



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.”

Vu

v.

Dimalanta et al.

Petition presented by Chief Justice Kaitlin Vu.
Defendants represented by President Jun Jang.

Ruling

Dated December 18, 2023

BOLEK, C.; MOVAHEDI, N.; NAZARI, T. approve of what is written.

VU, K.; LEE, A.; MARIN, R.; MENG, S. abstain.¹

¹ The abstaining Justices recused themselves pursuant to current Judicial Board recusal policies. Judicial Board Policies Art. IV § C, Judicial Board Policies Art. VI § E(7).



Background

On September 28, 2023, the Office of the Student Advocate General (SAG) received a complaint from a former director of the Office of the Academic Affairs Vice President's (AAVP) Speakers Commission, alleging bias, improper meeting conduct, and improper termination under the Governing Documents against the Academic Affairs Vice President, her Chiefs of Staff, and two other members of the Speakers Commission at the time (hereinafter referred to as *Dimalanta et al.*). On October 17, 2023, the Internal Student Advocate General's (ISAG) completed report on his investigation into these allegations was emailed to the Judicial Board pursuant to Art. 9 § 3(b)(5) of the Constitution. Over the following weeks and through communications with the SAG and the ISAG, the Judicial Board, under its authority to initiate preliminary injunctions under conditions of possible violations of the Governing Documents, consequently issued a preliminary injunction on the former Speakers Director's dismissal on November 21, 2023. ASUCI Constitution Art. 8 § 2(f), ASUCI Judicial Board Policies Art. VI § E(7).

Under Art. VI § E(7) of Judicial Board Policies, the Student Advocate General has, as it were, the right of first refusal to file a Petition for Hearing with the Judicial Board in cases that begin in preliminary injunction. On November 22, 2023, SAG Shreyas Chandramouli exercised this right, placing the responsibility of filing a Petition for Hearing onto Chief Justice Kaitlin Vu. ASUCI Judicial Board Policies Art. VI § E(7). On the same day, Chief Justice Vu recused herself from this case, and on November 24, 2023, emailed a Petition for Hearing to the Board. At each step in this process, all relevant parties were informed within the bounds set by the Governing Documents. On December 6 and December 8, 2023, a Preliminary Hearing was held to decide whether or not to proceed to a formal hearing.



Issues Presented

1. Whether to advance this case to a formal hearing;
2. Whether Chief Justice Vu has standing to seek judicial remedy;
3. Whether the Judicial Board has the authority to issue a preliminary injunction before a Petition for Hearing is filed;
4. Whether the Judicial Board has jurisdiction to preside over a case involving personnel decisions within Executive Offices.

Remedies Sought

The Petitioner seeks:

1. Continuation of Preliminary Injunction until a ruling is issued in this case.
2. Nullification of the dismissal of the former Speakers Director.

Ruling

On moving to a formal hearing:

In Favor: 0

Opposed: 3 (Bolek, C.; Movahedi, N.; Nazari, T.)

Abstaining: 4 (Vu, K.; Lee, A.; Marin, R.; Meng, S.)



Discussion

The main question to which the Board responds today is, of course, whether or not we are to proceed to a formal hearing in this case. However, this case further presents a number of questions to the Board that strike more deeply at the principles and the integrity on which the Associated Students is founded. As the Board did in its ruling in *Wei v. Shahrood*, we here decide not to proceed to a formal hearing for reasons of the petitioner's standing and the bedrock role this judicial principle has in preserving the balance of power in our association and in those modes of democratic government on which we model ourselves. *See* *Ruling on Presidential Recall and Special Election, Judicial Board Rulings*, asuci.uci.edu (2021).

This case was initiated through the Judicial Board's preliminary injunction ability as established in Judicial Board Policies. ASUI Judicial Board Policies Art. VI § E. While we recognize the challenges presented by comparing the provisions of this article with the provisions of other sections of the Governing Documents that provide the Judicial Board the power to issue injunctive relief, we must also assert that proper judicial restraint demands that we on the Board deal with the Governing Documents as they are available to us. *See*, e.g., ASUCI Constitution Art. 8 § 2(f). A central argument presented by the Respondents focused on the Board's proper role within ASUCI, its ability to issue preliminary injunctions as done in this case potentially threatening the role of the Office of the Student Advocate General and the due process rights of all paid and unpaid positions within the Associated Students. As, at this time and in this case, we do not see ourselves as in a position to decide the exact extent of the Judicial Board's authority to issue preliminary injunctions as outlined in Art. VI § E of the Judicial Board Policies, we therefore reject the Respondent's argument that all preliminary injunctions issued in the absence of a Petition for Hearing are facially violative of the Governing Documents.



