services Vice President - Cathlyn Diller
ASUCI Senate
Senate President - Alex Wang
Senate Pro-Tempore - Reema Saad
Re: 2020 Student Infrastructure Investment Act
2020 Student Life Investment Act
2020 Esports Investment Act
2020 Student Education Investment Act
2020 Interfaith Center Revival Act

During the Winter and Spring Quarters, the ASUCI Senate approved several pieces of legislation providing funds from ASUCI’s reserves to various programs and a few student advisory councils. Concerns were raised as to whether this funding complies with applicable University policies and procedures and the effect of such funding on ASUCI’s reserve fund balance. This memorandum will summarize those concerns and my decision on the status of the legislation.

In February of this year, the ASUCI Senate passed “The 2020 Student Infrastructure Investment Act” (“SIIA”). After the Senate overturned a veto by the ASUCI Executive Cabinet, concerns were raised as to whether this allocation and expenditure of University funds (in this case, funds derived from mandatory student fees) complied with applicable University policies and procedures. Based thereon, UCI’s Chief Financial Officer/Vice Chancellor requested the Internal Audit Department (IA) review the SIIA, which allocated $1.1 million from ASUCI’s reserves for the School of Engineering’s Institute for Design and Manufacturing, student councils within the schools of Engineering, Social Ecology, and Information and Computer Science(1), the Veteran Services Center, the ASUCI Committee on Student Parking Appeals, and the ASUCI Student Initiative Funding Committee (2). IA completed their review of the legislation and submitted a memorandum, which is included as Attachment A.

(1): I understand that each of the student advisory councils is a Registered Campus Organization (“RCO”) at UCI.

(2): Approximately 75% of the funds in this legislation were allocated for use by the School of Engineering's Institute for Design and Manufacturing
[$800,000] and Engineering Student Council [$35,000]. In addition, $35,000 was allocated to each of the student councils in the schools of Social Ecology
and Information and Computer Science [for a total of $70,000], $88,200 for the Veteran Service Center, $45,000 to the ASUCI Committee on Student
Parking Appeals, and $61,800 to the ASUCI Student Initiative Funding Committee.

While IA was conducting its review of the SIIA, the ASUCI Senate passed additional legislation allocating approximately an additional $1.7 million from ASUCI's reserve funds.3 Collectively through the Investment Acts the ASUCI Senate allocated 98.78% of ASUCI's reserves or $2,805,697.45 from ASUCI's reserves balance of $2,840,298.38. The allocations in the Investment Act would lower ASUCI's reserve fund balance to $34,600.93 or 1.29% when compared to ASUCI's annual budget of $2,680,305 for Fiscal Year 2019-2020.

Applicable University policies and procedures to ASUCI include Policies Applying to Campus Activities, Organizations, and Students ("PACAOS"). Pursuant to UCI's implementation of PACAOS, the Chancellor delegated authority to the Vice Chancellor, Student Affairs "to implement and administer University policies and procedures applying to students." (PACAOS § 11.00.).

PACAOS Section 67.00 relates to "Fiscal Soundness and Fiscal Accountability" and provides as follows:

"Chancellors are responsible for the fiscal soundness of student governments, and are responsible in addition for maintaining fiscal accountability over compulsory campus- based student fees and voluntary contributions collected from students to support student governments under the University's authority. The allocation and expenditure of all such funds by student governments shall be in accordance with all applicable University policies. In the discharge of these responsibilities, Chancellors may conduct audits of the finances of student governments, **exercise control over expenditures of their funds when and to the extent necessary to maintain the financial solvency of student governments**, and where required may take action to ensure that any financial or business activity under the control of student governments is operated in accordance with sound business practices and is consistent with legal requirements and University policies and procedures." [Emphasis added.]

PACAOS section 63.10 prohibits student governments at UCI from funding the operational costs of organizations and requires funding to only be provided to "for specific programs which are open to the entire student population and serve to complement the University's mission."

PACAOS section 86.11 provides, in part, that "[p]articular programs and activities of a [RCO] funded from compulsory campus-based student fees shall be open to participation by the entire campus community. In addition, all expenditures relating to particular programs and activities of a [RCO] (whether the program or activity takes place on- or off-campus) that are funded from such fees must be under the direct control of University of California students."

PACAOS section 86.32 requires that prior to reallocating funds from student fees, ASUCI "must publicize widely
and regularly to [RCOs] the availability of such funds to support [RCOs] on a viewpoint-neutral basis, as well as the viewpoint-neutral criteria on the basis of which such funds will be reallocated; and (b) that communications to [RCOs] on the availability of such funds must be made in a timely fashion, and be reiterated periodically during the year as long as such funds remain available, to ensure sufficient time for the preparation of funding proposals in advance of funding decisions."

