



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.”

OPINION ON THE VACANCIES WITHIN THE ASUCI SENATE

February 22, 2024

LEE A. delivered the opinion of the Judicial Board. Bolek, C.; Marin R.; Malani, R.; Meng, S.; & Movahedi, N. agree with what is written.¹

I

As of the writing of the opinion, the following seats within the ASUCI Senate have been vacant for more than five weeks:

- Pharmaceutical Sciences Senator (Vacant since 2023-11-07)
- Arts Senator (Vacant since 2024-01-09)
- First Year Senator (Vacant since 2024-01-09)
- ICS Senator (Vacant since 2024-01-09)
- At-Large Senator (Vacant since 2024-01-11)

Article VI, Section 1(d)(3) of the ASUCI Constitution states that “[i]f the Senate fails to fill a vacancy within five academic weeks, the Judicial Board will review the potential applicants.” Pursuant to this section, the Judicial Board, with consultation from the Honorable Chairperson of the Rules Committee, has reviewed the current potential applicants for the Senate for these seats and found that there were qualified candidates for

¹ Nazari, T. was not present for the vote on this Opinion.



the vacant First Year, ICS, and At-Large Senator seats and no qualified candidates for the Pharmaceutical Sciences and Arts Senator seats.

As the Judicial Board found that there are vacant seats for which there are qualified candidates, ASUCI Const. Art. VI., § 1(d)(3)(A) grants the Board the authority to “levy an injunction against all Senate legislation, excluding appointment legislation, until the seat is filled.”

Additionally, as the Judicial Board found that there are vacant seats for which there are no qualified candidates, ASUCI Const. Art. VI., § 1(d)(3)(B) states that “a Special Election shall be called for Week 3 or 7 of the current or upcoming quarter, whichever date is the earliest date that the Elections Commission can properly organize a special election.”

II

In writing this opinion, it came to the Judicial Board’s attention that ASUCI Bylaws Art. IV., § B(9)(f) grants the Board the authority to “extend the deadline to fill a vacant Senate seat beyond five (5) academic weeks” but not to “more than three (3) academic weeks.”

However, the ASUCI Constitution makes no mention of this authority while enumerating the actions the Board may take in Art. 6, § 1(d)(3) nor while enumerating the Judicial Board’s powers and authorities in Art. 8 § 2. Conversely, the ASUCI Constitution gives a clear deadline of “five academic weeks” in Art. 6, § 1(d)(3) and explicitly enumerates the actions the Judicial Board may take in such circumstances without any indication that such is non-exclusive.

The Board also finds that there are firm principles within and implied by the governing documents indicating that this deadline should not be extended. ASUCI Const, Art. VI., § 1 apportioned Senators to particular schools, interest groups, and the student body at-large to represent their constituents before



the ASUCI Senate and (under ASUCI Bylaws Art. IV. § A(4)) the Dean(s) or Department(s) associated with their constituents. For these seats to go unfilled for long periods of time presents a considerable threat to all students' right to an "ethical, fair, and effective student government" as guaranteed to them under ASUCI Const. Art. III § 1(q).

Additionally, neither the ASUCI Constitution nor the ASUCI Bylaws otherwise mention the extension of similar deadlines to fill vacant positions. As an illustrative example, the most closely related role to Senators are the elected Executive Officers, as they are similarly elected by the undergraduate students of UCI and have authority over a branch of the ASUCI. If an elected Executive Officer position is vacant, ASUCI Const. Art. 7 § 3(c) states that the Senate "must call an immediate special election" (if the vacancy occurs before Week 3 of Spring Quarter), affirming the principle that vacancies must be filled posthaste.

Thus, we find that this section of the Bylaws is supported neither by an explicitly enumerated authority nor a firm principle suggesting it to be in the best interest of students. Therefore, in keeping with our previous opinion on ASUCI Const. Art. 6 § 1 and Art. 7 § 1(d), we appeal to the legal maxim of *expressio unius est exclusio alterius* ("expression of one thing is at the exclusion of another"). As such, it is the opinion of the Judicial Board that it is not within the Board's authority to extend the constitutionally mandated five week deadline. We therefore rule that ASUCI Bylaws Art. IV., § B(9)(f) is unconstitutional and shall be struck down.

III

As established in I, the Judicial Board found that there are qualified candidates for three of the vacant Senate seats. Both the ASUCI Constitution and the ASUCI Bylaws state that, in such a case, the Board may levy an injunction against all Senate legislation other than appointment legislation. The Judicial Board has voted not to do so at this time.