We agree, however, that regardless of future litigation, opinions, or legislative action on this subject, that there must be limits on the judiciary's authority to issue such injunctions in the absence of a petition for hearing. In all relevant precedents over the last 20 years, the Judicial Board has only issued one preliminary injunction before the filing of a petition for hearing by a concerned party.² *In Re R45-75* dealt with a failure by the Elections Commission to properly advertise proposed Constitutional Amendments through required Student Media channels. The demands of the Constitution placed on the Elections Commission in this case were clear, thereby making their actions — specifically, posting the proposed amendments in only a single Facebook hyperlink — a clear violation of the Governing Documents. Furthermore, the dealing of this case in the students' right to direct democracy gave this injunction another point of clear departure from other cases in which the Board issued injunctive relief. Consequently, from both case law and relevant principles in our Governing Documents, we arrive at only one set of circumstances in which a preliminary injunction issued before the filing of a petition for hearing pursuant to Art. VI § E of the Judicial Board Policies is facially consistent with the Governing Documents: cases where there is (i) clear and blatant violation of the Governing Documents, and (ii), injury to fundamental rights of the entire student body, such as would take place in a case involving the right to direct democracy. Chief Justice Vu's Petition for Hearing satisfies neither of these requirements, therefore we must examine the question of standing in this case with greater scrutiny.

Standing is scantily defined in the Governing Documents, being based only in a vague mention of "injury" and "[general] ... loss suffered by either an individual or a group." ASUCI Bylaws Art. XVII § A b(3). While this guideline provides ample and beneficial liberties to the Board and all those who wish to seek merited relief

² We reference precedent here in order to show the role of the Judicial Board's preliminary injunction powers throughout the history of ASUCI, but we urge caution in the use of precedent in arguments before and decisions by this Board given the many changes and amendments that have been made to our Governing Documents over the last four years, let alone the last sixty.



through the Associated Students' judicial procedures, it simultaneously leaves us in an unsure position in this case. The Petitioner argued for her standing in this case by claiming that the kind of personnel issue presented by the termination of the former Speakers Commission Director posed a threat to the opportunity of all students to participate in paid positions in their student government. Such a threat would thus provide Chief Justice Vu two potential avenues by which to claim standing. Under this argument, in occupying a paid position within the Associated Students herself, the Petitioner's right to security in this position would first be unduly limited in fact if the Board were to decide to remove our present preliminary injunction and thereby implicitly uphold the termination of the former Speakers Director. Second, the same decision would pose a hypothetical injury to all students in UCI's student body by failing to prevent them from spurious termination, thereby potentially meeting the demands of the *In Re R45-75* standard.

We reject both of these arguments by the Petitioner for standing. In the first argument from fact, the procedures for removing a Chief Justice from their position are clearly outlined in the Governing Documents; while the former Speakers Director, as an employee within the Office of the AAVP, was removed by the Academic Affairs Vice President, the Chief Justice can only be removed by impeachment. ASUCI Constitution Art. 11 § 1(c), 2(b). The specific question of the demands of the Bylaws that would be dealt with in a formal hearing for this case would not have ramifications on the security of the Chief Justice in her position within ASUCI, so we conclude the Petitioner has not shown standing in this regard. In the second hypothetical argument, we on the Board find such an argument, were it to be accepted, to be a dangerous manner by which the very purpose of standing as a check on the judiciary could be undermined. Were the Board to extend standing privileges to any person who could hypothetically be in the same position as one who has suffered actual injury, both the provisions of Art. XVII § A of the Bylaws and the principle which it upholds would be



rendered pointless. To have standing, one must have standing in fact, and for this reason we reject the Petitioner's claim.

We now turn to one last specificity in this case before concluding our ruling. It must be remembered that this case originated in a complaint by the former Speakers Director through the Office of the Student Advocate General, who, pursuant to their responsibilities, pursued and completed an investigation on behalf of the complainant. Upon issuing our preliminary injunction, we on the Board — pursuant to our own responsibilities in such cases — sent the injunction to the complainant, among other parties. While the facts and legal circumstances of this case may have produced a ruling in favor of the Petitioner on the merits, the complainant's failure to respond to the Board forced our decision today to be made on standing. By concluding that the Chief Justice lacks proper standing to pursue this case as petitioner, we make a decision not only with the aim toward justice in this case, but with a broader view to preserving the integrity of the Associated Students and the separation of powers on which it rests.

Conclusion

The Judicial Board rules not to move forward to a formal hearing in this case and to remove the preliminary injunction issued on November 21, 2023.

It is so ordered.