



Associated Students of the University of Wyoming Judicial Council
Written Opinion on Constitutional Interpretation of Senate Bill #2254

Chief Justice Walter S. Wilson

Associate Justices Aaron B. Marcoux, Abigail E. Lewis, Andrew P. Hauser, Christopher M. Averill, Heather A. Welch

Hereby let it be known the official "Written Opinion on Constitutional Interpretation of Senate Bill #2254" has been issued within the allotted ten days allowed by the ASUW By-laws; Article III, Section 3, Subsection D from the time of decision made. The Associated Students of the University of Wyoming Judicial Council deems Senate Bill #2254 constitutional, only under the following interpretation.

The Associated Students of the University of Wyoming (hereinafter ASUW) Judicial Council (hereinafter ASUWJC) has been called upon to assess the constitutionality of ASUW legislative changes to Section III: General Guidelines for Allocations to Recognized Student Organizations, Subsection A, Paragraph 5. Subsection A, Paragraph 5 of the ASUW Financial Policy specifically requires adherence to Article 3, § 36 of the Wyoming State Constitution. The only issue brought before the ASUWJC is whether allowing the use of ASUW funding for Registered Student Organization (hereinafter RSO) programs that may generate funds for charities is constitutional in light of Wyoming State Constitution Article 3, § 36's prohibition of allocating funds for charitable purposes.

The ASUWJC interprets ASUW By-laws; Article III, Section 4, "Any member of the ASUW may bring a dispute before the ASUW Judicial Council. All complaints must be filed with the ASUW Secretary within ten (10) days of the disputed action. The Council must meet regarding the complaint within ten (10) school days after the written complaint is filed." The ASUWJC focuses on the words "...dispute..." and "...disputed action...", whereas the council does not see a constitution interpretation as a dispute or a disputed action. The council feels as stated in Article III, Section 1, Subsection C; that it has "...jurisdiction over all violations of ASUW rules, regulations, policies, procedures and/or standards governing student conduct..." and must retain the right to correct said documents at any time. In addition, ASUW Bylaw; Article III, Section 2, Subsection A states, "...the Council shall be the final authority in interpretations of the ASUW Constitution and/or the final authority in interpretations of the ASUW Constitution and/or the ASUW By-Laws. If the University President has not issued a written

disapproval within ten (10) school days, the Council decision will stand. ...” The ASUWJC does not have jurisdiction over the Wyoming State Constitution but herein has the responsibility to ensure that all ASUW documents under its jurisdiction do not violate said Constitution. Therefore, seeing as the case is of a Constitutional Interpretation; ASUW Bylaws Article III, Section 3, Subsection C, Section 3 does not apply to the case. Therefore the ASUWJC votes unanimously to hear the case as not in conflict with the ASUW working documents.

Article 3, § 36 of the Wyoming State Constitution states that “[n]o appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.” Subsection A, Paragraph 5 of the General Guidelines for Allocations to Registered Student Organizations in the Financial Policy states that “[i]n accordance with Wyoming Constitution Article 3, § 36, ASUW shall not allocate funds for charitable donations including donations that support charity organizations and fundraising activities. ASUW can fund RSOs and their programs that may generate funds for charity fundraisers. This funding shall be limited to supplies and activities that will promote education through educational events and activities.”

The Wyoming Supreme Court has had little opportunity to address the application of Article 3, § 36. In *Witzenburger v. State ex rel. Wyoming Community Development Authority*, one of the issues brought before the court was whether Article 3, § 36 of the Wyoming Constitution was violated because a 1975 session law permitted “appropriations for charitable, industrial, educational or benevolent purposes to a person, corporation or committee not under the absolute control of the State.” 575 P.2d 1100, 1133 (Wyo. 1978). Although this issue is directly on point with the issue brought before the ASUWJC, the Wyoming Supreme Court did not address this specific issue since other issues decided previously in the case rendered Article 3 inapplicable to the facts. *Id.* In *State ex rel. Wyoming Agr. College v. Irvine*, the Wyoming Supreme Court was called upon to decide whether Article 3, § 36 applied to the University of Wyoming considering the prohibition of allocating funds for “educational” purposes. 84 P. 90, 103-04 (Wyo. 1906). The court held that the University of Wyoming was clearly intended to be an institution dependent upon the state and thereby under the absolute control of the state. Thus, in this instance, allocations for educational purposes were not barred by Article 3, § 36.

