

Syllabus

JUDICIAL BOARD OF THE U.S.A., UCLA

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Jackson Price v. Undergraduate Students Association Council (USAC)

ON A PETITION FOR CONSIDERATION TO
THE JUDICIAL BOARD OF THE UNDERGRADUATE STUDENTS
ASSOCIATION AT UCLA

[No. 18-10] Argued May 25, 2018—Decided May 30, 2018

On May 25, 2018, Jackson Price (“Petitioner”) filed a Petition for Consideration alleging that the 2017-2018 Undergraduate Students Association Council (“Respondent”) violated the USAC Constitution Article III. Section B.2., which states, “All elected Officers of the Association shall be installed before the end of the academic term in which they were elected, and shall serve one year, or until removed from office, or until their successors are elected or appointed.”

Held:

1. This Board has jurisdiction to consider the merits of this case based on the claim of jurisdiction listed in the Petition for Consideration, which is satisfied.
 - (a) The claim of jurisdiction made by the Petitioner is that of USAC Constitution Article VI. Section B.1., which states, “The JUDICIAL BOARD shall rule upon the constitutionality of legislation and official actions of appointed officials at the request of the Council or any other members of the Association.”
2. The Undergraduate Students Association Council did not violate USAC Constitution Article III. Section B.2.

YU, N., delivered the opinion of the Board, in which CHAPMAN, A. and GIBBS, J., joined.

JUDICIAL BOARD OF THE U.S.A., UCLA

No. 18-10

JACKSON PRICE v. UNDERGRADUATE STUDENTS ASSOCIATION COUNCIL (USAC)

ON A PETITION FOR CONSIDERATION TO
THE JUDICIAL BOARD OF THE UNDERGRADUATE STUDENTS
ASSOCIATION AT UCLA

[June 26, 2018]

CHIEF JUSTICE YU delivered the opinion of the Board.

This case requires The Judicial Board to determine if the 2017-2018 Undergraduate Students Association Council (USAC) violated USAC Constitution Article VI. Section B.1., which states, “All elected Officers of the Association shall be installed before the end of the academic term in which they were elected, and shall serve one year, or until removed from office, or until their successors are elected or appointed.”

The Petitioner argues that the 2017-2018 USAC councilmembers overstayed their tenure by remaining in office over 365 days since they were first sworn in, thus violating the “one year” term limit described in the USAC Constitution Article VI. Section B.1.

The Petitioner further argues that the 2017-2018 USAC councilmembers violated USAC Constitution Article VI. Section B.1. as they failed to step down after the Election Board’s reading of the officer-elects into minutes of the May 15, 2018 council meeting.

In order to evaluate the Petitioner’s claims, the Judicial Board must determine whether the 2017-2018 USAC councilmembers overstayed their one-year tenure and if their

successors were elected or appointed (at the time the Petition was filed, May 23, 2018).

The burden of proof falls on the Petitioner to prove the allegations are more likely true than not.

I. Background

On May 24, 2018, the Judicial Board's email account received a Petition for Consideration ("Petition") from Mher Mkrtchian, on behalf of Jackson Price, alleging USAC's violation of the USAC Constitution.

On May 25, 2018, the Judicial Board received a physical time-stamped copy of the Petition for Consideration. The same day, the Judicial Board accepted the Petition causing this case, Jackson Price v. USAC (18-10), to be formally heard by the Judicial Board.

On May 25, 2018, the Court of Hearing for Jackson Price v. USAC ("hearing") was heard.

At the hearing, the Petitioner argued that since the 2017-2018 USAC councilmembers were sworn-in on May 9, 2017, their term should have ended, at the latest, 365 days following their swearing-in, which would have placed the end of their tenure for May 9, 2018.

The Respondent, USAC, represented by 2017-2018 Facilities Commissioner Zahra Hajee, responded by stating that 365-day limit has not been the standard, and past councils have remained in office longer than 365 days. Hajee also stated that a 365-day limit would force the council into impossible situations, for example, the absence of a council if successors are not elected by the end of their predecessor's 365-day term.

The Petitioner argued that the “until their successors are elected or appointed” section of the clause was satisfied. The Petitioner argues that since Election Board certified the results, as the officer-elects were read into the minutes of the May 15, 2018 council meeting, the successors of the 2017-2018 council have been elected.

The Respondent responded and stated that since the Chief Justice had not sworn in the officer-elects, the successors of the 2017-2018 council have not been elected or appointed.

II. Discussion

A. Definition of One-Year Term

It is the opinion of the Judicial Board that the USAC Constitution’s use of the phrase “one year” in Article III. Section B.2. is not limited to 365 days.

It is fact that some past councils did not stay in office for 365 days or less; however, it is fact that past councils stood in office from the quarter they were elected to that same quarter in the next academic year.

