



# JUDICIAL COUNCIL *of* ASUCR

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## **Majority Opinion #7**

At the request of Ashely Harano, President of ASUCR, the Judicial Council has reviewed the Constitution Article IV, Section F, 2 for interpretation. The majority opinion of the Judicial Council on the interpretation of the aforementioned statute is as follows:

The ASUCR Constitution Article IV, Section F, 2 gives the Executive Branch the power to “Appoint members of the Associated Students, by a majority vote (), to the Judicial Council, with the ratification of the Senate by a twothirds (2/3) vote.”

At the Emergency Senate meeting that took place on Friday, June 3<sup>rd</sup>, a candidate for Justice received a vote of 3-1-2 and was not appointed. This meeting took place because of a Judicial Order that required senate to ratify a candidate for a one-year term as a Justice for next year to fill up the vacancy left by Justice Catherine Ghipriel. But because of the language of the Article IV, Section F, 2 of the ASUCR Constitution, this candidate has been ratified by Senate and as such will be a Justice next year.

Two key matters were called into question in light of the facts of this particular issue:

1. Does the Constitution mean 2/3 of those participating in the vote or 2/3 of the Senate present to vote?
2. What does it mean to abstain from a vote?

To the answer the first question, in reviewing Article IV, Section F, 2 of the Constitution, the Judicial Council finds that there is no language that that suggests that the Constitution calls for 2/3 of the Senate present to vote. Article IV, Section F, 2 simply states, “...ratification of the Senate by a twothirds (2/3) vote.” This means that when it comes to ratifying a judicial candidate, it required that, when there is quorum, 2/3 of the senators voting must vote in favor of the candidate for the candidate to be appointed.

This brings us to the second question about abstention from voting. In coming to a conclusion about what abstention from voting means, the Judicial Council took a logical approach. If one is in support of something for any reason, they vote in favor of it. If one does not support something for any reason, they vote against it. The Senate can also ask any questions to clarify the issue they are voting on to help them come to a conclusion about how they should vote. So when a person wishes to not be a part of the vote, to not vote in favor of or against anything for any reason, they abstain.

At the Emergency Senate meeting that took place on Friday, June 3<sup>rd</sup>, a candidate for Justice received a vote of 3-1-2 and was not appointed. However, Article IV, Section F, 2 of the Constitution means that there would need to be 2/3 of those senators participating in the vote who approve of the candidate for the candidate to be appointed. And because there were senators who abstained and choose not to be a part of the vote, one would only look at the voting population when determining if the candidate was approved. Only four senators choose to be a part of the vote and of those four, the vote was three to one in favor of the candidate. Because of the language of the Article IV, Section F, 2 of the ASUCR Constitution, this candidate has been ratified by Senate and as such will be a Justice next year.