



JUDICIAL BOARD

UCLA UNDERGRADUATE STUDENTS ASSOCIATION

Petitioner: Sam Roth / Bruin Republicans

v.

Respondent: USAC Council

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Select All That Apply:

UCLA USA Constitution Article VI, Section B, Clause I:

“The Judicial Board shall rule upon the Constitutionality of legislation and official actions of elected or appointed officials at the request of the Council or any other members of the Association.”

UCLA USA Constitution Article VI, Section B, Clause II:

“The Judicial Board may also question, comment, or rule upon other matters at the request of the Council or any member of the Association.”

UCLA USA Constitution Article VI, Section B, Clause III:

“The Judicial Board shall serve as a board of appeals to decisions of the Elections Board.”


UCLA USA Constitution Article VI, Section B, Clause IV:

“The Judicial Board shall have other powers and responsibilities as may be delegated to it by the Chancellor of the University of California Los Angeles.”

Other:

ASUCLA USA Bylaws Article VII, Section C.6.d:

“Decisions of the Council concerning any funding proposals may be appealed to the Judicial Board.”



Please provide a detailed account of the alleged violation(s) along with **all** relevant provisions. Additionally, please demonstrate the direct relationship between the violation(s) in question and the action(s) of the respondent. Lastly, the Judicial Board will not consider violations not explicitly enumerated in this section, and retains discretion regarding what violations it will consider (Article I, Section IV, Clause D of the Official Rules of the Judicial Board).

Statement of Jurisdiction

The USAC Bylaws specifically provide for an appeal to this board from a denial of funding by the council. Bruin Republicans were denied funding by the council. This appeal is thus filed in accordance with the USAC Bylaws: Article VII Section C.6.d “Procedure for Appeal to the Judicial Board.”

Statement of grievance

Background: Our organization applied for Contingency Funds for the Conservative Political Action Conference (CPAC) 2021 on January 10, 2021.

Our application was approved by the Finance Committee and an allocation suggestion was made to USAC Council.

The application complied with all requirements under the funding policies. However, during the Jan. 19 Council meeting, the Council rejected our application. Although the USA Contingency Fund guidelines were all met, the Council decided that it would not fund the event.

This decision was ostensibly based on the Council’s misunderstanding of University and local laws. Members of the Council stated that University and local policies prohibit out of state travel. Thus, even though the Council has funded in-person and out of state events in the last year, and there was no USAC policy against funding in-person events, the Council decided it would reject the application anyway.

In the USAC Council Meeting recording on YouTube (1/19/21 34:25), a councilmember asked the question if they could even reject funding “given that [funding in-person events or not] is not currently in the guidelines.”

Our organization provided the Finance Committee with a list of the reasonable safety precautions that the organizers of CPAC and our club is taking to ensure public health is

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protected and the Finance Committee representative stated that they were “reasonably safe enough to grant [our club] funding. (28:25).”

Despite 1) knowledge that the USAC policy did *not* prohibit funding in-person events, and 2) the fact that our application complied with the policy, 3) the fact that we and the CPAC conference were following all health and safety guidelines, and 4) the fact that USAC had recently funded in-person events without incident, USAC created a post-hoc policy to exclude us from access to funding for this event.

We submitted a petition to this Board on February 3, 2021, but it was denied on February 8, 2021, for lack of jurisdiction because we apparently checked the wrong box for appeals regarding elections. However, it is clear that this Board has jurisdiction to hear appeals from funding decisions under USAC Bylaws: Article VII Section C.6.d “Procedure for Appeal to the Judicial Board.” Thus, we are asking that you reconsider this important issue.

Statement of Violations

USAC violated its own policies, due process, and the constitution in at least two ways.

- 1) USAC violated its own policies and denied due process by creating a new post-hoc policy specifically to deny the Bruin Republican’s application, and
- 2) USAC violated the First Amendment by denying funding based on discretionary post-hoc criteria.

In order to safeguard the integrity of the process and avoid potential legal liability, the Board should reverse the erroneous decision of the USAC and grant our funding request.

