

Presented to the Senate Floor on April 6, 2017.



# ASUCD CONSTITUTIONAL AMENDMENT #51

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Introduced by: Grewal

A Constitutional Amendment to create the Judicial Council of ASUCD and the Judicial Council Oversight Committee of ASUCD.

Section 1. The ASUCD Senate hereby places the following Constitutional Amendment on the Spring 2017 ballot:

## ASUCD Judicial Council Creation Amendment

Please vote for one of the following options:

- \_\_\_\_\_ Yes, I approve of the ASUCD Judicial Council Amendment.  
\_\_\_\_\_ No, I do not approve of the ASUCD Judicial Council Amendment.

An Act to amend the ASUCD Constitution by placing the following amendment before the vote of the ASUCD membership on the Spring 2017 ballot.

BACKGROUND: ASUCD Constitutional Amendment #49 was placed on the Fall 2016 ASUCD ballot and passed with an 86.49% affirmative vote, effectively dissolving the ASUCD Court. Given the necessity for an adjudicating body in student government, this Amendment seeks to create a new, functioning Judicial Council in ASUCD.

Section 2. The ASUCD membership hereby enacts Article IX of the ASUCD Constitution as follows:

### **ARTICLE IX**

#### **ASUCD Judicial Council**

- Section 1. (1) The adjudicating powers of ASUCD shall be vested in the ASUCD Judicial Council. The Judicial Council shall consist of four (4) Councilmembers and one (1) Chair of the Judicial Council, who shall all serve terms of no more than two (2) years.  
(2) The Chair of the Judicial Council shall be responsible for:  
a) Presiding over weekly meetings; if the Council does not meet for more than four (4) consecutive weeks, the Chair of the Council will be subject to a closed session of the ASUCD Senate to discuss their performance as Chair;

- b) Reporting monthly to the ASUCD Senate on the Council's recent and relevant activity;
- c) Submitting all Judicial Council rulings, including all majority, dissenting, and concurring opinions, to the ASUCD Executive Office, the ASUCD Senate, and the Student Government Administrative Office no more than two (2) days after the ruling is made
- d) Reporting to the Senate President Pro Tempore weekly with Councilmember attendance for that week;
- e) Administering the Presidential and Vice Presidential oaths of office.

Section 2. (1) The Judicial Council shall be responsible for:

- a) Resolving all disputes that arise under this Constitution and the ASUCD Bylaws by issuing binding rulings, unless otherwise overturned by the ASUCD Judicial Council Oversight Committee;
- b) Resolving all disputes arising under official actions of ASUCD Elected Officials, Appointed Officers, and all subordinate bodies of the ASUCD Senate;
- c) Exercising appellate jurisdiction over any decision of the Elections Committee or action of an Elections Committee Member;
- d) Issuing temporary injunctions on all ASUCD legislation when membership on the Council falls below three (3) Councilmembers; All injunctions are automatically lifted when the Judicial Council reaches three (3) members;
- e) Reviewing, weekly, all legislation enacted by the ASUCD Senate for adherence to ASUCD Governing Documents;
- f) Sending memos to the ASUCD Senate, Internal Affairs Commission Chairperson, and author of the legislation with regard to the legislation's adherence to ASUCD Governing Documents no later than two (2) weeks after the legislation is passed by the Senate.

(2) The ASUCD Judicial Council may deny any appeal made to it or may grant the appeal in part or in whole as determined by a majority vote of the Judicial Council.

(3) ASUCD Judicial Councilmembers who are absent from more than three (3) Council meetings per quarter shall be subject to a closed session of the ASUCD Senate.

Section 3. (1) ASUCD Judicial Councilmembers shall be hired by an Interviewing Committee chaired by the ASUCD Senate President Pro Tempore.

(2) The remaining voting members of the Interviewing Committee shall include the ASUCD President, two (2) ASUCD Senators, and the Internal Affairs Commission Chairperson.

(3) The Interviewing Committee shall, by a majority vote of the entire Committee, select Councilmembers to be confirmed by a majority vote of the ASUCD Senate.

(4) The ASUCD Senate shall not conduct business if a vacancy on the Judicial Council persists for more than four (4) weeks after the vacancy initially occurs, unless determined by a two-thirds (2/3) supermajority vote of the entire Senate that prompt action is urgent and necessary for the functioning of the Association.