IV

As established in I, the Judicial Board found that there are no qualified candidates for the vacant Pharmaceutical Sciences and Arts Senate seats. ASUCI Const. Art. VI., § 1(d)(3)(B) states that, in such a case, “a Special Election shall be called for Week 3 or 7 of the current or upcoming Quarter, whichever date is the earliest date that the Elections Commission can properly organize a special election.” We thus call a Special Election to take place to fill both of these vacant seats for the rest of the academic year.

As this opinion is being delivered during Week 7 of Winter Quarter, said special election shall take place in either Week 3 or Week 7 of Spring Quarter, whichever is the earliest week in which the Elections Commission feels they can properly organize a special election. The winners of said special election shall take office immediately after the certification of the special election results and will serve until the end of the current academic year (ASUCI Const. Art. V. § 1(b)).

V

While there are multiple vacancies in the ASUCI Senate that have not been filled for more than five weeks, the Judicial Board has decided that it will not enjoin the Senate at this time. Nevertheless, as it has found that there are no qualified candidates for the Pharmaceutical Sciences Senator and the Arts Senator, the Judicial Board will call for a Special Election.

Additionally, the Judicial Board finds that it is not within its constitutional authority to extend the timeline to fill vacancies by three weeks under ASUCI Bylaws Art. IV., § B(9)(f); this section is unconstitutional and shall be struck down.

The Judicial Board acknowledges that it could have handled the issue of vacancies within the Associated Students more correctly throughout this quarter. On a strict reading of the ASUCI Constitution, the Board should have considered the issue of vacant positions far earlier in the quarter, as the



Pharmaceutical Sciences seat in the Senate and the Elections Commissioner position were both vacant past constitutionally mandated deadlines. Perhaps if the Board had taken action or issued an opinion on the vacancies earlier in the quarter, it would have stressed the urgency of filling vacant seats and mitigated the present circumstances.

Nevertheless, it is ultimately not the responsibility of the Judicial Board to fill vacancies. The Board would like to stress that its decision should not be taken as absolving the ASUCI Senate of their duty to fill these vacant seats posthaste. Not only does ASUCI Bylaws Art. IV., § B(9)(e) mandate that “[t]he Senate must make every effort to fill vacant seats in the Senate promptly,” the fact that so many seats have not been filled for over six weeks is deeply distressing and poses a clear and immediate threat to the right of disenfranchised students to a student government that represents them.

Consequently, we herein strike down Art. IV § B(9)(f) of the Bylaws and uphold the strict deadline set forth in the Constitution. Furthermore, pursuant to our obligation under the Governing Documents, we hereby call for the Elections Commission to execute a Special Election for the position of Pharmaceutical Sciences and Arts Senator, for whom there are no qualified candidates as of the date of this opinion.

It is so ordered.



APPENDIX A
Relevant Sections of the ASUCI Constitution

As of 2023-02-XX, Article VI, Section 1(d) of the ASUCI Constitution read as follows:

ARTICLE VI. Senate

(d) If a Senate seat is vacant:

- (1) The Senate may call a special election to fill the seat; or
- (2) The Senate may appoint a student who meets the relevant qualifications to fill the vacancy.
- (3) The Senate must fill a vacant Senate seat within five academic weeks (excluding Summer Sessions). If the Senate fails to fill a vacancy within five academic weeks, the Judicial Board will review the potential applicants and may take the following actions:

- (A) If the Judicial Board believes the application pool is sufficiently qualified, the Board may levy an injunction against all Senate legislation, excluding appointment legislation, until the seat is filled.
- (B) If the Judicial Board believes there are no qualified candidates, a Special Election shall be called for Week 3 or 7 of the current or upcoming Quarter, whichever date is the earliest date that the Elections Commission can properly organize a special election.