USAC’s alleged justification (local and university policies) do not, in fact, prohibit students from attending in-person events so long as students quarantine on return. As demonstrated below, we also provided a list of the stringent provisions in place for our members to travel and attend this conference safely and in accord with all health and safety requirements.

1) USAC violated its own policies and denied due process by creating a new post-hoc policy specifically to deny Bruin Republican’s application.

The Finance Committee Contingency Guidelines state that funding decisions must be viewpoint neutral. For a review to be considered viewpoint neutral, there must be criteria that can be applied consistently. For decisions to be made on grounds outside of the guidelines, there can be no viewpoint neutral process as it becomes subject to “unfair treatment or inconsistent treatment.”

Proving inconsistent treatment:

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In Fall 2020, the Bruin Republicans also applied for the USA Contingency Fund for an in-person conference in Florida (Turning Point USA's Student Action Summit). The allocation was approved by council with a vote of 13-0-0 without any discussion during the USAC Council Meeting (12/8/2020). This approval was made without asking our club any questions on health guidelines at the event. Given that this was an in-person conference and the guidelines in December were the same as when we filed in January, we have proven inconsistent treatment. Further, a review of other funding from the Council indicates it has approved dinners and retreats for several other organizations. As the Council admitted in its meeting, its policies did *not prohibit* funding in person events when it decided to not fund our request. Thus, it violated its own policies by not following the guidelines and instead creating new ones. The justification that local or university policies require this is simply not true. We have reviewed all applicable health and safety guidelines and are in full compliance.

Unfair treatment and violation of due process:

The Finance Committee guidelines for the Contingency Fund state that “all allocations will be made without regard to viewpoint and will be based solely upon viewpoint neutral criteria.” If this is the case, then there must be a clear standard for deciding what activities should be funded. This criteria is laid out in the Contingency guidelines. It is not due process to change the standards that are used to evaluate whether or not an application is funded at the end of the process. We have already proven that we received funding for an in-person event in Fall Quarter. The rationale behind rejecting our application was not grounded in the guidelines, but rather, outside of the guidelines. The assumption can be made that if such decisions can be made, then neutral-viewpoint criteria has been neglected, or in some cases completely disregarded.

2) USAC violated the First Amendment by denying funding based on discretionary post-hoc criteria.

The First Amendment requires that student fees be distributed in a viewpoint neutral manner. Just a few years ago, a federal court ruled against a student government in the Cal State system when it denied funding to another group because the Student Government didn't follow viewpoint neutral criteria.¹ The court held that any funding decision has to be made according to specific written criteria and that if it isn't part of the written policy then it allows “unbridled discretion” to discriminate and violates the First Amendment. Thus, because USAC used its discretion here (even if it didn't intend to discriminate) denying the funding application based on unwritten post-hoc policies is unconstitutional.

¹

<https://www.courthousenews.com/judge-sides-with-conservative-students-in-first-amendment-case-over-student-fees/>

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The Board should be comfortable adhering to the appropriate procedures and ordering USAC to follow the policies as they were written at the time of application.

Here are several reasons why:

1. Granting the funding application poses no risk to the UCLA community as all classes of our attending members are virtual at the conclusion of the conference. Any students that may need to visit UCLA in-person after returning from the conference will self-quarantine after travel in accordance with all applicable local policies. In addition, no members live on campus and thus, there is no risk to the UCLA community.

2. Granting the funding application does not violate University or local policy. University policy does not prohibit student travel. LA County law does not prohibit travel either. The CPAC conference is abiding by all applicable health guidelines and recommendations as already articulated in the mitigation plan. The students traveling to and from the conference will abide by all state and local policies regarding self-quarantining after traveling and other safety guidelines. Thus, funding the request would not violate state, LA, or University policy.

3. It would not violate any policy or pose any risk to the community, thus banning the use of fees for in-person events limits students' choices more strictly than the University or County, and is unreasonable. Even with social distancing and other health precautions, there is value gained by in-person interactions at CPAC that will be forever lost if students have to simply view it online. Interacting and viewing are not the same. It is also unreasonable for the Council to enact stricter policies than the county or University after having already approved two months ago (without incident) before coming up with this new post-hoc policy. If this was the policy then, they should have communicated that two months ago and given our club more time to fundraise independently.

