

# UNIVERSITY OF WYOMING

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

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## In Re Request for Interpretation of Senate Bill #2178 Decided April 26, 2007

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

Momon J., and Brooks J. took no part in the decision of the Council.

The Senate, in an attempt to inform students and the public of the current structure and activities of the Associated Students of the University of Wyoming (ASUW), passed Senate Bill #2178 (Bill). The Bill specifically requires the ASUW President to allocate \$1,000 from the end of the year funds to purchase printed brochures with current information about ASUW. This opinion in no way should be construed as interpreting the merits of the brochures or whether the purchase is a prudent one.

The complainants are members of ASUW as fee paying students. A request for interpretation of a Senate bill and the executive action that made the bill binding is completely proper in this situation under *Rules and Procedures of the Judicial Council*, Article III, Section 1, Clauses B and C. Our interpretations only interpret the specific provisions which we are asked to interpret in the request and are binding and final as to the constitutionality and lawfulness of the action in question. Here, we are asked whether Bill #2178 violates the ASUW Finance Policy and, if so, is found to be void. This Council finds Senate Bill #2178 to be void as being in direct conflict with the ASUW Finance Policy.

The ASUW Finance Policy acts as the foundation for any expenditures, budgeting and fiscal management for all branches of ASUW. Further, the Finance Policy is not rigid or non-bending when the need arises for flexibility because the policy can be amended. Section I(G). The Policy makes clear that the authority to use ASUW funds from the last day of the spring semester to the first day of the fall semester is completely at the discretion of the ASUW President. Any legislation attempting to compel or direct those funds during the summer would be void and unenforceable as contrary to the ASUW Finance Policy.

Bill #2178 attempts to do just that. Although the Senate minutes of April 10, 2007 states that money *should* be spent on the brochures, the actual text of the bill *commands* the executive branch to purchase the brochures from these funds. From the text of the minutes, it is clear the Senate knew they had no power over the end of year funds and the spending thereof between the spring and fall semesters. Further, the exact amount of the available end of the year funds for the Executives to spend is not known until sometime in June. The sole discretion given to the Executives is to enable ASUW to respond to changing circumstances and events while the Senate is not in session. Tying up end of year funds before the exact amount available is known would place ASUW in a precarious financial position by requiring a specific expenditure with the expectation that ASUW will be able to respond to the circumstances that may develop over the summer. Expenditures between the spring and fall semesters are clearly at the discretion of the ASUW executive branch. Because the Bill is in direct conflict with the ASUW Finance

Policy, the conflicting language in the Bill is void. The Bill's text reveals only one purpose, to compel and direct the executive branch to make an expenditure with funds which they possess sole discretionary authority over, therefore, **Senate Bill #2178 is void.**

## Aaron S Hockman

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**From:** Jeremy T. Zilmer  
**Sent:** Thursday, April 26, 2007 10:12 AM  
**To:** Aaron S Hockman  
**Subject:** RE: Meeting Time and Documents

Aaron,

After reading through the documents that you sent out yesterday, it is my opinion to side with Senator Schmechel and Student At-Large Kuhlmann. I agree with the fact that the Senate has overstepped their boundary by making a decision that is not theirs to make. In no way, can the pervious senate make a decision for the incoming administration. However, one line does keep jumping out at me for some reason, and I wish I could be there tonight to discuss it further:

ASUW Finance Policy, Section I, Clause H states:

From the last day of Spring Semester to the first day of Fall Semester, the ASUW President and Vice President shall have financial authority for ASUW to approve the use of remaining fiscal year budgets. I don't think that the signing the bill before this date matters, but that if for you guys to decide. The wording in my opinion is a little contradictory. As far as action, since I will not be there this evening, I will back the council on any decision that is made. Thank you.

