



# JUDICIAL COUNCIL *of* ASUCR

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## Majority Opinion W17-C-01

Regarding Gomez v. ASUCR Finance Committee

Decided April 19, 2017

JUSTICE SAMANTA FUENTES delivered the opinion of the Judicial Council:

On March 11, 2017, the Judicial Council received a case regarding the ASUCR Finance Committee's Budget Hearing, held the day prior, which discussed budgets for several organizations. Among the several budgets that were discussed and voted upon, a "recommendation" for a budget of \$2,000 (two thousand dollars) for an "independent review" was passed by committee members.

The petitioner raised concerns regarding these actions, stating that the budget amount violated the Chapter V ASUCR Bylaw and additionally argued that the voting members held a "conflict of interest" in the voting matter.

The Judicial Council accepted the case with a 5-0-0 vote.

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The Finance Committee recommended to allocate \$2,000 (two thousand dollars) in funds "to hire a lawyer for an independent review" regarding a previous decision made by the Judicial Council, W17-JR-05, which extended the filing deadline, disbanded the [YOUR]side party, and banned the use of political parties altogether due to unfair, and rather disturbing, political practices.

The petitioner informed the council that the large budget request exceeded the \$600 (six hundred dollars) limit stated in the ASUCR Bylaws, Chapter V, Section 6(g):

*Payment requests for professional speakers, performers, DJ's, services, etc. must be submitted with an invoice/contract and a W-9 four (4) weeks in advance of any event. Funding is limited from allocated funds: \$600 per academic year. These contracts and payments must adhere to all*



*the ASUCR and University policies and procedures regarding risk and event management.  
Payments will be made directly to the professional and shall not be reimbursed.*

The petitioner provided a witness that also gave testimony. A copy of the Finance Committee's meeting minutes for that day were provided by the witness. The meeting minutes clearly stated that the request to allocate funds of \$2,000 (two thousand dollars) was passed with a vote of 5-0-2 by committee members, "PENDING REVIEW IN REGARDS TO LIMIT". Respondent, and Vice President of Finance Kevin Tseng, stated that the amount was not yet sent to Senate because it was "still pending final review of the [\$600 (six hundred dollars)] limit."

After review of the evidence and arguments made by both the petitioner and the respondents, the Judicial Council does not find the Finance Committee in violation of the Chapter V, Section 6(g) portion of the ASUCR Bylaws. The respondent made it clear that they had the bylaw in consideration, and for the reasons stated above, decided it best to put the requested recommendation on hold until the issue regarding the limit became resolved.

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The petitioner also argued that the voting members were in violation of the Chapter V, Section 6(k) portion of the bylaw, which states that members should abstain from a vote should they have a "conflict of interest" in the voting matter:

*Any committee member with a conflict of interest shall refrain from voting on their budget or proposal. Conflict of interest is being defined as being directly affiliated with any organization or vendor. This would include knowingly voting to fund purchases from self or near relatives;*

The request for an independent review comes as a result of the decision delivered by Vice Chief Justice Hayden Jackson, W17-JR-05, which extended the elections deadline as well as disbanded and banned political parties in the 2016 elections. The petitioner made mention that some of the committee voting members may have been members of the [YOUR]side party that could have been affected by the decision, and therefore, held a conflict of interest when they voted in the matter.

The vote regarding the allocation of funds for the independent review was recorded as 5-0-2, with five members voting in the affirmative, no members voting against, and two members refraining from the vote. Committee member Serena Cheng and Vice President of Finance Kevin Tseng stated to the Judicial Council that they both refrained from voting, explaining the two abstentions in the recorded vote. This left Vice Chair Justin Pau, committee member Ruby Ramirez, and CHASS Senators and committee members Ariel Chen, Jonathon Javier, and Jose Cortez to explain the votes recorded in the affirmative.

Committee member Ruby Ramirez also provided testimony to the Council stating that she was not running in this years' election, and therefore, did not retain any conflict of interest in the matter. CHASS Senators Ariel Chen and Jonathon Javier were not present to provide a testimony, however CHASS Senator Jose Cortez was present and stated that he would speak on behalf of the Senators that could not attend.

It is known for certain that Senator Jose Cortez is on the ballot for a position in the Executive branch in this years' election. It is also known for certain that he was a member of the [YOUR]side party and could

have been one of the individuals that was affected by the decision W17-JR-05, therefore rendering suspicion of harboring a conflict of interest in the matter.

Although the evidence is overwhelmingly pointing in the direction that there may have been a conflict of interest at play with some members of the committee, the Judicial Council finds the definition of “conflict of interest” to be very ambiguous. In a direct interpretation of the definition of a conflict of interest, as stated in the bylaw, a member must reserve a “direct” affiliation with the organization or vendor, which is unknown to the Judicial Council whether or not there is a direct affiliation, and “knowingly voting to fund purchases from self or near relatives”. The Judicial Council does not find evidence for this to be the case.

However, in the spirit of the definition of a conflict of interest, there can be a case made that some members that voted in the affirmative for an independent review, perhaps in efforts to overturn the judicial decision, did so with the hopes or intentions that their actions would benefit them in the election.

Nevertheless, in a strict interpretation of Chapter V, Section 6(k), the Judicial Council finds the committee members not guilty of violating the bylaw.

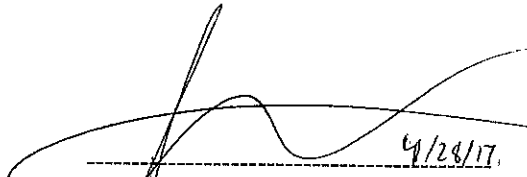
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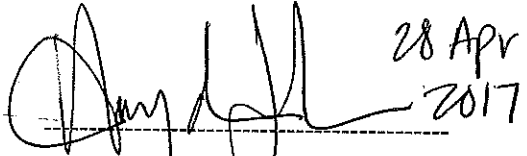
What the Finance Committee’s intentions were in hiring a third party is unbeknownst to the Judicial Council, as the opinion of the third party does not have any real capacity nor the influence to reverse the judicial decision.

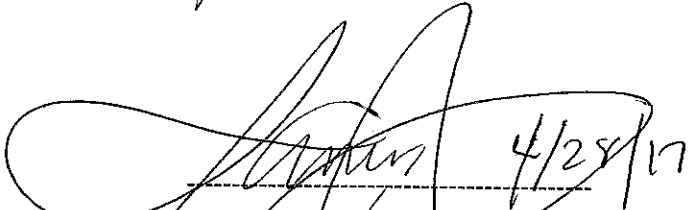
Additionally, if these members of ASUCR truly disagreed with the decision made in W17-JR-05, the proper procedure would have been to file an appeal with the Judicial Council, to which no member in the Executive nor Legislative Branch seemed to have followed.

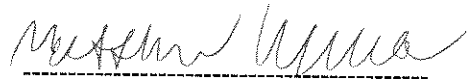
Although the Judicial Council does not find the committee members to be in violation of these sections of the bylaw, the Judicial Council strongly reprimands any ASUCR representatives who engage in political practices such as these for political gain of any sort, most especially when the methods to achieve their political gains involve the money of the students they are meant to represent.

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----- 4/28/17  
Chief Justice Jo Gbujama

  
----- 28 Apr 2017  
Vice Chief Justice Hayden Jackson

  
----- 4/28/17  
Associate Justice Samantha Fuentes

  
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Associate Justice Mathew Whiles