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Please provide an account of the effects and magnitude of the alleged violation(s).

Remedy which is sought by the organization:


We are proposing that the Board direct the Council that it must follow the policies as written at the time of application and approve the allocation made to our club in the amount of \$1,380.00 (an allocation was approved in part at the USAC 2/2/2021 meeting, we have deducted that allocation from the suggestion made to council on Jan 19, 2021). This decision would be in adherence with University and local policy, which does not prohibit travel. Also, the Council is encouraged to consider the fact that all safety precautions will be adhered to and our leadership, as well as CPAC organizers, will take every step necessary to ensure the safety of students to the fullest extent. Under these circumstances, we are confident that there is no discrepancy between what our organization is asking and the policies at the time of the submission of our initial application.

The magnitude of this decision means that the decisions are not being made in a fair manner by USAC. The decisions are not viewpoint-neutral as is required by policy and constitutional law. This is because they are using justifications outside of the USA Finance Committee guidelines (attached in our email) as a reason for voting against the allocation. This clearly violates the way in which University funds are mandated to be allocated.

Our club was expecting to receive an allocation to cover over half the costs of attending this event. Because they have rejected it, we have been trying to find other sources of funding. However, because of the unexpected rejection, our members who are interested in going, who are all UCLA students, may not be able to because of the financial burden associated with attending the event.

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Please detail your desired remedy to redress the alleged injury or injuries. Please note that the Judicial Board retains the authority to reject your remedy if considered unreasonable or unworkable. In such a situation, the Judicial Board will decide on an appropriate remedy to be included in its final verdict (Article X, Section I, Clause A of the Official Rules of the Judicial Board).

We are proposing that the Board direct the Council that it must follow the policies as written at the time of application and approve the allocation made to our club in the amount of \$1,380.00 (an allocation was approved in part at the USAC 2/2/2021 meeting, we have deducted that allocation from the suggestion made to council on Jan 19, 2021).

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Involved Parties

Only members of the UCLA Undergraduate Students Association are eligible to be involved as parties before the Judicial Board (Article I, Section IV, Clause E of the Official Rules of the Judicial Board). Any petition not in accordance with the aforementioned is subject to automatic denial. If a violation is discovered following the petition's acceptance, the petition will be immediately withdrawn with a default judgement against the offending party.

Petitioner: Sam Roth

Email: BruinGOP@gmail.com

Counsel for Petitioner: [Your representative before the Judicial Board, you may choose to represent yourself if desired]

Email:

Respondent: USAC Council

Email: [If unknown, leave blank]

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Statement of Authenticity

By electronically signing below, I hereby attest that the above information is true to the best of my knowledge. Additionally, I understand that the falsification of any aspect of this Petition will result in its denial, or withdrawal if discovered post-approval, and a default judgement in favor of the respondent.

Respectfully submitted,



Petitioner

2/23/2021

Date

Counsel for Petitioner

Date

Additional Information:

All petitions must adhere to the following guidelines for consideration: 1.

Petitions must be typed in 12-point Georgia font with one-inch margins.

2. The document must not exceed twenty pages in length.

3. Petitions must be dated with electronic signatures where indicated.

Once verified to be in conformance with the above guidelines, an electronic copy of this document must be emailed to uclajudicialboard@gmail.com. Your petition will not

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be considered received until you receive a confirmation email from the Chief Justice or Associate Chief Justice.

Please Note:

1. The Judicial Board will only receive and take action on petitions during the fall, winter, and spring quarters on weekdays between 9:00 AM and 9:00 PM (PST), excluding university holidays.
2. Upon formal receipt, as indicated by confirmation from the Chief Justice or Associate Chief Justice, the Judicial Board will have three days to grant or deny your petition.
3. Per Article II, Section II, Clause A of the Official Rules of the Judicial Board, “During an election, the Judicial Board may accelerate the hearing process by a majority vote of the Judicial Board. If the process is accelerated, minimum timeframes for appointment of representative, the Preliminary Hearing, and the Hearing itself shall no longer apply.”

For Judicial Board Use Only

Chief Justice

So Jeong (Ellen) Park

Petition No.

21-2

Petition Granted

Petition Denied

Notes: