



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 Permissibility of the Censure of a Senator

November 6, 2024

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

I

On August 7th, 2024, the Judicial Board received a formal request for interpretation from Elections Commissioner Jun Jang. In the request for interpretation, Elections Commissioner Jang poses three questions regarding censures within the Senate:

(I) “Are censures through resolutions (effectively condemnations passed by the Senate to create a lasting record) constitutional when no additional disciplinary action is specified in a *Therefore* clause?”;

(II) “Are censures through resolutions constitutional when additional disciplinary actions are specified in a *Therefore* clause (such as the freezing of stipends or other measures as set in the Bylaws)”?; and

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

(III) “Is the suspension of a Senator (or any paid ASUCI official for that matter) always unconstitutional, or is there room for carve outs [*sic*] to be written into the Bylaws for the most extreme of circumstances (i.e., pending Title VI or Title IX investigations, during an active impeachment, etc.)?”

On the first question, the Judicial Board finds that censures through resolutions without additional disciplinary actions enumerated in a *Therefore* clause are constitutional. On the second issue, the Judicial Board finds that censures through resolutions when additional disciplinary actions are specified in a *Therefore* clause are constitutional so long as those disciplinary actions do not infringe upon the rights of the censured Senator or disenfranchise their constituents. On the third question, the Judicial Board shall reaffirm its general view that censures are constitutional so long as their execution does not violate the rights of the censured Senator—including their right to due process — or the rights of their constituents.

II

In 2018, former Senator Winthrow authored R54-03, aiming to codify a censure procedure in the ASUCI Bylaws. In it, Senator Winthrow proposed that those participating in actions that obstruct the functioning of the Senate could be censured through their “expulsion from the chamber ... for the duration of the meeting or any portion thereof but shall be stated in the original motion.” Senate Resolution R54-03. The legislation passed 18-0-0 but was ultimately struck down by the Judicial Board. Former Chief Justice Disney argued that the ejection of a member from the Senate such that they cannot vote or filibuster infringes on the rights of the Senator to “provide a forum for the expression of the student views and interests [...] [and to] represent and articulate our rights to a voice in campus governance.” ASUCI Const. *Preamble*. Furthermore, such preclusion of a Senator from a Senate meeting violates the various rights enumerated in the Constitution, such as in Article II and Article III, which are accorded to members of the public to attend Senate meetings and are open to the public. In essence, individuals, regardless of their position in the Association, shall not be coerced into relinquishing their rights. Nonetheless, the Judicial Board finds that a motion to censure

a Senator by a disciplinary action that does not infringe upon the rights of that Senator or replicate, in fact or in effect, a mode of discipline that would otherwise require judicial due process, may be permitted.

III

On this issue, the Judicial Board finds that censures through resolutions when additional disciplinary actions are specified in a *Therefore* clause are constitutional so long as those disciplinary actions do not infringe upon the rights of the censured Senator or disenfranchise their constituents. To affirm the ruling of the Disney court, the Judicial Board recognizes that disciplinary actions short of impeachment are not necessarily unconstitutional. We urge the Senate, in exercising or codifying the power of censure, to do so within the bounds of the Constitution and with appreciation for the individual liberties and rights of their colleagues.

It is so ordered.

APPENDIX A:
Relevant Legislation

[R54-03](#)

Author: Liam Withrow

Second: Saul Lopez-Pulido

Date of Presentation: October 4, 2018

WHEREAS, There currently exists no punitive measures for senators save for dismissal or impeachment,

WHEREAS, Members of the Senate may engage in behavior detrimental to the Senate, ASUCI or the Students of the University of California, Irvine, or which may bring the Senate into dishonor and disrepute but not to such an extent or degree so as to warrant dismissal or impeachment,

WHEREAS, The Senate should have the right to determine the qualifications of its members and what constitutes unprofessional or unparliamentary conduct as does the California State Assembly and California State Senate under Article IV, Section 5 of the Constitution of the State of California,

WHEREAS, The Senate should have the right to censure its members for conduct unbecoming of a member of the Senate or otherwise detrimental to ASUCI, The ASUCI Senate or to the undergraduate students of UCI, as does the United States House of Representatives,

WHEREAS, Senators have, in the past, neglected their constitutional duty, abused the power of their office or have otherwise acted so as to undermine ASUCI, The ASUCI Senate or to bully, harass or coerce students at UCI,

THEREFORE LET IT BE RESOLVED, That the following be added in the ASUCI Constitution under Article 6, titled as “Section 7. Other Disciplinary Powers”

(a) The Senate has the right to determine the qualifications of its members and what constitutes unprofessional or unparliamentary conduct, subject to review by the Judicial Board

(b) The Senate may censure a Member by motion or resolution adopted by roll call vote entered in the journal, a majority of the present membership concurring. The motion or resolution shall contain findings and declarations setting forth the basis for the censure, which shall act as a formal statement of disapproval.

