ASUCI Judicial Board

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

Comments and Clarifications on Constitution Article VI, Section 2.b - ASUCI Stances

FERAGALLO-HAWKINS, K.; VU, K.: NAZARI, T.; and MOVAHEDI, N. approve of what is written.

I

On March 8th, 2023, the Judicial Board was requested to review Article VI, Section 2.b of the ASUCI Constitution, which states "The Senate has the primary policy-making legislative authority, and final administrative authority, for ASUCI, and under this authority has the power ... [t]o set the official stances of ASUCI." The purpose of this was to clarify whether or not officers of ASUCI were required to follow alongside the stances that the Senate sets out, as per its powers.

II

Article VI, Section 2.b of the ASUCI Constitution underlies the Senate's power to set official stances of ASUCI with its "policy-making legislative authority." Article IV, Section 6 of the ASUCI Code of Ethics states "no officer of ASUCI shall knowingly perform or refuse to perform any act to deliberately

obstruct the execution of ASUCI policy, rules or regulations, or the achievement of official ASUCI programs." The ASUCI Constitution also invests no powers into officers, besides the Senate, to set stances or legal arrangements for ASUCI. Therefore, it is the opinion of this Board that stances set by the ASUCI Senate, according to the governing documents, have binding authority over official ASUCI actions.

However, there are limits to this authority. According to Article IV, Section 9 of the ASUCI Code of Ethics, "No officer of ASUCI shall use their situational or Constitutionally provided power or influence to force or coerce other individuals or officers to act against their will, conscience, or the regulations of ASUCI." The stances set by the Senate must not force other officers of ASUCI to act in favor of that legislation, even if it holds a binding authority. Article IV, Section 1.c of the ASUCI Constitution also establishes a necessary separation of powers between the executive authority of the Executive Cabinet and the legislative authority of the Senate, though limited by more explicit parts of the ASUCI Constitution. Therefore, it is the opinion of this Board that any stances drafted by the Senate do not have the authority to (a) take down statements made by Executives retroactively; (b) stop Executive-planned events that have been put in motion prior to the enactment of stance legislation; (c) force stance-aligned action out of the Executive branch, or their individuals, that are against their will or conscience; and (d) that the basis of ASUCI stances cannot be to obstruct the actions of other branches in ASUCI.

III

An official ASUCI stance shall be established if the legislation cites Article VI, Section 2.b of the ASUCI Constitution and its provision that the Senate has the policy-making authority to set the official stances of ASUCI.

The official ASUCI actions that are accountable to stances set by the Senate are those defined by SGSM, such as emails, flyers, ASUCI social media, and events.

In the case of a veto by the Executive Cabinet on legislation establishing an ASUCI stance, the authority of that stance

shall still apply towards official ASUCI events or statements for up to five academic days, or until the Senate revotes on the legislation. These five academic days are based on Article VII, Section 2.a.1.G.ii of the ASUCI Constitution, which establishes the amount of time before legislation becomes effective without the approval of the Executive Cabinet.