Since the specific issue brought before the ASUWJC has not been previously decided interpretation of both Article 3, § 36 of the Wyoming State Constitution and Subsection A, Paragraph 5 of the General Guidelines for Allocations to Registered Student Organizations will utilize a plain meaning analysis. In other words, each word of the statute will be given its plain and ordinary meaning. If a term is subject to multiple meanings the ASUWJC adopts the definition that will avoid unconstitutionality.

Article 3, § 36 of the Wyoming State Constitution is addressed first. Article 3, § 36 states that no appropriation shall be made ... to any person, corporation or community not under the absolute control of the state. This Article clearly prohibits assignment of state funds to any organization not under the complete control of the state. Conversely, this Article does not bar an assignment of state funds to an organization under the complete control of the state. Therefore, if an allocation, for charitable purposes, is made to an organization under the complete control of the state, then that allocation does not run afoul of Article 3, § 36.

State ex rel. Wyoming Agr. College v. Irvine is illustrative of what is meant by “under the complete control of the state.” In *State ex rel. Wyoming Agr. College v. Irvine*, The Wyoming Supreme Court declared the statutory language creating the University of Wyoming was unequivocal in its intent to create a public institution, dependent upon the legislature and connected with the administrative

arm of the state government. 84 P. at 103-104. Being dependent upon and directly connected to the state government submits the University of Wyoming to the complete control of the state. Likewise, any organization dependent upon University of Wyoming is under the control of the University and thereby under the control of the state. However, the question of whether such an organization is under the absolute control of the state remains.

In this instance, the organizations being discussed are Registered Student Organizations (hereinafter RSO). Typically, in order to qualify as an RSO, a student organization's governing documents must conform to University requirements. For instance, the student members must be students at the University and must maintain a certain minimum Grade Point Average. The ASUWJC holds that these requirements place RSOs under the control of the state. However, some RSOs have regional and/or national affiliations. The regional or national organizations also require the student organizations to conform to certain requirements in order to operate under the regional and/or national organization's umbrella. Thus, these organizations are also under the control of the regional or national organization. Any organization under partial control of two or more other organizations cannot be said to be under the complete control of either. Therefore, the ASUWJC holds, any RSO with a regional or national affiliation, receiving support from, or the like, which maintains the affiliation by conforming to the regional or national organizations mandates is not under the complete control of the state.

The determination that some RSOs are under the complete control of the state and some RSOs are not becomes significant given the new language of Subsection A, Paragraph 5 of the General Guidelines for Allocations to Registered Student Organizations. The second sentence of Subsection A, Paragraph 5 states that "ASUW can fund RSOs and their programs that may generate funds for charity fundraisers." However, the first sentence of Subsection A, Paragraph 5, states that these allocations must be "[i]n accordance with Wyoming Constitution Article 3, § 36." Discussed previously, Wyoming State Constitution article 3, § 36 requires the organization to be under the complete control of the state. Therefore, the RSOs mentioned in the second sentence must necessarily be under the complete control of the state to receive funding "that that may generate funds for charity fundraisers." In other words, if an organization is deemed under the complete control of the state, either by the RSO Funding Board, ASUW Senate or anyone else vested with the authority to make that determination, then that organization can receive funding that may generate funds for charity. However, the last sentence of Subsection A, Paragraph 5 serves as limiting language. The last sentence requires the funding to be used for "supplies and activities that will promote education." The ASUWJC holds this limiting language allows an RSO, under the complete control of the state, to receive ASUW funding for educational events. An RSO under the complete control of the state can receive funding to educate the community with the hope that the educational experience will result in fundraising for a charity. For instance, an RSO under the complete control of the state could an educational event and at that event have an activity (like a dunk tank) which generates funds for charity, where the supplies for which were paid for with ASUW funds.

