



Request for Interpretation: ASUW By-Laws – Presidential Duties

Chief Justice Hoversland delivered the Majority Opinion of the ASUW Judicial Council on Friday, April 29th, 2022, in which Secretary Cloud and Associate Justices Otuya, Salazar, Sankey, and Schweisberger joined. Associate Justice de Meillon did not partake in the decision.

Background

Allison Brown was announced as the President-elect of ASUW on Friday, April 15th, 2022. Prior to this, she registered her campaign through a Google form, with Kathryn Carrier as her running mate, before the filing deadline, which was made available on Wednesday, February 23rd, 2022, and to be filed before the deadline of Monday, March 21st, 2022 at 4:30pm, prescribed by the 2022 ASUW Elections Code, which was approved by the ASUW Senate on Tuesday, February 22nd, 2022 and further amended at a later date. On the Google form, Ms. Brown answered yes to the question shown in Addendum A, which is part of the brief President-elect Brown submitted as a friend of the Council.

During the course of the campaign, Ms. Brown was selected to serve as a summer intern in the Washington, D.C. office of Wyoming's junior United States Senator, Cynthia Lummis. Ms. Brown accepted the internship amidst the campaign and will be present to do ASUW work from 3:00pm MT to 5:00pm MT every Monday through Thursday and from 10:00 am MT to 5:00pm MT on all Fridays, according to information provided by President Swilling.

Question

That is what brings this decision of the Judicial Council (JC). On April 20th, 2022, the JC received a request for interpretation (RFI) from President Hunter Swilling to clarify Article 1, Section 1.01, subsection 1, clause I of the ASUW By-Laws, which reads "the President shall be present during the summer for participation in the ASUW presidential internship." The context for the necessity of this opinion of the Council is summarized above and provided in Addendum B.

President Swilling posed the following questions:

1. What does the word 'present' entail?
2. If the ASUW President-elect wishes to work remotely for the summer, and is dedicated to being fully digitally present when she is available and actively completing all necessary work for the presidential internship, does this fulfill the requirement outlined in clause I?
3. Does being present include needing to be available during a majority of business hours?



Findings, Interpretation, and Recommendation

The ASUW Student Government is set up in a manner similar to the United States federal government, which has a system of checks and balances and separation of powers. Due to the context provided for this decision, the Council is able to infer that the President may be removed from office using this opinion as a justification for the end result. The Council is deliberately choosing not to pass judgement on whether the President-elect should be able to hold office or not. Rather, the Council believes that removing a President from office for cause is a job left up solely to the ASUW Senate, who were also elected by the student body at-large; it is imperative that the Council stay in its own lane and abide by the principles mentioned at the beginning of this paragraph and is exercising the right to do so in issuing this opinion. The students had a campaign season and a forum where this internship could have been uncovered; the same could be said about the time when there was another ticket running. If students did not feel comfortable with their President working remotely over the summer, they had the opportunity to write-in another ticket of their choosing, but they did not do so. The Council's job and goal is to rule on the issues that comes before it in an unbiased and impartial manner and will do so in this case, as it has in past cases this year.

Question 1

The word present is not defined in ASUW's working documents. Because of this, the Council looked to the word present as an adjective and found no consensus on a single definition for the word in online dictionaries. The Council then had to turn to its understanding of the word in the current times; to do this, the JC looked at the current situations and the past few administrations, as the context for the RFI (Addendum B). Virtual or remote work has been utilized ever since the onset of the COVID-19 pandemic in the United States in March of 2020. While in some settings, meeting in-person is more beneficial to the cause, virtual work is still beneficial in many settings. The Council is not here to determine the efficacy of remote work. Instead, the Council notes that present, in this context, entails fulfilling the duties and responsibilities lined out in Article 1, Section 1.01 of ASUW's By-Laws, whether that be in-person or in a remote manner. If the President can do this remotely, then they are not in violation of the By-Laws. The Council would note that presidential internship is not defined anywhere in ASUW's working documents, so we are unable to decide what this entails. Additionally, the thirty-hour requirement referenced in the Google form provided by President-elect Brown has no grounding in ASUW's working documents; it may come from the budget passed for this fiscal year and next, but it is common knowledge that not all budgeted hours have to be completed. Again, if the duties and responsibilities outlined in Section 1.01 of ASUW's By-Laws can be fulfilled, there is no issue. It does not seem to the Council that any of these enumerated responsibilities would be hampered by remote work, but it is not our place to make that judgement preemptively. As noted, it is the job of the student Senators to do their constituents justice and make those determinations at the appropriate time. To further support this point, the Council referenced Article 1, Section 1.01, subsection 1, clause F of ASUW's By-Laws, which reads "The President or, in special situations, the



President's designee, shall be the representative of the entire student body to the faculty, the administration, other officials of the University, and entities outside the University community." Why this was important to the Council was because it further clarified for us that the President has the right to designate others, such as the Vice President, to act as ASUW's representation, if they are unable to attend. This clause further supports the ability of the ASUW President to work remotely should the need come up, while maintaining their "presence."

