



Request for Interpretation: ASUW By-Laws – Mechanism to Remove the President

Chief Justice Hoversland delivered the Majority Opinion of the ASUW Judicial Council on Monday, May 2nd, 2022, in which Secretary Cloud and Associate Justices Otuya, Salazar, Sankey, and Schweisberger joined. Associate Justice de Meillon did not partake in this decision.

Background

On Thursday, April 28th, 2022, the Judicial Council (JC) received a request for interpretation from President-elect Allison Brown. The questions below arose because “questions regarding the removal of a member of the ASUW Legislative, Executive, or Judicial branch have surfaced,” according to Ms. Brown.

Question

On the form submitted to the Council, President-elect Brown asked for Article 6, Section 6.01, subsection 1, clauses A-D of the ASUW By-Laws to be interpreted; it is noted that prior to the Senate meeting on Tuesday, April 26th, 2022, when the elections code was removed from the By-Laws and placed in its own separate document with the elections policy, the area in question was Article 7, Section 7.01, subsection 1, clauses A-D of the ASUW By-Laws. She posed the following questions regarding these clauses of the By-Laws:

1. Could a member of the ASUW Legislative, Executive, or Judicial branch be removed by the ASUW Assistant Director or designee of the Dean of Students Office if they were found to be in violation of bylaws not related to a “violation of academic or disciplinary requirements”?
2. Could the ASUW President or Vice President be removed by the ASUW Assistant Director or a designee of the Dean of Students Office if they were found to be not fulfilling their outlined “responsibilities and authorities” (Article 1, Section 1.01)?

Findings of the Council

The preamble of the ASUW Student Government’s Constitution reads as follows: “In the belief that students have the right, as well as the obligation, to play a significant role in guiding their University, we, the student body of the University of Wyoming, seeking to provide an effective organization to promote the general welfare of all students at the University, to represent the concerns for the student body, and to provide for and regulate such other matters as are hereinafter set forth, do ordain and establish this Constitution.” The main takeaway from this preamble is that the ASUW is ran by the students in pursuit of the goals of the student body at-large. As it so eloquently says, students should be in the driver’s seat to guide the policies of the University that they pay to attend; they want to affect change on the administrators, not so much the other way around.



The question before the Council is if an administrator of the University of Wyoming or the ASUW Advisor have the right to remove a sitting member of one of the ASUW branches. The ASUW Constitution helped the Council come to an answer on this topic. In Article IV, Section 1, the Constitution states that “a member of the ASUW may be removed from office in the ASUW Executive, Legislative, or Judicial branches if they have been found to be on conduct probation as assigned by a Student Judicial Affairs Officer in the Dean of Students Office, or if he has been found guilty of other acts which compromise their integrity as a student leader and representative of the ASUW. This standard must be maintained throughout the term of office. No person shall be removed from office under this provision except through the impeachment process established by the ASUW Senate.” There is previous precedence of the Judicial Council ruling on this specific area of the Constitution, but it does not relate to the questions at hand in this case. The only other time the Dean of Students is mentioned in the ASUW Constitution is to grant them the right to consult the JC when they are searching for a new faculty advisor. The Dean of Students Office is mentioned in limited other circumstances in the working documents of ASUW, including as the place to appeal decisions of this Council, to have a designee serve on a scholarship committee, and in the instance that brought this opinion of the Council, among few others.

As for the ASUW Advisor and Assistant Director of the Center for Student Involvement and Leadership, they are mentioned numerous times in the ASUW working documents. The primary role of the ASUW Assistant Director is to be an advocate for students and serve in an advisory role for them. They should allow students the room to govern how they see fit and advocate for student causes to the university administration, whether they agree with said causes or not.

This Council’s previous opinions have noted the ASUW Student Government’s structure is similar to that of the United States federal government; a key component of both of these governments is a system in which checks and balances and separation of powers are respected and upheld. It was designed in this way on purpose: to keep the power within the hands of the students to advocate for one another before the administration and Board of Trustees of the University of Wyoming. One of ASUW’s guiding principles is that it is a student run organization that aims to align its values with the student body, which are its constituents.

Interpretation and Recommendation

By now, it should be well known that Presidents are not monarchs, but neither are the administrators of this University. For the Dean of Students, a designee of their office, or the ASUW Assistant Director to remove a student from their position they were rightfully elected to in ASUW, by the student body, would be a gross misuse and grab of power. This would cross the lines of students electing their peers to govern themselves and would plainly be an overreach into the student government, which is run by the students and for the students. The Council has been candid in its previous rulings: there are lanes which



each branch of government is entitled to and they must stay in their own lane. The same principle can be applied to administrators and professional staff of the University. A professional staff member removing a sitting member of ASUW would not only be wrong on moral grounds, but it would also be in direct violation of the ASUW By-Laws and Constitution.