Furthermore, if councilmembers only stayed in office at the latest 365 days from the day they were sworn in, that could pose logistical and constitutional problems.

If the use of the phrase “one year” is limited to 365 days, a situation in which council would have to step down prior to the appointment of the following year’s council would be infeasible. This would leave no sitting council to be able to approve the results of the election, approve students funding to student groups, etc.

Therefore, the Judicial Board holds that the definition of a one-year term is to be the quarter councilmembers were elected to

the same quarter the following academic year, i.e. Spring 2017 to Spring 2018.

B. Election or Appointment of Councilmembers

It is the opinion of the Judicial Board that the incoming 2018-2019 USAC councilmembers were not elected or appointed at the time the Petition was submitted.

Election Board presented the results of the USAC Election to council on May 15, 2018 as certified by Election Board. The council voted by majority vote not to certify the results of the election.

Arguments were presented by administrators and certain Election Board members that council's vote on the certification of election results are only ceremonious and have no official standing.

The Judicial Board acknowledges precedent that exists in council's approval of the election results prior to the appointment of the incoming councilmembers. Nonetheless, the Judicial Board's swearing in of the officer-elects is in no way bound by the Election Board's decision to recommend certification or council's certification decision.

As the sole entity responsible for swearing in officer-elects, and thus starting the process of making the election results effective, the Judicial Board assumes the discretion to decide whether or not to swear in officer-elects. Following the certification of election results by the Election Board, but not before the end of the quarter in which they were certified, the Judicial Board must either swear in all the officer-elects, or none. The Judicial Board must not swear in some officer-elects while declining to swear in others.

The Election Code explicitly states in Article 12.1.2. that “The election results for all elected officials positions as certified by the Election Board shall become effective by their being read into the minutes of the council meeting **following** their swearing in ceremony by the Judicial Board.” (emphasis added.)

While the Election Board had certified the results of the election, they were not effective at the time the Petition was submitted since the Judicial Board did not swear in the officer-elects.

As a result, the incoming 2018-2019 USAC councilmembers were not elected or appointed at the time Petition was submitted.

III. Conclusion

The Judicial Board finds that the 2017-2018 USAC councilmembers did not violate USAC Constitution Article III. Section B.2. at the time the Petition was submitted.

Thereby, the Judicial Board rejects the Petitioner’s remedy.

The Judicial Board holds that the definition of a one-year term is to be the quarter councilmembers were elected to the same quarter the following academic year, i.e. Spring 2017 to Spring 2018. Thus, the term length in the example above could theoretically be, at its longest extent, the first day of Spring 2017 to the last day of Spring 2018.

The Judicial Board holds that incoming councilmembers are not officially elected or appointed until the Judicial Board swears in the incoming councilmembers.

Given the ambiguity regarding certification of the election results, and the manner in which they become in effect, this Board would like to clarify the timeline and procedural requirements of this process with support from relevant

provisions of the Election Code, USA Constitution, and Official Rules of the Judicial Board.

The first step in certifying the results of an election rests with the Election Board; namely, the Election Board shall formally certify the election results. Following the Election Board's certification of the results, "The Election Board Chair shall recommend to the USA Council, prior to the installation of the new Council, the certification of the candidates elected," (USA Constitution Article 9.B.4).

Next, given the recommendation, the USA Council votes on whether or not to ceremoniously certify the election results as presented by the Elections Board Chair. Their vote, if in the affirmative, does not make the election results operative. Correspondingly, a vote in the negative does not nullify the election results. Thus the officer-elects are not to be considered elected or appointed immediately following the vote made by the USA Council.

The responsibility of making election results effective lies solely with the two impartial USA institutions—The USA Judicial Board and Election Board. The first course of action in making the election results operative, and for officer-elects to become considered elected or appointed, involves the USA Judicial Board approving the election results as certified by the Election Board by swearing-in the officer-elects (Election Code Article 12.1.2 and Official Rules of the Judicial Board Article 8.1.B). The Official Rules of the Judicial Board shall govern the Board's process of approving the election results, as certified by the Election Board, through the swearing-in of officer-elects.

It is important to note that the Judicial Board is mandated to approve or disapprove the certification of the election results as certified by the Election Board, not the USA Council (Election Code Article 12.1.2). Specifically, a vote to certify, or not to certify, the election results by the USA Council has no bearing on

the Judicial Board's authority to make the election results—as certified by the Election Board—operative. In deciding whether or not to approve certification, however, the Judicial Board may consider the outcome of the Council's vote to certify the election results.

Lastly, “The election results for all elected officials positions as certified by the Election Board shall become effective by their being read into the minutes of the council meeting following their swearing-in ceremony by the Judicial Board,” (Election Code Article 12.1.2). Following this action, the election results shall become both certified and effective. Additionally, all officer-elects shall become officially appointed or elected.

It is so ordered.