



# JUDICIAL COUNCIL *of* ASUCR

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**S17-CC-01**

Challenge of Bylaw Chapter 23 – The Act of Censure and Override

Decided April 27, 2017

JUSTICE THIELHART delivered the opinion of the court:

In a 4-0-0 decision, the ASUCR Judicial Council has decided to rule that Section 3 of Chapter 23 is Unconstitutional.

Pursuant to the powers given to the ASUCR Judicial Council by the ASUCR Constitution the Judicial Council has the authority to:

- (c) Verify the legality of all approved legislation and any extraneous cases which are brought before the Judicial Council as needed;*
- (d) Review old legislation as needed to maintain the highest interest of the students and to assure that new legislation abides by the regulations set forth by the ASUCR Constitution and By Laws;*

The Judicial Council has utilized these powers to review Chapter 23 of the Bylaws and have ruled that Section 3 of Chapter 23 is unconstitutional

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The ASUCR Constitution mentions censure only one time, under Article VI, Section E, part F which states:

*Review any cases of a request for censure and/or removal of a member of ASUCR as outlined in the ASUCR Constitution and Bylaws.*

The ASUCR Constitution additionally states in Article II, Section B that:

*No individual or group of individuals within any of the branches may exercise powers delegated to or authority vested in any of the other branches, except as expressly stated in the Constitution herein.*

The Judicial Council finds that Section 3 of Chapter 23 of the bylaws conflicts with the power given to the Judicial Council. Censure only appears one time throughout the entire ASUCR Constitution, giving Judicial the power to “review any cases of a request for censure”. No other branch is delegated powers related to censure.

The question then becomes what does the Constitution mean by stating review? The ASUCR Judicial Council believes that the intentions of the authors of the Constitution was to reserve the powers of penal action for the Judicial Council. Given this interpretation of the Constitution, we believe that Section 3 of Chapter 23 attempts to weaken the powers given to the ASUCR Judicial Council.

This ruling only extends to Section 3 of Chapter 23 of the bylaws. The Judicial Council makes no claims to having the ability to define what a censure is or is not. The Judicial Council believes that it retains the sole power to place ASUCR officials on censure.

Furthermore, the ASUCR Judicial considers the actions taken by the ASUCR Senate of April 26<sup>th</sup> to be unconstitutional. The censures that were given to Senators Cole, Liban, and Cortez-Hernandez were not handed down via Chapter 23 of the bylaws, but instead by the ASUCR Penal System.

The Judicial Council has the explicit authority to:

- a. The Judicial Council shall have the sole authority to allocate strikes, and to decide on all matters relating to the allocation of strikes.*
- b. As with all Judicial Council action, the allocation of strikes is final unless reversed by subsequent action of the Judicial Council.*

Since the action taken on April 26<sup>th</sup> attempted to remove the censure from officials that were assigned strikes via the ASUCR Penal System. The ASUCR Senate has no authority over the ASUCR Penal System thus making any actions taken by Senate null. The censures on Senators Cole, Liban, and Cortez-Hernandez stand.

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