

To be completed in triplicate

ASSOCIATED STUDENTS JUDICIARY
California State College, Long Beach

COMPLAINT TO REQUEST A DECLARATORY JUDGMENT

To: Associated Students Judiciary

From: A.S. ELECTIONS COMMISSION

Date: 11-4-70

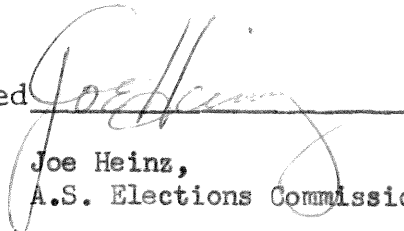
The undersigned requests a review of the rights and duties pursuant to:

A.S. ELECTION FOR SENATOR-AT-LARGE IN FALL, 1970, GENERAL ELECTION.

Cause for request: Clarification of voting procedures for A.S. Senate vacancy as outlined in Chapter II, Article I Section 10(a). Is the unexpired term considered as a separate category for candidates, or is it incorporated as stated in Senate Bill #4 which pertains to Academic Senate representatives filling an unexpired term?

Briefly explain the substance of your issue: Since this is a new By-Law, the Elections Commission has no precedent with which to follow. In this particular case, the Commission needs to know if the unexpired term for Senator-at-Large is a separate voting category; or should the three top vote-getters be seated for full terms and the fourth be seated for the unexpired term. We cited Senate Bill #4 (above), as it might pertain to this issue.

The undersigned does hereby request a judgment on the preceding issue.

Signed 
Joe Heinz,
A.S. Elections Commissioner

ASSOCIATED STUDENTS JUDICIARY
California State College
Long Beach

DECLARATORY JUDGMENT
Voting Procedures - A.S. Senate Vacancies

Joe Heinz, A.S. Elections Commissioner, petitioner

CONFLICT SUMMATION

Petitioner requests "clarification of voting procedures for A.S. Senate vacancies as outlined in Chapter II, Article I, Section 10-a of the Associated Students Bylaws." Specifically, "is an unexpired term to be considered as a separate category for candidates, or is it incorporated as stated in Senate Bill #4 (dated February 11, 1970) which pertains to Academic Senate representatives filling an unexpired term? . . . In this particular case, the Elections Commission needs to know if the unexpired term for Senator-at-Large is a separate voting category" (that is, separate from those candidates running for a full term) or whether the voting procedure should be incorporated with the salient vote-receivers being seated for full terms and the next highest vote-receivers being seated for the unexpired terms.

JUDGMENT

The court takes judicial notice of the recent Declaratory Judgment issued November 2, 1970 pertaining to Academic Senate Seats which stated in part ". . .the intent of section five of Senate Bill #4 (dated February 11, 1970) provided that the candidate receiving the greatest number of votes shall fill the office with the longer term. The candidate receiving the second greatest number of votes shall fill the office with the shorter term."

In the absence of specific statutory provisions pertaining to the issue at hand, it is the decision of the Associated Students Judiciary that all vacant seats and unexpired terms not be construed as separate electoral categories but rather be filled in a manner which utilizes the philosophy established in section five of Senate Bill #4. That is, senatorial candidates shall submit applications and be placed on the ballot as though there were only full-term positions available; separate ballot categories to fill unexpired terms shall not be established. After balloting is concluded, the Elections Commission shall follow the following procedure:

- (1) Senatorial candidates shall be ranked in descending order with the candidate receiving the greatest number of

votes being ranked first, the candidate receiving the second greatest number of votes being ranked second, etc. until all candidates have been ranked with the individual receiving the lowest number of votes being placed last.

(2) Full term offices shall be assigned with the first full term office being awarded to the candidate ranked first, the second full term office awarded to the second ranked candidate, etc. until all full term offices have been exhausted.

(3) The next ranked candidate shall be awarded the first unexpired term, the next candidate the next unexpired term until all unexpired posts have been filled.

The Judiciary feels that this procedure constitutes the simplest and most democratic method for determining which candidates shall assume full term and part term positions based upon the electoral mandate each received at the polls.

The Judiciary issues this judgment due to an absence of statutory provisions pertaining to the question at hand. This judgment shall not be construed as precluding the Elections Commission or Associated Students Senate from establishing a different policy as regards this matter at some future date. The court reaffirms its position that the establishment of policy is more properly a legislative, rather than a judicial, prerogative.

It is so ordered.

Gayle C. Alaimo
Gayle Alaimo
Associate Justice

Gordon Park
Gordon Park
Associate Justice

David B. Schmidt
David Schmidt
Associate Justice

Warren J. Wolfe
Warren J. Wolfe
Chief Justice

Adjudicated this 9th day of November, 1970.