It is important to note, nothing in this opinion restricts RSOs not under the complete control of the state from receiving ASUW funds for a completely educational event. Nothing in this opinion restricts RSOs not under the complete control of the state from holding fundraising events. Nothing in this opinion restricts RSOs not under the complete control of the state from holding an educational event which also has a fundraising component. However, this opinion does require that if an RSO not under the complete control of the state receives ASUW funds for an educational event and at the educational event there is a fundraising activity that the RSO not under the complete control of the state be able to establish the money related to the fundraising activity in no way shape or form was allocated from ASUW. In other words, if the money used for the fundraising activity is derived from

8 February 2010

donations, membership fees or the like (not from ASUW), then the RSO is not in violation of Subsection A, Paragraph 5 of the General Guidelines for Allocations to Registered Student Organizations.

All additional documents being submitted by the filing party after the original submission were considered null and void. The ASUWJC voted unanimously on the matter therefore, the ASUWJC finds that Subsection A, Paragraph 5 of the General Guidelines for Allocations to Registered Student Organizations, as amended, does not violate Article 3, § 36 of the Wyoming State Constitution as long as the RSO is under the complete control of the state. All ASUW funding board and ASUW Senate allocations must conform to this opinion.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter S. Wilson". The signature is written in a cursive style with a large initial "W".

Chief Justice Walter S. Wilson

Associate Justices Aaron B. Marcoux, Abby Lewis, Andrew P. Hauser, Christopher M. Averill, Heather A. Welch

25 January 2010



*Rescinded
1/25/10*

Addressing Assistant Vice President John Nutter -

The ASUW Judicial Council summons and requires the presence of Assistant Vice President John Nutter for closed testimony in the case of constitutional interpretation of Senate Bill #2254. The testimony time for Assistant Vice President John Nutter is set for Friday the 29th of January 2010 at 6:15 P.M.

The testimony will be allowed for a 15 minute block whereas a statement may be given on behalf of the case, while the remainder of the scheduled time has been set aside for questioning.

Report to Room 002 in the University of Wyoming Student Union. Please wait in the hall until called by a justice. Confidentiality is of upmost importance; discussion of the case outside testimony throughout the litigation of the case is strictly prohibited.

Should a failure to appear before the Judicial Council occur, the party in question might be considered in contempt with the Associated Students of the University of Wyoming Judicial Council. Written statements may be submitted in lieu of absolute absence. Any contempt cases shall be forwarded to the Dean of Students Office as a potential violation of the Student Honor Code. (RULES AND PROCEDURES OF THE JC OF ASUW: ARTICLE V SECTION II PART A SECTION 2 SUBSECTION I)

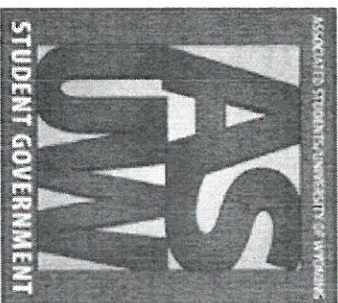
If you have any questions or concerns please contact Chief Justice Wilson at 307.421.7589 or wwilson7@uwyo.edu as soon as possible. We appreciate your cooperation. Thank you and we look forward to your participation in this process.

Sincerely,

Walter S. Wilson

Chief Justice, ASUW Judicial Council

25 January 2010



Addressing Ms. Susan Weidel -

The ASUW Judicial Council summons and requires the presence of Ms. Susan Weidel for closed testimony in the case of constitutional interpretation of Senate Bill #2254. The testimony time for Ms. Susan Weidel is set for Friday the 29th of January 2010 at 6:45 P.M.

The testimony will be allowed for a 15 minute block whereas a statement may be given on behalf of the case, while the remainder of the scheduled time has been set aside for questioning.

Report to Room 002 in the University of Wyoming Student Union. Please wait in the hall until called by a justice. Confidentiality is of utmost importance; discussion of the case outside testimony throughout the litigation of the case is strictly prohibited.