Jeremy

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**From:** Aaron S Hockman  
**Sent:** Wed 4/25/2007 10:07 AM  
**To:** Takrista M. Momon; JaQuale Mattye Laniece Brooks; Cody Nicoll Weagant; Grant R. Curry; Stacy A. Madden; Jeremy T. Zilmer  
**Cc:** William S. Weber Jr.  
**Subject:** Meeting Time and Documents

JC,

We will meet tomorrow at 4 PM in the Old Main Boardroom to discuss the request for interpretation. I need at least 5 members of the JC present (counting myself) in order to conduct business. Thus if you are absolutely unable to attend, please let me know as soon as possible so that we don't waste everyone's time meeting and then not making quorum. If necessary, due to the approach of finals, Justices who are unable to attend will be allowed to submit a written commentary on their opinion of the interpretation. This need to be a last resort option as the other branches are anxious on the outcome of this interpretation.

Attached are the documents: the request for interpretation and Senate Bill #2178.

Thanks, see you tomorrow.

Aaron

## FORMAL REQUEST FOR INTERPRETATION

Parties Requesting Interpretation: Andrew Kuhlmann and Charles Schmechel

Issue: Whether Senate Bill #2178, which was enacted by the ASUW Student Senate and the current ASUW President, is in direct violation with Section I, Clause H of the ASUW Finance Policy, which grants the next President and Vice President discretion to appropriate end-of-the-year funds.

Documents to Be Interpreted:

Senate Bill #2178, beginning at line 17, states:

THEREFORE, be it further enacted that the incoming ASUW President and Vice President allocate \$1,000...to be spent to purchase 3,000 new brochures before the end of FY 07.

\*Senate Bill #2178 was passed by the ASUW Student Senate at the Senate meeting held on April 17, 2007, and was signed by the President on April 18, 2007.

ASUW Finance Policy, Section I, Clause H states:

From the last day of Spring Semester to the first day of Fall Semester, the ASUW President and Vice President shall have financial authority for ASUW to approve the use of remaining fiscal year budgets. At the first senate meeting of the Fall Semester, the ASUW President and Vice President shall submit an itemized list of such expenditures to the ASUW Senate. The ASUW Business Manager must approve all summer expenditures.

Jurisdiction and Procedure:

We are granted the standing to present a complaint to this Council in Article III, Section 4 of the ASUW By-Laws, which allows any member of ASUW to bring a dispute to this Council.

This Council is given jurisdiction over this issue in the By-Laws, Article III, Section 1, Clauses B and C. This issue is both violation of ASUW policies and an action by the Executive Branch, because the President signed the bill into affect.

This Council is also empowered to grant us our requested remedy in Article III, Section 2, Clauses A, C and E of the By-Laws. This Council has the power to interpret ASUW By-Laws, which require a Finance Policy that is binding to all Senate actions. Also, this issue presents an Executive Branch act (signing the bill) that violates an ASUW standard (the Finance Policy). Finally, this Council can also send this issue back to the ASUW Senate and order that body to take any action required by the Council, including voiding Senate Bill #2178.

Given that Senate Bill #2178 has been passed by the Senate and enacted by the President, Article III, Section 3, Clause A should not prevent this Council from making a final decision. In this case, the other ASUW bodies have both fulfilled all of their responsibilities, but have both chosen to violate the Finance Policy.

Argument:

Senate Bill #2178 directly violates the ASUW Finance Policy because it orders the President and Vice President to spend remaining 2007 fiscal year funds after the end of school when the Senate lacks any power to bind the new executives in this way.

First, in Section I, Clause H, the Finance Policy explicitly grants the President and V.P. the sole power to appropriate the "remaining fiscal year budgets." The Senate is not given power to direct the President and V.P. in this clause. Instead, the Senate is only given power to review the expenditures after the beginning of the next school year. And because the Senate is specifically acknowledged in this way by the provision, this Council should not find that the Senate has any implied power to direct the President and Vice President in spending the funds.