Question 2

As laid out above, the Council would note that 'presidential internship' is not defined anywhere in ASUW's working documents. Additionally, the thirty-hour requirement that was artificially included in the candidate Google form has no basis in ASUW's By-Laws. If the President is able to fulfill the clauses of Section 1.01, subsection 1, the Council would say that the By-Laws have not been violated. As to what constitutes fulfillment of these obligations, the Council wishes to honor the separation of powers and leave that political question to the political branch: the legislative branch. If they believe that the President is not fulfilling these responsibilities, there are clear guidelines on actions they may take to remedy the problem they perceive. Each administration of ASUW has its own priorities they see as necessary to benefit the general student population. The campaign with the values that most closely align with the student body tends to be the one who is elected to office. If they can fulfill these platforms remotely, then they should be able to. It would be hypocritical of the judicial branch, who has operated remotely this academic year for a similar reason as necessitated this RFI, to impose limits on other branches. This branch sees remote work as effective for our needs and allows for an increase in the diversity of thought on the important issues that appear before us.

Question 3

Again, the Council notes that 'present' means fulfilling the duties laid out in ASUW's By-Laws. There is no rigid form of what that looks like or the hours it takes. If the President feels like they can accomplish this in five hours a week, then they are welcome to do so. The JC cannot compel them to work a set number of hours a week. After all, the University is an educational institution, and the student leaders are students first and foremost; the student government should be encouraging and promoting its members to develop professionally. The goal of the University is to develop capable citizens to be successful in the society we exist in. The student government should also champion this because many people will graduate the University and with that graduate their time from ASUW, which is a powerful institution on campus that can create changes to better the lives of the students it serves. With all of this said, the Council answers question three in the negative; it is not imperative that the President be available for a majority of business hours to be present under the clause in question. Rather, they need to be able to fulfill their duties effectively, which the Senate can oversee as the representatives of the student electorate.

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In closing, the Council would point out that many students leave Laramie in the summer to go back home or pursue internships. President-elect Brown may be one of those students, but she can work remotely and still serve ASUW if she so wishes. The 108th administration was effective and worked in a virtual format for much of the year. Now is not the time to regress, but rather progress and embrace flexibility to help develop the next generation of leaders and members of the workforce in Wyoming and the country as a whole. The JC understands that the precedent set by this ruling is important and could affect future administrations. We are comfortable, though, with setting such a precedent because there are currently the proper mechanisms in place to deal with issues if they should arise. Additionally, the Council understands the importance of being good stewards of the money ASUW collects through its student fee. Because the President is paid on an hourly basis and is required to input their hours weekly and approved by the Accountant, the Council does not see a problem with this; on top of that, students will mainly be away from campus, so outreach can be conducted virtually to engage them in a meaningful manner on campus issues that may arise during the summer months. As such, remote work by the President, or Vice President for that matter, during the summer is not in direct violation of ASUW's By-Laws, as they are currently written.

It is so ordered.

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Addendum A

Brief from President-elect Brown

For further clarification and information on the RFI on Article 1, Section 1.01, I attached below is a screenshot of the application I submitted when applying to run for ASUW President. To my understanding when filling out this application, I took this yes/no question to mean that I would be present for the position either online or in person. I selected yes when filling out my application because I was/am able to commit to working up to the 30-hour requirement per week.

I understand that, if elected, this position will require me to begin working on April 18th, 2022, and work throughout the entire summer for 30 hours a week, and I am able to meet this requirement.

Yes

No

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Addendum B

Context

Allison Brown, the ASUW President-elect, took a full-time internship with Cynthia Lummis prior to her election. The internship is in Washington D.C. She is fully dedicated to ensuring all of her duties are complete for the ASUW Presidency during this time. Given that previous ASUW Presidents and Vice Presidents have worked remotely, including John Houghton in the 107th Administration, and Riley Talamantes and Courtney Titus in the 108th Administration due to COVID-19, does being digitally present fulfill the requirements of Article 1, section 1.01, subsection 1, clause I of the ASUW By-Laws.

We also seek clarification on whether being present includes the necessity of being available during all business hours. President-elect Brown will be available M-T from 3:00pm-5:00pm, and all day on alternating Fridays. How does this interact with Clause I?