April 24, 2018

In re: Diversity Affairs Council Co-Chairs

CHIEF JUSTICE HENZER joined by Associate Justice Tam, Associate Justice Kirley, and Associate Justice Sicorsky. Joined in thought by Alternate Justice Cai.

Constitutional Council received an interpretation request asking whether the Diversity Affairs Council can have two chairs. Constitutional Council decided that there can only be one Diversity Affairs Council Chair.

The Council considered whether the Student Union President may appoint a second chair given that the President is “not limited to appointing only” an Executive Advisor for Sustainability and a Diversity Affairs Council Chair” and may appoint “such executive personnel as they deem necessary for the proper execution of their duties with the consent of the Senate and Treasury” (Constitution, Art. IV, Sec. 2e). The Council decided that while the President may appoint additional executive personnel, the President may not create positions that conflict with the Constitution. The Student Union President must “preserve and defend the Constitution of the Student Union” (Statutes, Art V. Sec. 1). Appointing a second Diversity Affairs Council Chair would be incompatible with the Constitution, which only provides for a single Diversity Affairs Council Chair. Creating a second chair position would fundamentally alter the role of the Diversity Affairs Council Chair, who has duties and powers that the Constitution clearly delegates to a single person.

The Student Union Constitution mentions the Diversity Affairs Council four times. First, the Constitution states that the President must appoint “a Diversity Affairs Council Chair” (Art IV, Sec. 2e). Second, the Constitution lists the “duties and powers of the Diversity Affairs Council Chair” (Art. IV, Sec. 10b). Third, the Constitution begins listing the duties and powers of the chair by stating “[t]he Diversity Affairs Council Chair shall” (Art. IV, Sec. 10b). Fourth, the Constitution states “[s]hould the sitting Diversity Affairs Council Chair resign” the “Student Union President shall appoint a replacement” (Art. IV, Sec 10b).

In each mention of the Diversity Affairs Council Chair, the Constitution uses the singular “Chair”, as opposed to the plural “Chairs”. The Constitution therefore only allows for a single Diversity Affairs Chair. Therefore, as has already been stated, the duties and powers of the Chair are constitutionally assigned to one person; redistributing these same duties between two people would necessarily be unconstitutional. While such a change in position duties may be called for at the present time, and while the Diversity Affairs Council may collectively agree internally that a co-Chair would be a positive managerial development, this change would require an amendment to the constitution.

There was no dissent.

Associate Justice Aguilar-Rosenthal recused herself from both the deliberation process and the vote due to a conflict of interest.