As of 2023-02-XX, Article VIII, Section 2 of the ASUCI Constitution read as follows:

ARTICLE VIII. Judicial Board

Section 2. Authority and Powers

- (a) To interpret all parts of the governing documents of ASUCI;
- (b) To grant judicial relief as permitted by the governing documents of ASUCI;
- (c) To make final, binding decisions on matters within its jurisdiction by a vote of a majority of voting Justices, provided that the number of Justices required for a quorum are voting;
- (d) To exercise appellate jurisdiction over any decisions of the Elections Commission;
- (e) To put a temporary injunction on all ASUCI legislation when its membership drops below four justices;
 - (1) These injunctions are exempt from the vote minimum required by Section 2(c).
 - (2) The injunction is automatically lifted when [the] Judicial Board reaches four members.
 - (3) If there are no Justices, then there is an automatic injunction on all ASUCI legislation.
- (f) To nullify any measure that is considered unconstitutional and ordering the immediate halt of those actions;
- (g) To judge the constitutionality of actions by the Executive Cabinet, Senate, Student Advocate General, and Elections Commission and ordering the halt of actions that are judged to be unconstitutional;
- (h) To order the Joint Committee on Transparency to disclose information held by ASUCI, subject to limitations in UCI Policy;
- (i) To order a special election in the event that the Elections Commission fails to do so within a timeframe specified in the ASUCI governing documents or if the



Senate fails to approve a special election timeline within two academic weeks of an elected Executive Officer position becoming vacant or the Elections Commissioner calling a special election;

- (j) To review weekly all bills and resolutions adopted by the Senate and to submit memos to the authors regarding their adherence to the ASUCI governing documents;
- (k) To refer violations of the ASUCI governing documents committed by officials in other branches to the Student Advocate General for investigation;
- (l) To investigate charges of violations of the ASUCI governing documents committed by the Office of the Student Advocate General;
- (m) To issue a temporary injunction on all Senate legislation until an Elections Commissioner is appointed, if the Elections Commissioner position is vacant when a special election is called for or during the Winter or Spring Quarter, with the exception of the legislation regarding the appointment of the Elections Commissioner;
- (n) To conduct hearings and determine by a 2/3 vote whether to remove an impeached:
 - (1) Elected or appointed Executive Officer;
 - (2) Senator;
 - (3) Student Advocate General;
 - (4) Elections Commissioner;
 - (5) Deputy Elections Commissioner;
- (o) To determine by a separate 2/3 vote whether elected Executive Officers, Senators, etc. who have been removed from office are barred from holding other ASUCI office for a period of time which cannot exceed two academic years;
- (p) To request advice on cases from students enrolled at the UCI School of Law;
- (q) And responsibilities that the Chancellor may delegate to it.



APPENDIX B
Relevant Sections of the ASUCI Bylaws

As of 2023-02-XX, ASUCI Bylaws, Article IV, Section B.9. read as follows:

ARTICLE IV. Senate Responsibilities

B. Senate Provisions

9. Vacancies in the Senate shall be filled by confirmation of the Senate with a two-thirds (2/3) consent of the voting Senators present. All such appointments shall serve the full term of the vacant seat.

(a) The Senate must make every effort to fill vacant seats in the Senate promptly. This includes using social media and school email lists to publicize applications and special elections equitably and to the best of their ability.

(b) Rules Committee will review all applicants for any open Senator position and nominate qualified candidates for an interview conducted by the eligible Senate members from the entire Senate in a closed session.

(i) Whereas, Senators who personally know or have a conflict of interest with any candidate nominated by the Rules Committee will abstain from voting on all decisions related to that specific candidate. The Senator(s) shall also refrain from engaging in any discussion about the candidate. The



Senator(s) must remain silent and/or muted during both the interview and voting for the consideration of the candidate the Senator is recusing themselves from. The Senator(s) will be eligible to attend the closed session, as the interview and voting for the appointment of a new Senator will be conducted in a closed session.

- (ii) In the event that enough Senators are barred from voting due to conflict of interest that their respective body cannot reach a quorum needed to conduct business, a certain number of Senators shall be able to vote that are the subject of the non-eligible to vote. The Senators subject to non-eligible voting shall be determined by lot.
- (c) If a school, special interest, or At-Large Senator seat remains vacant for more than five (5) academic weeks, the Judicial Board will be called to review the potential applicants.
- (d) If the Judicial Board believes the application pool is sufficiently qualified, the Board may levy an injunction against all Senate legislation, excluding



appointment legislation, until the seat is filled.

- (e) If the Judicial Board believes there are no qualified candidates, a Special Election shall be called for Week 3 or 7 of the current or upcoming quarter, whichever date is the earliest date that the Elections Commission can properly organize a special election.
 - (f) The Judicial Board may, on a case-by-case basis, extend the deadline to fill a vacant Senate seat beyond five (5) academic weeks but shall not extend the deadline by more than three (3) academic weeks.
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 - (f) The Judicial Board may, on a case-by-case basis, extend the deadline to fill a vacant Senate seat beyond five (5) academic weeks but shall not extend the deadline by more than three (3) academic weeks.