



Request for Interpretation: ASUW By-Laws, Art 3, § 3.01 (1) & (3)
Scope of Judicial Council powers

Secretary Wangen and Justice Swaney delivered the Majority Opinion of the ASUW Judicial Council on March 28, 2024, in which the Chief Justice and Justices Compton, Thompson, and Cruz joined.

BACKGROUND

On March 1, 2024, ASUW Chief of Legislative Affairs (COLA) Rylan Knopp submitted a Request For Interpretation (RFI), seeking clarification regarding the scope of the Judicial Council's (JC) powers under the ASUW By-Laws. COLA Knopp presented four primary questions revolving around ASUW By-Laws § 3.01 for the JC to consider: 1. What action can the JC take to check the Executive Branch? 2. Does § 3.01(1)(C) grant the JC a check over the Legislative Branch? 3. What remedies would the JC be able to administer to correct for rules violations? 4. How should the By-Laws be amended to ensure proper checks and balances within the ASUW?

COLA Knopp further argues that the JC has full purview over the actions of the Executive Branch,¹ and that while the JC has jurisdiction over violations of ASUW policy,² it does not have authority to overrule any such acts of the Legislative Branch.

We have distilled these questions into three areas of discussion:

- I. The issues within the JC's jurisdiction;
- II. How the JC checks other branches of ASUW government;
- III. The limitations on the JC to provide interpretation of the working documents without specific facts.

We turn now to consider the questions and arguments at hand.

DISCUSSION

I. The JC May Adjudicate Matters In Which It Has Personal And Subject Matter Jurisdiction Through The RFI And Complaint Processes.

At the heart of this RFI is a request for the JC to clarify its jurisdiction. In order for a court, including the JC, to adjudicate an issue and render a binding judgment, it must have both personal and subject matter jurisdiction.³ Personal jurisdiction refers to a court's ability to exercise control

¹ By-Laws § 3.01 (1)(B) & (3)(A)(b)

² § 3.01 (1)(C)

³ A. Benjamin Spencer, *Civil Procedure*, 17 (6th Edition 2021).



over the parties to the dispute, whereas subject matter jurisdiction refers to a court's ability to exercise control over the subject matter of the dispute.⁴

Putting these concepts together, the JC interprets its authority to include jurisdiction to adjudicate matters between any member of ASUW⁵ on matters pertaining to interpretations of all ASUW working documents, actions of the Executive Branch, violations of ASUW working documents, violations of standards governing student conduct, and violations of requirements of students participating in officially approved ASUW programs.⁶

The JC has two main mechanisms to provide checks and balances on the other branches of ASUW government: complaints (appeals) and RFIs. The JC's authority to hear complaints/appeals is derived through the power to adjudicate matters in which it has jurisdiction and provides checks on each branch by allowing any member of ASUW to challenge decisions made by the Executive and Legislative branches.⁷ The RFI derives its authority from the JC's duty to provide interpretation of all ASUW working documents and provides checks on each branch by interpreting any discrepancies in the working documents and defining the scope of each branch's power.⁸

II. The Power To Adjudicate Allows The JC To Check The Executive And Legislative Branches.

As a tripart system of government, proper checks and balances of each branch's power is critical to the health of the ASUW government. It is through the power to adjudicate matters within our jurisdiction that the Judicial Branch is able to provide the proper checks on the other branches of government. This is not an exhaustive list of the JC's powers over other branches. Instead, it should be interpreted to be a broad overview of the JC's jurisdiction.

A. The JC has broad oversight over the Executive Branch.

The first question posed in the RFI is what checks by the JC are available over the Executive Branch. All actions of the Executive Branch are subject to review by the JC,⁹ and the JC has the express authority to "render final decisions regarding the actions of the ASUW executive branch found to be procedurally inappropriate or incorrect pursuant to the provisions of all ASUW working documents" in addition to its general power of providing sanctions for

⁴ *Id.*

⁵ A member of ASUW is defined by ASUW Const. Art. III § 1 as "any student who is enrolled at the University of Wyoming and has paid the ASUW fee as part of their tuition bill."

⁶ By-Laws § 3.01(1)

⁷ § 3.01(1)

⁸ § 3.01(1)(A)

⁹ § 3.01(1)(B)



violating ASUW working documents.¹⁰ This provides an important mechanism for the JC to check the Executive Branch's powers if it exceeds its scope of authority. Additionally, the JC has the power to recommend or require the Executive Branch to make certain actions as the JC deems appropriate.¹¹ Finally, the JC has a subtler way to check the Executive Branch's power through the power of interpretation. As the final authority over interpretation of all ASUW working documents, the JC may define the scope of the Executive Branch's power by interpreting relevant working documents.¹²

B. The JC may adjudicate actions of the Legislative Branch if they have a nexus to the ASUW working documents.

The second question posed by the RFI is what checks by the JC are available over the Legislative Branch. Further, COLA Knopp argues that, because § 3.01(3)(A)(b) does not explicitly state that the JC can overrule decisions of the Legislative Branch, the JC does not have that power.

As is true for any other member of ASUW, the JC has the power to impose sanctions on members of the Legislative Branch for violating ASUW working documents.¹³ This is an important tool to provide a check on the Legislative Branch to ensure it is acting within the letter of the law. However, the Legislative Branch is a largely self-regulating body and most disputes should be handled by the Vice President as the chairperson of the Senate.¹⁴ If an action of the Legislative Branch violates any ASUW working document, the JC has the authority to adjudicate the issue and require action of the other branches as the JC deems necessary.¹⁵ For this reason, we reject COLA Knopp's assessment that the JC does not have the power to overrule acts of the Legislative Branch. As long as an action of the Legislative Branch has a nexus to ASUW working documents, it can be adjudicated by the JC.

