February 13, 2017

In re: Student Union Executive Office Requirements

Penmed by ALTERNATE JUSTICE KIRLEY, joined by Chief Justice BUCHBINDER, Associate Justice Henzer, Associate Justice Broitman, Associate Justice Stolberg, and Associate Justice Scher-Zagier:

On January 24th, 2017, Constitutional Council received a request from the Student Union President, Kenneth Sng, regarding the addition of requirements for students to run for Student Union Executive positions. The requirements were primarily related to the academic standing of students and were proposed “to ensure that students are well positioned to take on the responsibilities required of them as Student Union Executive Officers”.

In considering whether creating these requirements would be unconstitutional, two questions arose. The first was whether the requirements for office could be added to those outlined in the constitution, and following that, whether an SU Executive Officer could implement these requirements. According to Article VII, Section 2a of the SU Constitution,

“The Election Commission shall determine the rules by which the election shall be run. The Senate and the Treasury shall approve all election rules.”

This statement answers both questions presented to the Council. Article VII, Section 2a holds that rules regarding SU elections may be created, but only through an Election Commission. The Election Commission must be created by the Election Commissioner with permission of the Senate, as it is written in Article VII Section 1b3.

“The Election Commissioner shall: Possess the power to create an Election Commission. The Election Commissioner shall propose an Election Commission for approval to the Senate by a majority vote of the officers present.”

Additional requirements for office imposed by executive officers would therefore be a violation of the separation of powers defined in the constitution. Rules regarding the election must come from the Election Commission. Thus, Constitutional Council rules that election rules may be implemented only by the Election Commission and not an SU Executive Officer. *

There was no dissent
*The Constitutional Council holds no current opinion regarding the exact nature of the rules that were being proposed. This opinion purely focuses on the manner in which the requirements were presented rather than what the requirements actually say.