(c) The chair of a meeting or any senator, with $\frac{2}{3}$ of the present membership concurring should an appeal or objection be called, may make a motion to request that a member of the Senate to step out or otherwise eject a member from the chamber should it be determined that this member is acting so as to obstruct the functioning of the Senate via, but not limited to, the use of dilatory motions, misconduct, harassment, personal attacks, foul language, bribery, coercion, interrupting speakers, repeatedly and intentionally disobeying calls for order from the chair, repeatedly and intentionally interrupting speakers when recognized by the chair and their point or motion is not interruptible, making threats, and contempt of the Senate. The expulsion from the chamber may be for the duration of the meeting or any portion thereof but shall be stated in the original motion. The expelled senator shall not be counted towards attaining quorum during expulsion.

APPENDIX B:

Relevant Sections of the ASUCI Constitution

As of the writing of this opinion, Art. II and Art. VII § 1(a) of the ASUCI Constitution read as follows:

Article 2. Membership

Section 1. Eligibility

(a) Any person registered as a matriculated undergraduate student during the Fall, Winter, or

Spring Quarter at the University of California, Irvine (UCI) may be a member of ASUCI.

(b) All members hold equal voting rights in ASUCI and its subordinate organizations, except as otherwise provided in this Constitution or other governing documents.

(c) Subject to other qualifications, all members are eligible to hold office in ASUCI or any of its subordinate organizations.

Section 2. Membership Enrollment

A student becomes a member by paying the ASUCI fee.

Section 3. Rights and Privileges

(a) All students meeting the criteria of Section 1 have the rights expressed in Article 3 and elsewhere in this Constitution.

(b) All students meeting the criteria of Section 2 have the following privileges in addition to the rights expressed in Article 3 and elsewhere in this Constitution:

- (1) To hold elected or appointed office in the ASUCI Student Government;
- (2) To participate in ASUCI activities; and
- (3) To benefit from ASUCI services and programs.

Section 4. Nondiscrimination

(a) ASUCI must adhere to the UCI campus implementation of the University of California Nondiscrimination Policies.

(b) All members of ASUCI meeting the requirements set in this Constitution are eligible and encouraged to seek, obtain, and hold office without discrimination or abridgment because of race, ethnicity, color, religion or creed, national origin, caste, ancestry, age, genetic information, marital status, family or parental status,

pregnancy, sex, sexual orientation, gender, gender identity, gender expression, economic status, political affiliation, physical or mental disabilities, and any additional protected classes as specified by University or campus policy or by state or federal law.

Article 3. Student Rights

Section 1. We, the Associated Students of the University of California, Irvine (ASUCI), hold the following to be the basic rights of students. It is the binding responsibility of ASUCI to recognize these rights, and where necessary, protect and nurture them.

- (a) All UCI undergraduate students have the right to vote in ASUCI elections.
- (b) All UCI undergraduate students have the right to run for elected office in ASUCI.
- (c) All UCI undergraduate students have the right to apply for appointed office in ASUCI.
- (d) All UCI undergraduate students have the right to engage in forms of direct democracy as outlined in this Constitution.
- (e) Students have the right to observe all aspects of the elections process to ensure their rights are respected and have the right to gather information and seek remedies for violations.
- (f) Students have the right to freedom of investigation and expression.
- (g) Students have the right to organize.
- (h) Students have the right to freedom of association without fear or consequence.
- (i) Students have the right to privacy.
- (j) Students have the right to a safe learning environment.
- (k) Students have the right to influence decisions that affect them.

(l) Students have the right to participate in the governance of the University and the campus, as expressed in University of California Policy PACAOS120.00.

(m) Students have the right to be consulted before and after a building or facility funded by compulsory campus-based student fees has been constructed, as expressed in University of California Policy PACAOS84.11.

(n) Students have the right to seek redress from grievances.

(o) Students have the right to choose their student leaders and to hold them accountable through the methods outlined in this Constitution.

(p) Students have the right to transparency and freedom of information from their student government and student leaders, free of cost.

(q) Students have the right to an ethical, fair, and effective student government.

(r) Students have the right to be free from harassment, intimidation, and retaliation.

(s) Student representatives and leaders have the right to represent the interests of students, free from any force, coercion, or manipulation by faculty, staff, and administration of the University of California and of the UCI campus.

(t) A student's academic progress must be evaluated solely based on their academic performance.

(u) All undergraduate students conducting research have the right:

(1) To receive credit and recognition for their work and ideas;

(2) To own their intellectual property, subject to the limitations expressed in University of California policy; and

(3) To be protected from plagiarism by faculty and other students.

(v) Student-run media and communications have the right to editorial independence. Section 2. The rights listed in Section 1 do not limit any other rights guaranteed to students.

APPENDIX C:

Ruling on R54-03

“No voting member of the Senate can be denied their right to vote. Currently, R54-03 does not specify the extent of a member’s expulsion during a meeting. As such, an extension of this resolution allows for the possibility of the majority of senators to not only gag dissenting opinion, but also eject minority voices from meetings and prevent them from voting.”

-Chief Justice Disney