



Unanimous Opinion By Council Chair Pham

JUDICIAL COUNCIL OF THE ASSOCIATED STUDENTS OF OREGON STATE UNIVERSITY

Dylan Perfect, ASOSU Vice President: Matteo Paola, President-elect

APPEAL TO THE ASOSU JUDICIAL COUNCIL (No. 22-004.a)

[March 18th, 2022]

Dylan Perfect, ASOSU Vice President and Matteo Paola, President-elect brought an appeal forward to the Judicial Council on Decision 18.009.i on the basis of the following:

- a. On March 12, 2021, Judicial Council Chair Williams communicated the council's decision to decline to hear an appeal of Decision 18-009.i based upon the facts at the time, with the council citing "Lack of substantive new evidence or significant changes to the ASOSU warranting overturning the prior opinion." Then-President-elect Dhru Patel, and then-Vice President-elect Dylan Perfect, who filed the appeal, had at this time already resigned their former positions out of an abundance of caution due to the timing of the matter (closing in on the "fourteen academic days" referenced above), and prior to the council's consideration of whether to hear the appeal.
- b. Significant changes to the ASOSU: see 2(b)ii, below, re: senatorial precedent. By way of circumstance, a new president and vice president of the ASOSU were recently elected on March 4, 2022, with certification of their election pending. The president-elect has expressed interest in continuing to hold his duly elected seat in the House of Representatives, until he resigns, or his term expires, after which he may assume the office of ASOSU President beginning June 1, 2022, at 12:00 p.m.

Additionally, the appeal provides relevant new evidence, such as a testimony from former Chair Kauffman. The writ filed by Vice President Perfect and President-elect Paola, in summary, offer the considerations that the president-elect, and the vice president-elect, of the ASOSU face no special restrictions on the retention of any office they may hold under the ASOSU Constitution, which would not apply equally to a person holding that same office, and elected to any other office, under the ASOSU Constitution; that the president-elect, and the vice president-elect, of the ASOSU may carry themselves as such, with or without optional compensation provided by statute, and without requiring resignation from their currently-held offices; that the result of no election shall be overturned, nor shall resignation from other held offices be compelled, for failure of the president-elect and/or vice president-elect to resign within the fourteen academic days referenced in Decision 18-009.i.; and that, should the council concur, the relevant and conflicting findings of Decision 18-009.i be decided accordingly upon appeal.

After thorough and thoughtful deliberation on the evidence provided, Article IV of the Constitution, and Title XI, Section 22 of the Statutes, the ASOSU Judicial Council determines that the president-elect, and the vice president-elect, of the ASOSU will face no special restrictions on the retention of any office they may hold under the ASOSU Constitution and may continue to serve in their current positions within ASOSU. With this, the president-elect, and the vice president-elect, of the ASOSU may carry themselves as such, with or without optional compensation provided by statute.

Therefore, the ASOSU Judicial Council has scrutinized the following excerpt from Decision 18.009.i:

“However, the Judicial Council identifies one substantive difference between the president-elect and vice president-elect, and other administrative staff, who have not traditionally been prohibited from concurrently holding any of the offices established in the ASOSU Constitution and Statutes. That difference is the longstanding precedent of quasi constitutionally affording the president-elect and vice president-elect the power to nominate and appoint executive officers, prior to the start of their terms and swearing of their oaths of office. This precedent has been affirmed by multiple sessions of the ASOSU Senate, which have seen fit to accept nominations and vote on the confirmation of executive officers selected by the president-elect and vice-president elect, before the latter have assumed office. The Judicial Council does not see fit to prohibit this practice, but does recognize the potential for constitutional conflicts that it creates; chief among them being the exercise of executive power while also holding office within another branch of the ASOSU. Although not in direct conflict with the letter of Article IV, Section I of the ASOSU Constitution, the Judicial Council holds that allowing an individual in the legislative or judicial branches of the ASOSU to exercise executive

power violates the principle of separation of powers established throughout the ASOSU Constitution. The Judicial Council further holds that, within a single branch of government, no individual should exercise the powers of two offices simultaneously, except in the case that holding one office is established as the prerequisite for holding another. Therefore, the Judicial Council requires that any person elected ASOSU President or ASOSU Vice President resign from any other ASOSU office they hold within fourteen academic days of the certification of their election, and before exercising any executive powers in their capacity as president elect or vice president-elect. This requirement shall not apply to any currently sitting ASOSU President or ASOSU Vice President.”

After evaluation of the new evidence, and the information contained in the writ, the ASOSU Judicial Council partially overturns its prior decision from the excerpt above, specifically nullifying the following from Decision 18.009.i:

“That any person elected ASOSU President or ASOSU Vice President resign from any other ASOSU office they hold within fourteen academic days of the certification of their election,”

This has been nullified so as to not overturn the result of any election.

In our decision, we cite from Article IV(F) of the ASOSU Constitution, *“The President of the ASOSU shall, in accordance with the ASOSU Constitution and Statutes, and with the advice and consent of the Senate, appoint Executive Officers and members of the Judicial Council,”* which would not afford anyone, aside from the sitting president, the power to nominate an individual to the Executive Office or Judicial Council. In accordance with the ASOSU Constitution, the term of office for elected ASOSU officials begins June 1st, which also nullifies the quasi constitutionality of the ASOSU President-elect’s practice of appointing ASOSU officers prior to their term officially beginning on June 1. Therefore, only the sitting President of the ASOSU is able to appoint ASOSU Officers and this duty begins upon taking office.