Should a failure to appear before the Judicial Council occur, the party in question might be considered in contempt with the Associated Students of the University of Wyoming Judicial Council. Written statements may be submitted in lieu of absolute absence. Any contempt cases shall be forwarded to the Dean of Students Office as a potential violation of the Student Honor Code. (RULES AND PROCEDURES OF THE JC OF ASUW: ARTICLE V SECTION II PART A SECTION 2 SUBSECTION i)

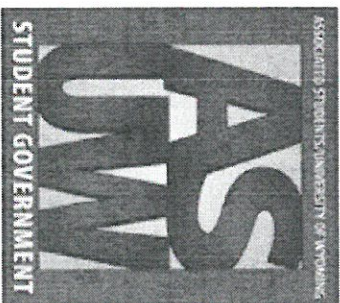
If you have any questions or concerns please contact Chief Justice Wilson at 307.421.7589 or wwilson7@uwyo.edu as soon as possible. We appreciate your cooperation. Thank you and we look forward to your participation in this process.

Sincerely,

Walter S. Wilson

Chief Justice, ASUW Judicial Council

25 January 2010



*Fascinating
WLSW*

Addressing Ms. Susan Weidel -

The ASUW Judicial Council summons and requires the presence of Ms. Susan Weidel for closed testimony in the case of constitutional interpretation of Senate Bill #2254. The testimony time for Ms. Susan Weidel is set for Friday the 29th of January 2010 at 6:45 P.M.

The testimony will be allowed for a 15 minute block whereas a statement may be given on behalf of the case, while the remainder of the scheduled time has been set aside for questioning.

Report to Room 002 in the University of Wyoming Student Union. Please wait in the hall until called by a justice. Confidentiality is of upmost importance; discussion of the case outside testimony throughout the litigation of the case is strictly prohibited.

Should a failure to appear before the Judicial Council occur, the party in question might be considered in contempt with the Associated Students of the University of Wyoming Judicial Council. Written statements may be submitted in lieu of absolute absence. Any contempt cases shall be forwarded to the Dean of Students Office as a potential violation of the Student Honor Code. (RULES AND PROCEDURES OF THE JC OF ASUW: ARTICLE V SECTION II PART A SECTION 2 SUBSECTION i)

If you have any questions or concerns please contact Chief Justice Wilson at 307.421.7589 or wwilson7@uwyo.edu as soon as possible. We appreciate your cooperation. Thank you and we look forward to your participation in this process.

Sincerely,

Walter S. Wilson

Chief Justice, ASUW Judicial Council

25 January 2010



Addressing Assistant Vice President John Nutter -

The ASUW Judicial Council summons and requires the presence of Assistant Vice President John Nutter for closed testimony in the case of constitutional interpretation of Senate Bill #2254. The testimony time for Assistant Vice President John Nutter is set for Friday the 29th of January 2010 at 6:15 P.M.

The testimony will be allowed for a 15 minute block whereas a statement may be given on behalf of the case, while the remainder of the scheduled time has been set aside for questioning.

Report to Room 002 in the University of Wyoming Student Union. Please wait in the hall until called by a justice. Confidentiality is of utmost importance; discussion of the case outside testimony throughout the litigation of the case is strictly prohibited.

Should a failure to appear before the Judicial Council occur, the party in question might be considered in contempt with the Associated Students of the University of Wyoming Judicial Council. Written statements may be submitted in lieu of absolute absence. Any contempt cases shall be forwarded to the Dean of Students Office as a potential violation of the Student Honor Code. (RULES AND PROCEDURES OF THE JC OF ASUW: ARTICLE V SECTION II PART A SECTION 2 SUBSECTION i)

If you have any questions or concerns please contact Chief Justice Wilson at 307.421.7589 or wwilson7@uwyo.edu as soon as possible. We appreciate your cooperation. Thank you and we look forward to your participation in this process.

Sincerely,

Walter S. Wilson

Chief Justice, ASUW Judicial Council

25 January 2010



Addressing Executive Wiley Combs -

The ASUW Judicial Council summons and requires the presence of Executive Wiley Combs for closed testimony in the case of constitutional interpretation of Senate Bill #2254. The testimony time for Executive Wiley Combs is set for Friday the 29th of January 2010 at 5:30 P.M.

The testimony will be allowed for a 5 minute block whereas a statement may be given on behalf of the case, while the remainder of the scheduled time has been set aside for questioning.

