**Request for Interpretation:** **ASUW Constitution, Article VI, Section 1, subsection B**

Chief Justice Sanders delivered the Majority Opinion of the Judicial Council on October 20th, 2020, in which Associate Justices Bellamy, Campbell, Cloud, De Meillon, Gruntmeir, and Jackson joined.

**Question**

On September 29th, 2020, the Judicial Council received a request from the ASUW Chief of Legislative Affairs to interpret the ASUW Constitution, Article VI, Section 1, subsection B. The subsection reads: “The remaining twenty-three (23) senators shall be allocated to those colleges with more than one-thirtieth (1/30) of the total full-fee paying University students. This allocation shall be done in exact relation to the percentage of such students who are enrolled in the college;” The ASUW Chief of Legislative Affairs posed the following questions:

1. What does the phrase “in exact relation” specifically mean in this context?
2. Does the Constitution require senate seats to be allocated solely on a system of proportional allocation by college, or may other methods be used?
3. Does the Constitution allow for Senators to be elected at-large, as opposed to by college, assuming the requisite changes to the ASUW By-Laws were duly passed by the Senate?

**Interpretation and Recommendation**

In this interpretation, the Judicial Council relied on both the plain language and the intent of the subsection. In response to the first question, the Council determined “in exact relation” to be a clear and unambiguous phrase when placed in context with Article VI, Section 1. As per subsection A, each college and sole degree-granting program is guaranteed at least one Senator. Subsection B then specifies that the remaining Senators “shall be allocated.” “Exact relation” means that the Senators be proportioned based directly on the percentage of the student body in each college and sole degree-granting program.

To answer the second question, the Council focused on the meaning of the word “shall.” The Council decided that within the Constitution, the word “shall” means “must” and not “may.” This was determined based on the fact that both “shall” and “may” are used, and this shows that the intent was to have a distinction between the two words. Additionally, because “may” is used, “shall” cannot mean “may.” As a result of this interpretation, the Council rules that the only method allowed by the Constitution for Senatorial allocation is the proportional allocation outlined in the Constitution.

In regard to the third question, the Council decided that the Constitution does not allow for Senators to be elected at-large, no matter what changes are made to the ASUW By-Laws. This conclusion was reached because the only method of allocation allowed is the proportional allocation method, which is reliant upon every Senator belonging to a college or sole degree-granting program. Additionally, the Council would like to emphasize the supremacy of the ASUW Constitution; this means that the Constitution overrules all other ASUW governing documents, including the ASUW By-Laws. As a result, the By-Laws or other governing documents may not supersede the Constitution and cannot be changed to be inconsistent with the Constitution. The Council recommends that the ASUW Senate ensure that all governing documents are in line with the Constitution, including updating the Constitution to recognize the current amount of Senate seats. These recommendations do not have to be followed, and the decision the Council reached on this interpretation is not dependent on these recommendations being followed.