

In Re Senator Mark A. Chollak's Request for Interpretation
Decided November 19, 2003

CHRISTENSEN and WILEN, JJ., delivered the opinion of the Council, in which BUHLER, C.J., and HARRIS and LONG, JJ., joined.

On Thursday, October 16, 2003, the ASUW Steering Committee met to address Senate Bills #2052 and #2053, which were previously submitted to the Committee. Steering decided to refer the bills to itself rather than assigning them to another standing or special committee. At their following meeting—Thursday, October 23, 2003, the Committee discussed and made amendments to the bills. Senator Mark A. Chollak, on behalf of the ASUW Constitution Committee, brought forth a formal request for interpretation of the ASUW Constitution and By-Laws to the Judicial Council. The issue before the Council is whether it is proper for the Steering Committee to refer bills to itself for consideration and amendments. We unanimously hold that it is not.

Art. II, §10(A)(6) of the ASUW By-Laws outlines the purpose, powers, and composition of the Steering Committee. The purpose of the Committee is to “provide coordination for the various issues, legislative activities, and program involvements of the ASUW Executive and Legislative branches...” While the language “provide coordination” is somewhat vague, it implies that the Committee functions to harmonize issues between the Executive and Legislative Branches. *Arrange for organize*

The Steering Committee has the explicit power to “refer proposed ASUW legislation to ASUW standing or special committees for specified action or recommendation prior to final consideration by the Senate.” Art. II, §10(A)(6)(b) of the ASUW By-Laws. Stated as such, the Steering Committee may refer issues to itself. However, the By-Laws do not explicitly render power to act on proposed legislation beyond any referrals. Therefore, we must determine whether the By-Laws implicitly confer power to consider or amend to the Steering Committee. Upon examination of the powers explicitly given to other standing committees, we note that a number of the referenced committees are endowed with specific authority to act on issues. Of particular interest are the purpose and powers granted to the Constitution Committee. The By-Laws explicitly state that the Constitution Committee “shall be responsible for the initial review and formulation of all proposed amendments to the ASUW Constitution and shall review changes or additions to the ASUW By-Laws to insure that the By-Laws are consistent with the purpose of the ASUW and the Constitution.” Art. II, §10(A)(2)(a) of the ASUW By-Laws. The silence of the By-Laws regarding the powers of the Steering Committee, then, suggests that the Committee has no power to consider or amend; rather, the Committee’s only authority is to refer the matter elsewhere.

Additionally, we must consider the composition of the Steering Committee in light of the notion of a balance of powers between the three branches of ASUW. The Steering Committee is composed of members of two branches of government—Executive and Legislative. With this composite the legislative process would not be upheld were the Steering Committee able to act on legislation other than for referral. Therefore, we feel that action by the Committee on legislative matters is inappropriate. To allow such action would defy the spirit of the ASUW Constitution and By-Laws.

Issue: Based on the powers granted by

Why is a member of the Steering Committee bringing this issue (a faraction)?

the ASUM Constitution and By-Laws, is it proper for the Steering Committee to refer bills to itself for consideration and amendments?

Relevant Legislation:

Role of Constitution Committee?
Art II, sec 10 (A)(2)

By-Laws

• Art II, sec 4 (E): Senate has "authority to appraise + direct such special committees to study or investigate any issue of concern."

• Art II, sec 10 (A) (6) ASUM Steering Committee:

a. Purpose: The Committee shall provide coordination for the various issues, legislative activities, and program involvements of the ASUM Executive and Legislative branches and serve to pursue ASUM recommendations and actions that are referred to, or require action by the University Trustees, the faculty, or administrative units of the University.]

b. Powers: The Committee shall refer proposed ASUM legislation to ASUM standing or special committees for specified action or recommendation prior to final consideration by the Senate. Further, the Committee may recommend the procedure for implementing consideration of ASUM decisions, actions, or legislation after final action by Senate, and the committee shall provide regular reports to the Senate on the status or final outcome of all matters that require action by officials outside of the ASUM.

Specific from ASUM Constitution

• Art II, sec 10 (C): "Special Committees may be formed @ the discretion of the ASUM Senate + shall operate until dissolved by the ASUM Senate and according to By-Laws approved by the Senate @ the time of Committee formation, as well as all rules established for standing committees."

- ① What does it mean to refer specified action or recommendation?
- ② Purpose of Committee: coordinator + pursuer of ASUM recommendations which are referred to or require action by Trustees, etc.
- ③ Is Steering Committee included in Standing/Special Committees?
- ④ Is Steering Committee merely a vehicle for Art II, sec 4(E)?
- ⑤ Intent: to allocate issues to themselves?
- ⑥ Can Constitution Committee provide remedy (advice?)
JC By-Laws, Sec 5(E)(A)
- ⑦ Any written statements for preliminary hearing?
- ⑧ Composition of Steering Committee (Executive + Legislative) →
is self-referral appropriate?

Rules + Procedures of the Student Senate of the ASUM

Art V, sec 1, C: "The bill or resolution shall be read the first time by the Secretary and the ASUM Vice President shall immediately report the committee(s) to which the bill or resolution has been referred by the Steering Committee"

Art V, sec 1 (D) "After being reported out of committee, the ASUM Vice President shall place the bill or resolution on the agenda and it shall be a second time + recommendation of the committee(s) shall be given by the chairperson(s) of the committee(s) to whom it was assigned"

**Formal Request for Interpretation of ASUW By-Laws
by Judicial Council.**

**Filed October 28, 2002 by
Education Senator Mark A. Chollak**

On Thursday, October 16, the ASUW Steering Committee met in their regular meeting. Senate Bills #2052 and #2053 had been submitted to Steering prior to this date.

Rather than being referred to a standing committee, Steering decided to refer the bills to itself. At their following meeting on Thursday, October 23, 2003, the bills were discussed and amendments were made to the bills.

The question before the Judicial Council is:

Based on the powers granted by the ASUW Constitution and By-Laws, is it proper for the Steering Committee to refer bills to itself for consideration and amendments?

Those who may speak at any hearing concerning this matter include Mark A. Chollak, Amy Goodson, Marshawn Rising and John Hughes.

Received
10/28/03 @ 10 AM

Quita Shepherd