Report to Room 002 in the University of Wyoming Student Union. Please wait in the hall until called by a justice. Confidentiality is of utmost importance; discussion of the case outside testimony throughout the litigation of the case is strictly prohibited.

Should a failure to appear before the Judicial Council occur, the party in question might be considered in contempt with the Associated Students of the University of Wyoming Judicial Council. Written statements may be submitted in lieu of absolute absence. Any contempt cases shall be forwarded to the Dean of Students Office as a potential violation of the Student Honor Code. (RULES AND PROCEDURES OF THE JC OF ASUW: ARTICLE V SECTION II PART A SECTION 2 SUBSECTION i)

If you have any questions or concerns please contact Chief Justice Wilson at 307.421.7589 or wwilson7@uwyo.edu as soon as possible. We appreciate your cooperation. Thank you and we look forward to your participation in this process.

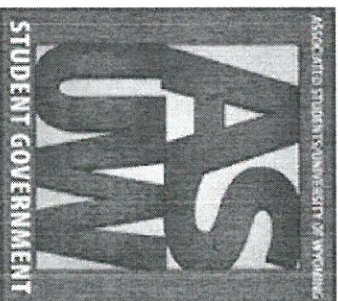
Sincerely,

A handwritten signature in blue ink that reads "Walter S. Wilson". The signature is written in a cursive style.

Walter S. Wilson

Chief Justice, ASUW Judicial Council

25 January 2010



Addressing Senator Amy Berry -

The ASUW Judicial Council summons and requires the presence of Senator Amy Berry for closed testimony in the case of constitutional interpretation of Senate Bill #2254. The testimony time for Senator Amy Berry is set for Friday the 29th of January 2010 at 6:00 P.M.

The testimony will be allowed for a 5 minute block whereas a statement may be given on behalf of the case, while the remainder of the scheduled time has been set aside for questioning.

Report to Room 002 in the University of Wyoming Student Union. Please wait in the hall until called by a justice. Confidentiality is of utmost importance; discussion of the case outside testimony throughout the litigation of the case is strictly prohibited.

Should a failure to appear before the Judicial Council occur, the party in question might be considered in contempt with the Associated Students of the University of Wyoming Judicial Council. Written statements may be submitted in lieu of absolute absence. Any contempt cases shall be forwarded to the Dean of Students Office as a potential violation of the Student Honor Code. (RULES AND PROCEDURES OF THE JC OF ASUW: ARTICLE V SECTION II PART A SECTION 2 SUBSECTION i)

If you have any questions or concerns please contact Chief Justice Wilson at 307.421.7589 or wwilson7@uwyo.edu as soon as possible. We appreciate your cooperation. Thank you and we look forward to your participation in this process.

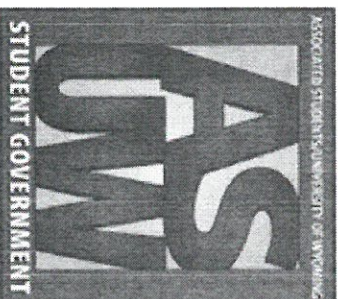
Sincerely,

A handwritten signature in blue ink that reads 'Walter S. Wilson'. The signature is written in a cursive style.

Walter S. Wilson

Chief Justice, ASUW Judicial Council

25 January 2010



Addressing Senator Nathan Mullen -

The ASUW Judicial Council summons and requires the presence of Senator Nathan Mullen for closed testimony in the case of constitutional interpretation of Senate Bill #2254. The testimony time for Senator Nathan Mullen is set for Friday the 29th of January 2010 at 5:45 P.M.

The testimony will be allowed for a 5 minute block whereas a statement may be given on behalf of the case, while the remainder of the scheduled time has been set aside for questioning.

Report to Room 002 in the University of Wyoming Student Union. Please wait in the hall until called by a justice. Confidentiality is of utmost importance; discussion of the case outside testimony throughout the litigation of the case is strictly prohibited.