(3): The additional legislation includes the following: (1) "The 2020 Student Life Investment Act", which allocated $250,000 to the Disability Services Center; (2) "The 2020 Esports Investment Act", which allocated $50,000 to the UCI Esports program; (3) "The 2020 Student Education Investment Act", which allocated approximately $831,000 to the School of Physical Sciences, Department of Chemistry and $35,000 to the School of Education; and (4) "The 2020 Interfaith Center Revival Act", which allocated $540,000 for the renovation of the Interfaith Center. Collectively, these four pieces of ASUCI legislation and the SIIA will be referred to herein as the "Investment Acts".

Then, PACAOS section 86.33 provides the "criteria and procedures shall also provide for: (a) documentation of all funding processes available to [RCOs], including notice of the opportunity to apply for funding and the criteria upon which funding requests will be judged, consistent with Section 86.32 of these Policies; (b) documentation of all funding requests by [RCOs] and actions taken by the student government or other campus
entity with reference to the published funding criteria in response to such requests; and (c) a formal process that allows [RCOs] or individual students to appeal, in a reasonable and timely manner, funding decisions regarding particular [RCOs] or [RCO]-related programs and activities made by the student government or other campus reallocating entity."

Further, the criteria and procedures referenced in section 86.33 must be reviewed by University legal counsel to ensure the proposed criteria and procedures are consistent with the law and PACAOS. (PACAOS § 86.40.)

UCI's Division of Finance and Administration guidelines recommend a reserve fund balance of between 15 to 20%.

The combined effect of the Investment Acts would cause the depletion of approximately 98.78% of ASUCI's reserves. While sound business practices can justify the spending of reserve funds in certain circumstances, there does not appear to be any justification within the Investment Acts to (1) expend 98.78% of ASUCI's reserve fund balance and (2) fail to meet University guidelines for retaining a reserve fund balance of between 15 – 20%. For example, the expenditure of the reserve funds via the Investment Acts was not required or needed to address an emergency situation or unanticipated loss of funding. While cuts could be made to allocations within the Investment Acts to address and correct this issue, given the other issued identified below, ASUCI would be in the best position to determine how to resolve this issue.

Next, the Investment Acts did not comply with the requirements in PACAOS sections 86.11, 86.32, 86.33, and
86.40 with regard to the funding allocated to RCOs. The funding process undertaken via the Investment Acts was not "open to participation by the entire campus community", nor were any procedures or criteria developed relating to this funding process. In addition, such procedures and criteria were not reviewed by University legal counsel and the process was not widely publicized to RCOs about the availability of, and opportunity to apply for, such funds.4 Furthermore, academic units should utilize the established university practices for capital requests, improvements, or modifications to university/state owned facilities. The use of student fees by academic units for capital requests, improvements, or modifications is not appropriate, unless such funding follows the guidance and procedures provided by PACAOS and University guidelines and policies.

Moreover, it appears several funding allocations within the Investment Acts could be in violation of PACAOS section 63.10, because the funding could be used for the operational cost of the organization.

(4): This analysis is consistent with and supported by IA's finding with regard to the funding provided to the advisory student councils. IA determined that "[b]ecause of lack of documentation and the fact that the appropriated expense is equal across the board for ESC, SEDAC, and ICSSC, it appears that these particular organizations were specifically chosen to receive allocations from the ASUCI reserves. IAS was unable to ascertain whether there was adequate notification to other RCOs on the availability of these funds and whether any applications were submitted and approved for funding. Furthermore, by bypassing the established RCO funding processes, ESC, SEDAC, and ICSSC may be unfairly benefitting from the appropriations granted by SIIA."

Acts only prohibit funds being expended for "any beverage or item containing alcohol", "non-academic retreats", or items "not related to the public well being [sic] of all members of their organization." Therefore, funding within the Investment Acts could be used to fund the operational costs of an organization, including those of the student advisory councils in SIIA, as well as departments provided with a "miscellaneous" line item in the Investment Acts.

Finally, IA's review recommended that "[t]o promote transparency and practice sound business controls, all request for funds should be accompanied by documentation that articulate the reasonableness, appropriateness, and accuracy for the request. Moreover, if there is a need to bypass established practices, then the reason for the circumvention should be documented and approved." Here, ASUCI did not comply with these requirements in approving the Investment Acts.

Based on the Vice Chancellor of Student Affairs' delegated authority to implement and administer PACAOS, I have determined that the Investment Acts are not in accordance with applicable University policies and sound business practices. I am not allowing the Investment Acts to proceed and therefore returning them to the ASUCI Senate so the Senate can either rescind or correct the legislation so they comply with all applicable University policies and sound business practices.