

To be completed in triplicate

ASSOCIATED STUDENTS JUDICIARY
California State College, Long Beach

COMPLAINT TO REQUEST A DECLARATORY JUDGMENT

To: Associated Students Judiciary

From: Board of Control

Date: April 26, 1971

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

Chapter II, Article I, Section 6

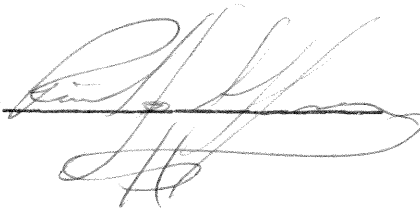
Cause for request: Confusion as to the power of the A.S. Senate
to Amend Board of Control action and initiate financial
action. Also request a definition ^{and interpretation} of "over-rule"
Section, A, 3.

Briefly explain the substance of your issue: Examples:

Board of Control recommend \$200 to XYZ. Senate may
do what of following: (1) Amend figure (\$150 or \$250) by 2/3 vote
(2) Only refer back to B.O.C. by 2/3 vote (3) approve action by
1/3 vote. Can they initiate action on item which B.O.C. has
not acted on?

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

Signed



ASSOCIATED STUDENTS JUDICIARY

California State College, Long Beach

Declaratory Judgement

Rich Schiffers

This action brought by Rich Schiffers, Associated Students Treasurer, asks the three following questions:

1. Can the Associated Students Senate amend an action of the Board of Control.
2. Can the Associated Students Senate initiate financial action.
3. What is the meaning of the word "over-rule", in Chapter II, Article I, Section 6, A, 3 of the Bylaws, Associated Students, California State College, Long Beach.

Bylaws, Chapter II, Article I, Section 6, a, 2 through 4, states:

2. By a vote of over one-third (1/3) of the A.S. Senate the A.S. Board of Control action shall be approved.
3. A two-thirds (2/3) vote of the A.S. Senate shall be necessary to over-rule an action of the A.S. Board of Control.
4. Items of business which are not approved shall be referred back to the Board of Control for reconsideration and subsequent resubmission to the Senate.

The statutes are lucid and precise. Upon receiving a Board of Control action, the Senate has only two courses open to it. The Senate may either accept the action with a vote of greater than one-third, or reject the action by a vote of two-thirds, thereby referring such action back to the Board of Control. Nowhere are there provisions for the Senate to amend a Board of Control Action; to allow such amendment would be contrary to statute and therefore illegal. It should be noted that once the Senate has approved a Board of Control action, that action becomes the property of the Senate to amend or delete in total, as they wish, with a vote of a simple majority.

Bylaws, Chapter I, Article I, Section 7, sets forth the powers of the Senate. Part b of Section 7 states that the Senate shall have the power to:

- b. Establish and regulate all student government expenditures and financial operations.

This statute gives the Senate the power to initiate any financial action it chooses by a vote of a simple majority.

The word "over-rule", in Bylaws Chapter II, Article I, Section 6, A, 3 has been construed by the court to give the Senate the power of rejecting a Board of Control action, thereby referring it back to the Board of Control. The word "over-rule" confers no power to amend.

It is so ordered.



Brian L. Arthur, Associate Justice



Gordon Park, Associate Justice



David Schmidt, Associate Justice



Gayle Alaimo, Associate Justice



James Semmens, Associate Justice



George Salmas, Chief Justice

Vote: 6-0-0
Unanimous Decision

Adjudicated this eleventh day of May, 1971