Should a failure to appear before the Judicial Council occur, the party in question might be considered in contempt with the Associated Students of the University of Wyoming Judicial Council. Written statements may be submitted in lieu of absolute absence. Any contempt cases shall be forwarded to the Dean of Students Office as a potential violation of the Student Honor Code. (RULES AND PROCEDURES OF THE JC OF ASUW: ARTICLE V SECTION II PART A SECTION 2 SUBSECTION i)

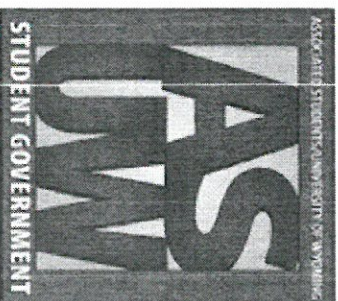
If you have any questions or concerns please contact Chief Justice Wilson at 307.421.7589 or wwilson7@uwyo.edu as soon as possible. We appreciate your cooperation. Thank you and we look forward to your participation in this process.

Sincerely,

Walter S. Wilson

Chief Justice, ASUW Judicial Council

25 January 2010



Addressing Senator Platte -

The ASUW Judicial Council summons and requires the presence of Senator Platte for closed testimony in the case of constitutional interpretation of Senate Bill #2254. The testimony time for Senator Platte is set for Friday the 29th of January 2010 at 5:15 P.M.

The testimony will be allowed for a 5 minute block whereas a statement may be given on behalf of the case, while the remainder of the scheduled time has been set aside for questioning.

Report to Room 002 in the University of Wyoming Student Union. Please wait in the hall until called by a justice. Confidentiality is of utmost importance; discussion of the case outside testimony throughout the litigation of the case is strictly prohibited.

Should a failure to appear before the Judicial Council occur, the party in question might be considered in contempt with the Associated Students of the University of Wyoming Judicial Council. Written statements may be submitted in lieu of absolute absence. Any contempt cases shall be forwarded to the Dean of Students Office as a potential violation of the Student Honor Code. (RULES AND PROCEDURES OF THE JC OF ASUW: ARTICLE V SECTION II PART A SECTION 2 SUBSECTION i)

If you have any questions or concerns please contact Chief Justice Wilson at 307.421.7589 or wwilson7@uwyo.edu as soon as possible. We appreciate your cooperation. Thank you and we look forward to your participation in this process.

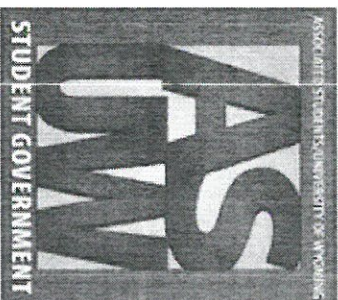
Sincerely,

A handwritten signature in blue ink that reads "Walter S. Wilson". The signature is written in a cursive style.

Walter S. Wilson

Chief Justice, ASUW Judicial Council

25 January 2010



Addressing Senator Rey Fuentes -

The ASUW Judicial Council summons and requires the presence of Senator Rey Fuentes for closed testimony in the case of constitutional interpretation of Senate Bill #2254. The testimony time for Senator Rey Fuentes is set for Friday the 29th of January 2010 at 5:00 P.M.

The testimony will be allowed for a 5 minute block whereas a statement may be given on behalf of the case, while the remainder of the scheduled time has been set aside for questioning.

Report to Room 002 in the University of Wyoming Student Union. Please wait in the hall until called by a justice. Confidentiality is of utmost importance; discussion of the case outside testimony throughout the litigation of the case is strictly prohibited.

Should a failure to appear before the Judicial Council occur, the party in question might be considered in contempt with the Associated Students of the University of Wyoming Judicial Council. Written statements may be submitted in lieu of absolute absence. Any contempt cases shall be forwarded to the Dean of Students Office as a potential violation of the Student Honor Code. (RULES AND PROCEDURES OF THE JC OF ASUW: ARTICLE V SECTION II PART A SECTION 2 SUBSECTION i)

If you have any questions or concerns please contact Chief Justice Wilson at 307.421.7589 or wwilson7@uwyo.edu as soon as possible. We appreciate your cooperation. Thank you and we look forward to your participation in this process.

Sincerely,

A handwritten signature in blue ink that reads 'Walter Wilson'. The signature is written in a cursive, flowing style.

Walter S. Wilson

Chief Justice, ASUW Judicial Council