

UNIVERSITY OF WYOMING

ASUW Student Government
Dept. 3625 • Wyoming Union, Room 020
1000 E. University Ave. • Laramie, WY 82071
Phone: (307) 766-5204

In Re Request for Interpretation from President Kiren and Vice President Guier Decided October 29, 2007

Haigler, J., delivered the opinion of the Judicial Council, in which Hockman, C.J., Allhusen, J., Curry, J., Madden, J., and Zilmer, J., joined.

Wilson, J., took no part in the decision of the Council.

Introduction

A formal request for interpretation was submitted by the ASUW President and Vice President on October 18, 2007 wherein three questions were presented. The Judicial Council considered the request for interpretation under the authority of the *ASUW By-Laws*, Article II, Section 1, Clause A, “[i]n situation of disagreement or dispute, shall provide interpretation of the ASUW constitution and ASUW By-Laws.” The Judicial Council convened and interpreted the questions submitted on October 29, 2007 in the Blume Room of the University Of Wyoming College Of Law.

Question 1

“Under the governing documents of ASUW, are the standing committees of the ASUW Student Senate subject to a “quorum requirement?” If so, would this requirement bar any official committee action from being taken without a quorum of committee membership present?”

Interpretation and Recommendation 1

The Judicial Council finds no specific language stating that quorum is required for committees of the ASUW Student Senate. Therefore not having quorum does not bar official committee action. The Council recommends that the Senate decide whether quorum requirements should be imposed on standing committees and if so, reflect such changes in the *Rules and Procedures of the ASUW Senate*. The Senate may wish to address developing Rules and Procedures for standing committees. The Council does not recommend whether quorum requirements should be imposed or not be imposed, this is question for the Senate as internal management. The Council feels that the Senate is more capable of deciding the best method of conducting committee business.

Question 2

“Do the ASUW governing documents provide a process for the Elections Committee to select a replacement senator from a college when a list of unsuccessful senate candidates from the previous ASUW election has not been exhausted, but when there is a tie in votes between the two remaining unsuccessful candidates with the largest number of votes?”

Interpretation and Recommendation 2

It is the interpretation of the Judicial Council that the interview process described in the *ASUW By-Laws*, Article V, Section 2, Clause E, would take effect in the event of a tie. However, this is not explicitly stated and it is the recommendation of the Council that language be added to the *ASUW By-Laws*, Article V, Section 2, Clause C, to clarify the procedure in the event of a tie. The Council believes that the intention of the Senate in creating and codifying an interview process in the *By-Laws* is an indication of their belief that this process should be used in the event of an open seat on the Senate where the usual “next-in-line” on the list process does not work.

Question 3

“Who has the final authority to appoint a vacated senate seat?”

Interpretation and Recommendations 3

It is the interpretation of the Judicial Council that the final authority to appoint a replacement for a vacated Senate seat is that of the Elections Committee. *ASUW By-Laws* Article V, Section 2, Clause F, “After all interviews are completed and the Elections Committee has reached a decision, all candidates will be notified by the ASUW Vice President.” In interpreting this clause the Judicial Council finds that in reaching a decision the Elections Committee is selecting the replacement for the vacated (vacant) Senate seat. It is the duty of the ASUW Vice President to inform both the successful candidate and the unsuccessful candidate(s), and not his/her authority to appoint only to “notify.” The Judicial Council found no language expressly stating the authority of the Elections Committee to appoint a vacated senate seat and it is therefore our recommendation that Elections Committee’s Powers be amended to clarify and specifically state that the Elections Committee has final appointment authority verses relying upon the surrounding language of the section.

UNIVERSITY OF WYOMING

October 18, 2007

ASUW Student
Government
Room 020
Student Union
Laramie, WY
82071-3135

(307) 766-5204
Fax (307) 766-3765

www.uwyo.edu/asuw

Memorandum

TO: ASUW Judicial Council

FROM: David Kiren, ASUW President *AK*
Zach Guier, ASUW Vice President *ZG*

RE: Request for interpretation

Introduction

As provided by the ASUW Constitution and By-laws, the ASUW President and ASUW Vice President formally submit three questions to the ASUW Judicial Council for its interpretation and advice.

The ASUW By-Laws, Article III, Section 1, Clause A, provides that the ASUW Judicial Council, "[i]n situations of disagreement or dispute, shall provide interpretation of the ASUW Constitution and ASUW By-Laws." And pursuant to Article III, Section 4 of the ASUW By-Laws, "Any member of the ASUW may bring a dispute before the ASUW Judicial Council." The Judicial Council therefore has authority to consider this request for interpretation.

Questions Presented

- 1) Under the governing documents of ASUW, are the standing committees of the ASUW Student Senate subject to a "quorum requirement?" If so, would this requirement bar any official committee action from being taken without at least a quorum of committee membership present?
- 2) Do the ASUW governing documents provide a process for the Elections Committee to select a replacement senator from a college when a list of unsuccessful senate candidates from the previous ASUW election has not been exhausted, but when there is a tie in votes between the two remaining unsuccessful candidates with the largest number of votes?
- 3) Consider the previous situation addressed in question 2, but where the Elections Committee has chosen to apply the interview process described in Article V, Section 2 of the ASUW By-Laws to fill a senate vacancy in the case of a tie. According to the ASUW By-Laws, Article V, Section 2, Clause F, and surrounding provisions, does the ASUW Vice President have the final appointment authority (as part of his duty to "notify" the successfully-interviewed candidate) over a candidate selected by the Elections Committee to fill a vacancy through the interview process described in the ASUW By-Laws? Stated another way, who has the final authority to appoint a vacated senate seat, the Elections Committee or the Vice President?

Thank you for your time and consideration of this request for interpretation of the appropriate ASUW By-Laws.

XC: Matt Caires, ASUW advisor
Bill Weber, ASUW Judicial Council Advisor
Ruth Shepherd, ASUW Secretary (file copy)