While examining this request, the Council found that Article 6, Section 6.01, subsection 1, clauses C and D of the ASUW By-Laws are in direct conflict with the ASUW Constitution. Clauses C and D make the assertion that the ASUW Assistant Director may remove a sitting member of ASUW from office if they are ineligible due to academic or conduct violations. As it is written, the Council construes conduct violations in these clauses to mean violations of the UW Code of Conduct, as adjudicated by the Dean of Students Office. The Council reached this conclusion because although the By-Laws only say 'conduct,' the context of that word is in reference to the Dean of Students, which is known to deal with student code of conduct issues. Issues of conduct in office unrelated to the student code are left to the ASUW Senate. In Article IV, Section 1, the ASUW Constitution makes it clear that the Assistant Director can forward these allegations to the ASUW Senate, but once an elected member of ASUW is seated, they cannot be removed but by the impeachment process, which is outlined in Article 6, Section 6.02 of the ASUW By-Laws. Because these working documents are in direct conflict with one another, the Council must be able to decide which document reigns supreme. In all cases, the ASUW Constitution holds supremacy over all other ASUW working documents. The Council was able to make this determination because Article XI, Severability, of the ASUW Constitution only makes mention to portions of the ASUW Constitution being voided if they conflict with the laws of the State of Wyoming or regulations of the University; it fails to mention other ASUW working documents. Moreover, Article 9, Section 9.01, subsection 1, reading "all revisions and amendments to these By-Laws shall facilitate the requirements of the Constitution and not be in conflict with the Constitution," supports this assertion. The intent of the ASUW Senate in including that subsection in the ASUW By-Laws is read by the Council as clearly establishing the supremacy of the ASUW Constitution. Because of this, the Council is ruling that the Constitution is the supreme document of ASUW. The Council holds the right to make this determination under the ASUW By-Laws in Article 3, Section 3.01, subsection 1, clause A and subsection 3, clause A, paragraph a of the same article and section.

Because of this determination, the Council has found Article 6, Section 6.01, subsection 1, clauses C null and void, due to its conflict with the ASUW Constitution. The second sentence of clause D in the same article, section, and subsection of the ASUW By-Laws is also found to be null and void by the JC due to it being in direct disagreement with Article IV, section 1 of the ASUW Constitution. Because of this, the Council instructs the branches of ASUW to remove the language stated above or edit it to make it conform with the section of the Constitution mentioned. Additionally, the Council orders the executive and legislative branches to collaboratively examine the language of Article 6, Section



6.01, subsection 2, clause A of the ASUW By-Laws and do away with it or adjust it to comply with Article IV, Section 1 of the ASUW Constitution. The Council possesses the power to make such instructions to the other branches of ASUW through Article 3, Section 3.01, subsection 3, clause A, paragraph d of the ASUW By-Laws, which says “The Council shall have the right make recommendations to or require actions of other branches of the ASUW as they determine are required.” In the meantime, only the specifically mentioned portions of the By-Laws are ruled as null and void, but the rest of the document stands in full force and effect. This is in line with the severability article of the Constitution, which is being applied to the By-Laws in this case.

Because of the above findings and discussions, the Council answers both questions in the negative. No, a member of the three branches of ASUW may not be removed by the ASUW Assistant Director or Dean of Students for violations of the By-Laws unrelated to academic or disciplinary requirements. Indeed, administrators cannot remove any sitting member of ASUW. This is the case because, as the Council noted in its April 29th, 2022, opinion, there are ample measures in place to remove any sitting member of ASUW for cause. The impeachment process is a process that should not be taken lightly by those conducting it. Nonetheless, the procedures for initiating this process are laid out in plain terms in ASUW’s By-Laws. It is something that is in the sole jurisdiction of the legislative branch of ASUW, the ASUW Senate.

Furthermore, no, ASUW’s President or Vice President cannot be removed from office by the ASUW Assistant Director or Dean of Students for not fulfilling their duties and responsibilities, as outlined by Articles 1 and 2 of ASUW’s By-Laws. The professional staff positions mentioned in this question have broad latitude to disqualify students from appearing on the ASUW elections ballot. This includes if the student is on conduct probation with the Dean of Students Office or if they do not meet the qualifications listed in the elections code, which was previously couched in the ASUW By-Laws and is now a separate document, as noted in the background section; the removal is only triggered once the student is notified of their disqualification. The same cannot be said once a student is elected to office. The power to remove an elected official lies solely with the students, through the body they democratically elect, the ASUW Senate.

The above judgements of the Council are not light by any standard, but they are necessary to ensure the integrity of the ASUW Student Government is upheld. They keep the power of the student government in the hands of the students and maintain the separation of powers that can sustain this student government and institution for generations to come.

It is so ordered.