



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 Termination Authority of the Elections Commissioner

November 1, 2024

MARIN, R. delivered the opinion of the Board. BOLEK, C.; MALANI, A.; KARATAS, Z.; MENG, S.; and MOVAHEDI, N. approve of what is written.¹

I

On September 9, 2024, the Judicial Board was requested to review whether the Elections Commissioner may exercise the power enjoyed by Executive Officers and other Branch Heads to remove “Chiefs-of-Staff, Commissioners, Directors, Officers, and any other staff (non-paid or paid),” specifically in regards to terminating the Deputy Elections Commissioners. ASUCI Bylaws Art. IV § D(1)(a). The positions listed in Art. IV of the ASUCI Bylaws are nominated by their respective Branch Head or Executive Officer who then obtains office through a confirmation by the Senate. This, however, leaves a notable omission to positions nominated by Joint Committees, such as the Deputy Elections Commissioners.

¹ RINGDAHL, N. did not participate in the decision of this opinion.

The Board finds that the requirements for obtaining office for the Deputy Elections Commissioners do not subject them to the same procedural measures of removal as paid officers nominated by Branch Heads and Executive Officers. We therefore rule that the Elections Commissioner may not directly terminate the Deputy Elections Commissioner. However, the Elections Commissioner retains the right “to hire interns, volunteer polls workers, and other staff,” subject to the same requirements of Senate Confirmation should the position expect a stipend. ASUCI Const. Art. 10 § 2(r). Furthermore, should the Elections Commissioner seek the removal of one of their deputies, the only process for this is impeachment, as laid out in Art. 11 § 1(a)(4) of the Constitution.

II

Art. 4 § 1(c) of the ASUCI Constitution establishes the Elections Commission as an independent branch, with Art. 10 § 1(a) enumerating the positions of the Elections Commissioner and four Deputy Elections Commissioners. Although there is no explicit provision within the Constitution outlining the Elections Commissioner as the sole head of the branch, the Elections Code clearly establishes that the position shall “Facilitate and supervise all ASUCI Elections,” establishing the Elections Commissioner as the head administrator of the Elections Commission. ASUCI Elections Code Art. XI § A(1). In addition, the Elections Commissioner works “(i)n conjunction with the Governance and Internal Policy Committee, (to) recommend the appointment of four (4) Deputy Elections Commissioners to the Senate.” ASUCI Elections Code Art. XI § A(3). Thus, although not an Executive Officer, the Elections Commissioner administers the functions of the Branch in addition to making recommendations to set the composition of their staff, fulfilling the role as head of the Elections Commission within the Board’s view.

Art. III § B of the ASUCI Bylaws provides the language of Branch Head to categorize positions such as the Elections Commissioner and Student Advocate General who, similar to Executive Officers, administer their own independent branch and staff, yet do not hold voting membership in the Executive Cabinet. Art. 7 § 1(a) of the ASUCI Constitution clearly establishes the Executive Officers as positions “elected

independently by the undergraduate students at large,” further clarifying that the positions include and are limited to, the President, External Vice President, Internal Vice President, Academic Affairs Vice President, and Student Services Vice President. ASUCI Const. Art 7 § 1(a).

The capacity of a Branch Head to terminate and set the composition of their staff had previously been interpreted in the Board’s opinion, *Comments and Clarification on Bylaws Art. 4 § B(1)(b) and Constitution Art. 11 § 1(a)(3)*. The Board ruled that despite not qualifying as an Executive Officer, the Student Advocate General is entitled to the rights and powers delegated to Executive Officers in fulfilling their role as head of the branch. That is to mean, they possess the authority to hire and fire both paid and non-paid staff. While the Board reaffirms this interpretation, the relationship of the Student Advocate General and their Deputy Officers is not analogous to constitutionally enumerated officers in the Elections Commission.

Note that at the time of the Board’s previous opinion (November 22, 2023), the language of the Branch Head had not yet been introduced into the Bylaws. Legislation R59-54, passed on February 22, 2024, clarified the relationship between Branch Heads and Executive Officers, which is consistent with the Constitution’s distinction between Executive Officers and positions such as the Student Advocate General and Elections Commissioner.

III

The process of staff appointments for the Elections Commission begins with the Joint Committee on Governance and Internal Policy, whereas the Student Advocate General is elected by the Student Body. Subsequently, the Student Advocate General is given direct power to nominate their respective officers. The Elections Commissioner does not share the same power over the Elections Commission.

