TO: ASUCD Senate  
AUTHOR: ASUCD Judicial Council  
SUBJECT: Constitutional Concerns for Senate Bill #51  
DATE: February 8, 2019

We, the Judicial Council, pursuant to our Article IV, Section 2(4) are responsible to review weekly legislation for adherence to governing documents. We reviewed Senate Bill #51 at the Judicial Council Meeting held on February 8, 2019.

In reviewing Senate Bill #51, we raised questions regarding the constitutionality of ASUCD Senate instructing ASUCD Judicial Council to rehear a case and furthermore instruct Judicial Council to issue a revised appeal to ASUCD Senate. Section 212(F)(a) of the bill makes the following amendment with regard to the appealed cases of Judicial Council:

“212. F. Appealed Cases of the Judicial Council:
   a. When the Senate instructs the Judicial Council to rehear a case they must adhere to the following provisions:
      i. Hear additional argument on the issues of the case specified within the written record provided by the Senate President Pro Tempore.
      ii. Deliberate on the new hearing in light of the findings of the Senate’s report.
      iii. Release a new opinion, either amending their previous opinion or explaining why the rationale of the past opinion stands in light of the
The Judicial Council finds this amendment as inconsistent with the ASUCD Constitution, and a breach of ASUCD Senate’s legislative power. For reference, Article IV, Section 2(2) states:

“The Judicial Council may deny any appeal it receives, in part or in whole, by majority approval of the Judicial Council.”

As illustrated by the passage above, ASUCD Judicial Council has the constitutional authority to deny any appeal it receives a long as there is a majority vote by the ASUCD Judicial Council. As opposed to the verbage within SB #51, ASUCD Senate does not have the jurisdiction to instruct Judicial Council to rehear a case or demand a revised appeal. While Senate does have the constitutional authority to ask Judicial Council to reevaluate their decision, as cited in Article IV, Section 4 of the ASUCD Constitution, ASUCD Senate does not have the authority to force Judicial Council to rehear a case and draft a new appeal.

Section 2105(C)(2) and 2016(C)(2) of the bill makes the following amendment with regard to appeals of ASUCD Judicial Council decisions:

“or if a direct appeal of this litigation was brought before the Senate.”

The Judicial Council finds this amendment inconsistent with the ASUCD Constitution, and an overreach of legislative power. For reference, Article IV, Section 1(1) states:

“The adjudicating powers of the ASUCD shall be vested in the ASUCD Judicial Council (hereafter referred to as the Judicial Council).”

As apparent from this passage, ASUCD Judicial Council is the only body with adjudicating powers in ASUCD. Therefore, all appeals must be sent directly to the ASUCD Judicial Council. SB #51 is awarding ASUCD Senate adjudicating powers by allowing direct appeals of litigation to be brought before ASUCD Senate. Therefore providing ASUCD Senate with adjudicating powers violates the ASUCD Constitution and breaches the duty of the ASUCD Senate.

Until changes are made to this bill, ASUCD Judicial Council finds SB#51 unconstitutional.
Ariel Mendlin, Nathan Chan, Maria Martinez,
Jason “J.J.” Hsu, and Aria Aghalarpour concurring.

Aria Aghalarpour
Judicial Council Chair

Jason “J.J.” Hsu
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