Section 4. (1) No member of the Judicial Council can hold any elected or appointed office in ASUCD that would constitute a conflict of interest or impair their impartiality as Councilmembers.

(2) Only undergraduate members of ASUCD can serve as Judicial Councilmembers.

(3) No member of the Judicial Council may author ASUCD legislation.

Section 5. (1) In performing the duties specified in Section 2 above, the ASUCD Judicial Council shall proceed according to rules and procedures enacted pursuant to this Constitution.

Section 6. (1) Councilmembers may recuse themselves from any case if they feel they cannot remain impartial or unbiased in their decision.

(2) The ASUCD Senate can, by a two-thirds (2/3) supermajority vote, remove a Councilmember from any case on the grounds that the challenged Councilmember cannot render an impartial or unbiased opinion.

Section 7. (1) Once confirmed by the ASUCD Senate, before obtaining a seat on the Judicial Council, ASUCD Judicial Councilmember nominees shall recite the ASUCD Oath of Impartiality administered by the ASUCD Vice President. All nominees of the ASUCD Judicial Council shall say their own name and then recite:

"I, \_\_\_\_\_, student of the University of California, Davis, in good academic standing, promise to abide by the ASUCD Governing Documents; act in a fair, honest, and impartial manner; ensure individuals' rights are upheld when rulings are made; review and interpret legislation and actions taken by the executive and legislative branches; and faithfully execute the duties enumerated in the ASUCD Constitution, ASUCD Bylaws, and ASUCD Internal Codes at all times during my term as a member of the ASUCD Judicial Council."

Section 8. (1) The Student Government Administrative Office shall be responsible for maintaining all Judicial Council petition forms both in paper and digital form, as well as for publishing all records of Judicial Council official minutes and decisions on the ASUCD Website.

Section 3. The ASUCD membership hereby enacts Article X of the ASUCD Constitution as follows:

## **ARTICLE X**

### **ASUCD Judicial Council Oversight Committee**

Section 1. (1) The ASUCD Judicial Oversight Committee, hereinafter referred to as JCOC, shall serve as the official ad hoc Committee that maintains all appellate jurisdiction over ASUCD Judicial Council Rulings.

Section 2. (1) The JCOC shall be chaired by the ASUCD Vice President and consist of two (2) additional voting members. The voting members shall include the ASUCD Vice President, the Chairperson of the Judicial Council, and the Internal Affairs Commission Chairperson.

(2) Two-thirds (2/3) of the members of JCOC must be present for the meeting to take place.

Section 3. (1) The Chairperson of JCOC shall be responsible for:

- a) Calling for and conducting Committee meetings no later than two (2) weeks after an official appeal or complaint has been filed challenging an official Judicial Council ruling;
- b) Presiding over all meetings of JCOC;
- c) Reporting the official decision of the Committee to the ASUCD Executive Office, the ASUCD Senate, the ASUCD Judicial Council Chairperson, the author of the appeal being considered, and the Student Government Administrative Office.

(2) The Judicial Council Oversight Committee shall be responsible for:

- a) Hearing all appeals officially submitted to the Chair of JCOC limited only to clearly cited violations that could put the Association at legal risk or that are clearly unconstitutional or un-bylawful.
- b) Deciding, by a two-thirds (2/3) vote of the entire Committee, to either concur with or overrule an official decision of the ASUCD Judicial Council.

(3) All decisions of JCOC are final and binding.

(4) No member of JCOC can author or file an official appeal to the Judicial Council Oversight Committee;

(5) If the Vice President or the Internal Affairs Commission Chair is the author or a coauthor of the legislation being contested, they must recuse themselves from the

Committee. In this instance, the Vice President will be replaced by the ASUCD Controller, and the Internal Affairs Commission Chairperson will be replaced by the Business and Finance Commission Chairperson.

Section 4. (1) In performing the duties specified in Section 3 above, the ASUCD Judicial Council Oversight Committee shall proceed according to rules and procedures enacted pursuant to this Constitution.

Section 4. The SGAO shall renumber the ASUCD Constitution and Table of Contents appropriately, given the enactment of this Constitutional Amendment.

Section 5. The ASUCD Senate hereby calls for a special election to be conducted no sooner than two (2) and no later than four (4) weeks after this legislation is enacted.

Finance: No

Appropriation: None

Vote: 2/3