In re: Class Council Constitution Implementation  
Vote: 5-0

Chief Justice BUCHBINDER, joined by Associate Justice Gluck, Associate Justice Oliff, and Associate Justice Adamakos.

On October 23, 2014, Constitutional Council received an interpretation request concerning an implementation of a new Class Council constitution. During the preceding summer, the Student Union Executive Branch created a new Class Council constitution to replace the old one. The Executive Branch did not go to the constituency of the Class Council before implementing the constitution for a vote under the opinion that the since the previous constitution could not be found a two thirds (2/3) majority vote was not needed.

Members of the Student Union Executive Branch brought this conflict before the Council.

Upon hearing the interpretation request, the Council was faced with three important questions. First, The Council needed to determine if it had jurisdiction over the implementation and amendment of the Class Council constitution. Second, if the body did have jurisdiction, to what extent does “existence” matter for recreating a constitution. Third, is there a difference in implementing and making a new constitution, if any. Subsequently if there is a difference between the two, what effect does this distinction have on votes needed for implementation. Within each of these three main questions, several smaller issues arose including what would count as an amendment versus a creation and what steps were taken for the implementation of this new document.

To begin, the Council first addressed the issue of jurisdiction. According to Article VI, Section 1, a 5, the Constitutional Council can “decide all cases in which and officer of the ... Executive branch of the Student Union is involved, and cases between Student Union registered groups and/or councils.” By this section, it would appear that this body did have the jurisdiction over the Class Council constitution since it was mandated through the Student Union Constitution, which the Constitutional Council has clear jurisdiction over. Additionally, the ability of The Council to have jurisdiction over amendments of the document through Article IV, Section 9, c led this body to believe that this case was within the confines of The Council’s reach.

The next problem concerned the extent of existence of the previous Class Council constitution. After it has being presented with the case, the Constitutional Council requested that all relevant branches of the Student Union search for the document. After preforming a reasonable search, the document could not be found and the Courts deemed the previous constitution no longer in existence. Because of this, it was within reason for the Student Union Executive Branch to write a new document. The writing of the document did not have to happen within the confines of the Class Council. Additionally, the idea that the constitution was no longer in existence led The Council to conclusion that the process would no longer be one concerning an amendment, but rather a holistic implementation.
This directly led into the third area of concern regarding the new Class Council constitution. When looking at Article IV, Section 9, c, it is clear that the Class Council must have “two-thirds (2/3) of the voting population of the constituency” to pass an amendment. Therefore it would be more than reasonable to conclude that at minimum two thirds (2/3) of the Class Council constituency must vote for the implementation of the new document. This simple logic stems from the fact that an implementation of an entirely new constitution would be a significantly more impactful change than the amendment of a single section of the existing document. The purpose of a two-thirds (2/3) vote is to ensure an accurate representation of the constituency in the rules governing the body. The lack of vote is therefore a lack of employment of the document and a lack of representation. In finality, the Constitutional Council has ruled that the implementation of the new Class Council constitution is impermissible; the Student Union Executive Branches’ constitution is not the ruling document of the Class Council.

Concurring Opinion by Associate Justice Warren.