The Constitution establishes the purposes of the Governance and Internal Policy Committee to “nominate candidates for the Elections Commissioner and Deputy Elections Commissioners to the Senate,” with the subsequent membership clause stating

that the Deputy Elections Commissioners may make recommendations to Elections Commissioner nominations in the event of a vacancy. ASUCI Const. Art. 12 § 3(a)(3) and Art. 12 § 3(b)(7). In turn, the Board interprets this nomination process as fundamentally distinct from the process laid out for other branches. The composition of the core staff of the Elections Commission is delegated to the Governance and Internal Policy Committee and is outside the purview of the Elections Commissioner's powers.

This procedural distinction, therefore, does not define the relationship between the Elections Commissioner and its Deputies as analogous to the Student Advocate General and their Deputy Officers. Therefore, the Elections Commissioner's power to terminate staff does not extend to the Deputy Elections Commissioner.

IV

While the Elections Commissioner occupies the position of Branch Head and may similarly exercise that power in administering and setting the composition of staff not enumerated within the Constitution, the requirements for office that preclude the Deputy Elections Commissioners do not subject the positions to the same oversight as other paid officers. The Board herein rules that the Elections Commissioner may not terminate their Deputy Elections Commissioners.

It is so ordered.

Appendix A:

Relevant Sections of the ASUCI Constitution

As of the writing of this opinion, Art. 4 § 1(c)(5), Art. 7 § 1(a), Art. 10 § 1(a), Art. 10 § 2(r), Art. 11 § 1(a)(4), and Art. 12 § 3(a,b) read as follows:

Article 4. Student Government Student Media

Section 1. Authority and Organization

(c) ASUCI is Organized into the following branches:

(5) The Elections Commission, to which is given the electoral authority of ASUCI;

Article 7. Executive Cabinet

Section 1. Membership

(a) Elected, voting(.

The following Executive Officers are elected independently by the undergraduate students atlarge and have the sole right to vote on Executive Cabinet business:

- (1) The President;
- (2) The External Vice President;
- (3) The Internal Vice President;
- (4) The Academic Affairs Vice President; and
- (5) The Student Services Vice President.

Article 10. Elections Commissioner Powers

Section 1. Composition

(a) The Elections Commission is composed of one Elections Commissioner and four Deputy Commissioners.

Section 2. Authority and Powers

(r) To hire interns, volunteer polls workers, and other staff;

Article 11. Impeachment and Removal

Section 1. Impeachment

(a) The ASUCI Senate may impeach the following officials by a $\frac{2}{3}$ vote

4. Individual Deputy Elections Commissioners

Article 12. Joint Committees

Section 3. Governance and Internal Policy Committee

(a) Purpose, Duties, and Powers

3. To nominate candidates for the Elections Commissioner and Deputy Elections Commissioners to the Senate;

(b) Membership

7. Two Deputy Elections Commissioners, when conducting the nomination process for the Elections Commissioner or for Deputy Elections Commissioners, or when the committee is reviewing the Elections Code.

Appendix B:

Relevant Sections of the ASUCI Bylaws

As of the writing of this opinion, Art. III § B and Art. III § D(1)(b) read as follows:

Article III. Executive Branch

B. Duties and Responsibilities of All Executive Officers, Cabinet Officers, and Branch Heads

D. ASUCI Personnel Provisions

(1) Chiefs of Staff, Commissioners, Directors, Officers, and any other ASUCI personnel (paid or non-paid) shall serve to assist their respective branches in the completion of duties delegated to them by their Executive or Branch Head, as well as any supervisory staff.

(b) Chiefs of Staff, Commissioners, Directors, Officers, and any other personnel may be removed from office by their respective Executive or Branch Head at any time following the procedures set in the ASUCI Operational Manual-or by a two-thirds ($\frac{2}{3}$) vote of the Senate.

Appendix C:

Relevant Sections of the ASUCI Elections Code

As of the writing of this opinion, Art. XI § A (1,3) read as follows:

Article XI. Elections Commissioner

A. The Elections Commissioner's duties and responsibilities are as follows:

- (1) Facilitate and supervise all ASUCI Elections.
- (3) In conjunction with the Governance and Internal Policy Committee, recommend the appointment of
- four (4) Deputy Elections Commissioners to the Senate.

Appendix D:

Relevant Opinions of the Board

[*Comments and Clarifications on Bylaws Art. 4 § B\(1\)\(b\) and Constitution Art. 11 § 1\(a\)\(3\)*](#)

Appendix E:

Relevant Legislation

[R:59-54](#)
[Executive Cabinet Overhaul Act](#)