April 23, 2007

Second, this clause gives executive power to spend remaining funds specifically so that the Senate does not have to be consulted during the summer when senators are scattered to the winds. It is also important to note that remaining funds are often very small and are often not fully calculated until June. During the summer, other pressing uses may arise that would require the President and V.P.'s quick action and spending power before the new fiscal year. Senate Bill #2178 also does not make it clear whether the Senate has approved a brochure, or if the Senate is directing the new executives to draft, edit and print a new document that the Senate will later find is unsatisfactory anyway. Therefore, Senate Bill #2178 intrudes upon executive power by tying the hands of the President and V.P. to spend money from funds that the Senate does not know the full amount of, on a product the Senate has not yet approved.

We do not argue that the President and Vice President can not choose to spend the remaining funds on the Senate's proposed project. Nor do we argue that spending this amount of money on brochures is a bad use of the funds. However, the Finance Policy bans the Senate from requiring the President and V.P. from doing anything with remaining ASUW funds after the end of the school year. The Senate may only make recommendations to the new executives.

Relief Requested:

We request that this Council find that Senate Bill #2178 is in direct violation of the Finance Policy, and order that the bill be rendered ineffective and void.

Respectfully Submitted,



Andrew Kuhlmann,  
Law Student



Charles Schmechel,  
Graduate Student

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ASUW Student Government  
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April 30, 2007

Mr. Andrew Khulmann  
121 I Hill Hall  
Laramie, WY 82071

Mr. Charles Schmechel  
115 G Hill Hall  
Laramie, WY 82071

Dear Mr. Khulmann and Mr. Schmechel:

Enclosed is a copy of the ASUW Judicial Council's opinion on your Request for Interpretation of Senate Bill #2178. On behalf of the Council and ASUW, we appreciate your filing of the request and exercising your rights as a member of the student body. It is for the interests of the student body that all members of the ASUW government serve and your Request for Interpretation serves as a reminder that the students are watching and aware of the activities of the ASUW government.

Sincerely,



Aaron S. Hockman  
Chief Justice, ASUW Judicial Council

Enclosure

**SENATE BILL #2178**

**Title:** Allocation of End of the Year Funds to a New ASUW Brochure

**Date:** March 28, 2007

**Authors:** Vice President Freeburn and Chief of Staff McConnaughey

**Sponsors:** Senators Clay, Harris, Watt and Wilson; Executive Morris

1. WHEREAS, the Associated Students of the University of Wyoming (ASUW)
2. uses a brochure as a major avenue of disseminating information to current and
3. prospective students; and
4. WHEREAS, the current brochure includes outdated information on many ASUW
5. Standing Committees and Programs and Services; and
6. WHEREAS, the current Director of Public Relations has invested time and energy
7. into creating a new brochure; and
8. WHEREAS, the ASUW Budget and Planning Committee removed money for a
9. brochure from the FY 08 budget with the recommendation of using money from
10. the end of the year funds; and
11. WHEREAS, the ASUW President and Vice President would have the option to
12. spend end of the year funds on a new brochure.
13. THEREFORE, be it enacted by the Student Senate of the Associated Students of
14. the University of Wyoming (ASUW) that end of the year funds be committed to
15. the development and purchase of a new ASUW brochure that better reflects the
16. current activities of ASUW; and
17. THEREFORE, be it further enacted that the incoming ASUW President and
18. Vice President allocate \$1,000 (see Addendum A) to be spent to purchase 3,000

19. new ASUW brochures before the end of FY 07.

**Referred to:** Student Relations Committee

**Date of Passage:** April 17, 2007 **Signed:** \_\_\_\_\_

(ASUW Chairperson)

“Being enacted on \_\_\_\_\_, I do hereby sign my name

hereto and approve this Senate action.” \_\_\_\_\_

ASUW President



**ADDENDUM A**

UW Media Relations

3000 brochures

Gloss Finish \$637

Velvet Finish \$640

Graphic Design Costs  
(16" x 9" 4-fold brochure)

\$250-\$350