C. The power to impose sanctions ensures compliance with ASUW working documents.

The third question of the RFI asks what remedies are available to the JC to correct for rules violations. The ability to impose sanctions for violations of working documents is another way to ensure compliance by all members of ASUW. Specifically, the JC may "impose sanctions on individual students or student organizations which have been appropriately charged and found responsible for violations of ASUW rules."¹⁶ Appropriate sanctions will be determined by the JC on a case-by-case basis, depending on the facts presented. Additionally, the JC may utilize any

¹⁰ § 3.01(3)(A)(b)

¹¹ § 3.01(3)(A)(c)

¹² By-Laws § 3.01(3)(A)(a)

¹³ § 3.01(3)(A)(b)

¹⁴ § 2.01(1)(B)

¹⁵ § 3.01 (3)(A)(c)

¹⁶ § 3.01 (3)(A)(b)



other applicable powers found in § 3.01 (3)(A), including the “right [to] make recommendations to or require actions of other branches of the ASUW as they determine are required.”¹⁷

III. The JC Continues To Follow Precedent By Declining To Recommend Amendments To The By-Laws Without A Clear Discrepancy In The Language Of ASUW Working Documents.

It is the role of the JC to operate within, uphold, and interpret legitimate disputes regarding ASUW working documents. In resolving these disputes, the JC may recommend amendments, even in cases where alteration is not essential for the functioning of ASUW or needed to resolve a conflict in the documents. This Council has previously declined to make specific recommendations on amending the By-Laws through an RFI, unless there is a clear discrepancy in the language of ASUW working documents, and we find it prudent to continue following this precedent.¹⁸ In the present RFI, the JC is asked to indicate how the By-Laws should be amended to ensure proper checks and balances. However, given the arguments presented in this RFI, there is no need for the JC to recommend amending the current distribution of powers. Instead, we leave the determination of whether the By-Laws should be amended to create “proper checks and balances” to the Legislative Branch.

CONCLUSION

COLA Knopp’s RFI raises important questions concerning the powers and place of the JC in the ASUW government, and also considers an essential discussion around the present distribution of powers within ASUW that should be continued. A summary of our interpretation follows:

1. The full range of JC powers, each to the extent they are permitted, may be utilized to check actions of the Executive Branch.
2. The JC may use the powers of § 3.01 (3)(A) to check the actions of the Legislative Branch, so long as the actions are within the scope of JC jurisdiction under § 3.01 (1).
3. The JC may correct rules violations with the powers found in § 3.01 (3)(A).
4. The JC refrains from suggesting amendments to the By-Laws for the purpose of ensuring “proper checks and balances” at this time.
5. We encourage any and all members of ASUW to exercise their right to bring complaints before this body when there is a judiciable issue at hand.

¹⁷ § 3.01 (3)(A)(c)

¹⁸ See [JC Decision: 2-13-2023](#)



Addendum A: Request for Interpretation

From: ASUW Chief of Legislative Affairs <asuwcxc9@uwyo.edu>
Date: Friday, March 1, 2024 at 4:37 PM
To: ASUW Judicial Council <asuwcj@uwyo.edu>
Cc: ASUW Vice President <ASUWVP@uwyo.edu>, ASUW President <ASUWPres@uwyo.edu>
Subject: RFI

Dear Judicial Council,

Below is the text version of my RFI, please let me know if I need to file and Official Form I could not find one in any of the JC's website:

There have been multiple instances during the 111th Administration where the Judicial Council has been approached regarding the legislative branch. There have also been informal discussions about sending complaints to the Judicial Council. I ask the Judicial Council for an interpretation on their own powers.

Article 3, Section 3.01, Subsection 1, Clause B states: "The ASUW Judicial Council has Jurisdiction over all actions of the ASUW Executive Branch." This marks an explicit power of the JC to check the power of the Executive Branch. This is one of the few examples of checks and balances that exist within the ASUW. I ask the JC under this reading of the By-Laws what action the JC could take to check the Executive Branch.

Further, Clause C of that same Subsection explains that the Judicial Council has jurisdiction over any violations of ASUW policy. Under this reading it is unclear to me whether or not this would grant the JC a check on the legislative branch. I ask the JC if they interpret this portion of the By-Laws as granting the Judicial Council a check over the Legislative Branch. If the answer to the previous question is yes, what remedies would the JC be able to administer to correct for rules violations ?

I argue that per Subsection 3, Clause B of the aforementioned Sections and Articles, that the Judicial Branch can overrule Executive Branch decisions found procedurally incorrect, but not the legislative branch. The By-Laws explicitly mention that the JC may find actions of the executive branch procedurally flawed (and administer whatever remedy granted to them asked by my first question) but makes no mention of being able to do the same for the legislative Branch. I would argue that because of that lack of mention that is NOT a power granted to the JC.

Finally, I ask the JC if the argument above is correct how should our By-Laws be amended to ensure proper checks and balances within the ASUW.



Sincerely,

Rylan Knopp

ASUW Chief of Legislative Affairs - 111th Administration

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"Neutrality means that you don't really care, because the struggle goes on even when you're not there."

-Tim McIlrath

Please feel free to contact me at any time with questions or concerns.

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