

SPICER v. UA COUNCIL 05.13.2023

Ruling of the Judicial Review Board

MIT UA Judicial Review Board

SPICER v. UA COUNCIL

Held: The UA Judicial Review Board rules that:

1. The UA Council is within their rights to discuss items at Council meetings that are not listed on the published agenda.
2. The UA Council was not required to give David Spicer a chance to speak during the meeting where they passed a motion to add impeachment to the next agenda.
3. We uphold the UA Council's vote to mandate a recall election of UA President David Spicer.

I

Case Proceedings

The Judicial Board received a formal complaint on April 25th, 2023, from UA President David Spicer against the UA Council. On April 26th, 2023, the Judicial Review Board received additions to the complaint.

The Judicial Review Board members who presided over this case are Emily Tess, Emma Wang, and Ellie Rabenold, ruling unanimously.

On April 28th, 2023, the Judicial Review Board determined the three violations included in the complaint nonfrivolous and began the hearing process per Article IV, Section 2 of the Judicial Review Board Bylaws. On the same day, the complainant was notified of the case acceptance as well as the three business day time frame to submit evidence (period ending at 5:00 PM on May 3rd, 2023). All members of the UA Council were made aware of the acceptance of the case and the contents of the complaint on April 28th, 2023, and were given the same time period to submit evidence.

Following the May 3rd, 2023, deadline for submitting evidence, all parties were granted access to the supplementary evidence submitted to the Judicial Review Board.

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The hearing was set for May 4th, 2023, at 9:00 PM. The UA Council appointed three members to represent the entire Council for the hearing. Both the complainant and the appointed Council members were in attendance.

Following the hearing, per the Judicial Review Board Bylaws Article IV, Section 2.d, the justices on the case met on May 8th, 2023, to discuss the opinion of this case. The finalized opinion was published on May 13th, 2023.

II

Jurisdiction

Under Article II, Section C.3 of the UA Constitution, the Judicial Review Board is responsible for the interpretation of the UA Constitution and other governing documents, including the UA Council Bylaws. Therefore, the complaint's allegations of violations of the Bylaws by UA Council falls within our jurisdiction.

III

On the Matter of Violating Article V, Section C, Clauses 1 and 2 of the UA Council Bylaws during the April 18th Council Meeting

During the April 18th, 2023, Council meeting, voting members of the Council proposed and passed motions (1) to change the frequency of Council meetings to weekly occurrences, and (2) to add impeachment proceedings to the next Council meeting's agenda. Neither item was included on the agenda that was published prior to the April 18th meeting, and the complainant argued that it is a violation of the Bylaws for the Council to depart from the agenda in this way.

The Judicial Review Board finds that it is not a violation of the Bylaws for Council to discuss and vote on items not included on the agenda. Nowhere in the Council Bylaws, including in Article V, Section C.1-2, does it state that Council must limit the scope of its meetings to only the pre-established agenda items.

Article V, Section C.1 does state that the agenda for Council meetings shall be published publicly at least two days in advance. The Judicial

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Board finds that this requirement does not imply a further requirement that Council strictly limit itself to only the items on the published agenda. While the Board does recognize the Undergraduate Association's interest in making the planned contents of Council meetings public, we find that this interest does not go so far as to invent a restriction on the topics Council may discuss at meetings.

Furthermore, Article V, Section D.3 of the Bylaws states that emergency meetings should be limited to consider only the agenda item stated by the caller of the emergency meeting. And Article V, Section A.1 of the UA Constitution states that motions to amend the Constitution must appear on the agenda for the meetings when the amendments are proposed and when they are voted on. That these two clauses needed to be included in the governing documents, and that no similar clauses exist for regularly scheduled Council meetings or for other types of motions points toward the Judicial Board's conclusion that the governing documents do not limit Council to discuss only items on the agenda during regularly scheduled meetings.

Article II, Section B, Clause 4.f of the UA Constitution states that the UA President shall set the meeting agenda in accordance with the Bylaws and make a "good faith effort" to keep the Council informed of pertinent matters. The Bylaws go on to state that any voting Council member may submit an agenda item to the President (Article V, Section C.2). The Judicial Board thus finds that while Council is not strictly limited to discussing only items on the agenda at meetings, the President and the Council ought to make a good faith effort to publish an agenda that is an accurate representation of the planned meeting.

The Judicial Board finds that Council members did act in good faith with regards to making known the contents of the April 18th Council meeting. Because the events that motivated the unplanned votes at the April 18th Council meeting occurred after the agenda was supposed to be published, and taking into account the confusion over who was acting in the role of Head of Council during the time of the April 18th Council meeting, it is clear that Council members were not attempting to purposely keep planned items off of the published agenda in order to ambush or hide.

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IV

On the Matter of Violating Article V, Section D, Clause 4 of the UA
Council Bylaws during the April 18th Council Meeting

According to the approved minutes, during the April 18th Council meeting, East Campus's representative proposed a motion to add impeachment proceedings for David Spicer to the next meeting's agenda. The motion was seconded by Simmons's representative and the motion was passed unanimously.

Article V, Section D, Clause 4 of the UA Council Bylaws states that if impeachment proceedings are being discussed at a Council meeting, then the individual whose impeachment is being discussed shall have the opportunity to present a case before the Council and respond to the stated reasons for removal. The Judicial Review Board finds that the motion to add impeachment proceedings to the next meeting's agenda does not constitute a discussion of impeachment and thus did not require giving David Spicer the opportunity to present a case at the April 18th Council meeting. Council members testified that at the April 18th meeting, the motion was proposed, seconded, and voted on, and that no further discussion on the matter occurred, nor did Council discuss whether to impeach. Rather than itself constituting a discussion of impeachment, the motion instead scheduled a discussion of impeachment for the following week. Additionally, any informal discussions between Council members occurring outside a Council meeting do not constitute a violation of Article V, Section D, Clause 4. The Judicial Review Board finds that David Spicer was provided the appropriate opportunity to present a case in front of Council at the April 25th Council meeting when impeachment proceedings and discussion took place.

V

On the Matter of Violating Article V, Section C, Clauses 1 and 2 of the UA
Council Bylaws during the April 25th Council Meeting

During the April 25th, 2023, Council meeting, the Council unanimously voted to close the meeting from the public to discuss the impeachment of David Spicer as UA President. After allowing David Spicer to present a case and asking follow-up questions, the Council discussed impeachment,

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as well as alternatives to impeachment. Alternatives discussed included censure and recall. The Council concluded the meeting by voting to both censure and mandate a recall election of David Spicer as UA President. The complainant argued that Council's discussion of censure and recall constitutes a violation of the Bylaws because the topics of censure and recall were not listed on the published agenda for the April 25th meeting.

The Judicial Review Board finds that the Council was within their rights to discuss and vote on alternatives to impeachment during the April 25th Council meeting. As stated earlier in this ruling, the Judicial Review Board finds that the Council is not bound to only discuss items listed on the agenda.

VI

On the Matter of Upholding the Vote to Mandate a Recall Election of David Spicer as UA President

The Judicial Review Board finds that the UA Council did not violate Article V, Section C, Clauses 1 and 2 or Article V, Section D, Clause 4 of the UA Council Bylaws during the Council's April 18th or April 25th meetings. Therefore, the Judicial Review Board declines to take any action or reverse any votes that occurred during the April 18th or April 25th Council meetings, including the vote to mandate a recall election of David Spicer.

Please contact the UA Judicial Review Board at ua-judboard@mit.edu if you have any questions or concerns.