

FOR IMMEDIATE PUBLIC RELEASE

To the UCSB AS Attorney General:

This letter serves as the formal comment (D-24QF10-291030) from the Compliance Office on the topic of the Internal Vice President's intention of yielding Senate chairship to the First Pro-Tempore of the Senate indefinitely. This Office cautions the Senate from moving forward with this intent before considering all ramifications and available routes of this action. This Office reserves the right to create and publish a report on this topic in the future in accordance with this Office's Legal Code and responsibilities. The Senate may also request this Office to produce a report on this topic.

This Office does not deny that the Internal Vice President (IVP) position is stretched and a restructure is needed to ensure efficiency in the ever-growing and adapting association. However, there are many roadblocks and consequences that need to be understood before moving forward with this attempt at a resolution for the IVP position. It is noted by this Office that after a review of UCSB AS By-laws, Article V, ASUCSB EXECUTIVE OFFICERS§4(A), there are many duties of the IVP that have not been fulfilled not just by the current IVP, but former IVPs as well.

Many cite Standing Policy 39 in the legality of this pursuit. This Office agrees. UCSB AS Standing Policy 39§(A) states that "after 2 consecutive failures or 4 failures in a quarter to convene the Senate by the Internal Vice President, whichever comes first, the First Pro-Tempore will assume the responsibility of chair and Presiding Officer of the Senate, in order to convene the Senate." Following this, UCSB AS Standing Policy 39§(A)(1) clarifies that "if the IVP defers responsibility to the First President Pro-Tempore to convene the Senate, it shall not constitute a failure." These are policies and procedures described within Legal Code for the Senate to convene without the IVP as there could be a multitude of reasons for the IVP to not convene the senate, intentional or not. This policy ensures that the Senate stays compliant with their constitutional and by-law duties. This policy also indicates that failures to convene the Senate is not necessary for the IVP to delegate chairship to the First Pro-Tempore.

In addition, the Senate may choose to extend this chairship of the First Pro-Tempore for an additional three meetings at a time, before chairship needs to be redelegated and extended by the IVP and the Senate respectively, as stated in UCSB AS Standing Policy 39§(C). Thus, in theory, this could become a perpetual cycle to achieve the results that this Senate aims for. It is also noted in UCSB AS Standing Policy 39§(D) that "throughout this process, while the First Pro-Tempore is the Presiding Officer of the Senate, the Internal Vice President will retain the title of Executive Officer and all other functions and responsibilities enumerated in legal code other than Presiding Officer of the Senate." As such, no additional clarification is necessary in terms of defining the IVP's responsibilities when a delegation happens. It also does not absolve the IVP from all Senate duties (i.e. numbering legislations).

However, while the Senate is protected from this delegation of power, the IVP is not. Under UCSB AS Standing Policy 39§(C)(1), “if no recall election petition for the Internal Vice President is presented to and confirmed by the Senate, at the conclusion of the First Pro-Tempore’s authority as the Presiding Officer, the Internal Vice President will regain the function of the Presiding Officer of the Senate.” If the recall election petition is mentioned within this policy, then there must be violation of duties of the IVP described under this section.

And as a matter of fact, there is. Under UCSB AS Constitution, Article VII§2(B)(1), it states that “the Internal Vice President Affairs shall serve as the Presiding Officer of the Senate except when the office of the President becomes vacant.” The President’s office is currently not vacant, thus the IVP must serve as the chair of the Senate. This is a constitutional duty of the IVP to serve as the chair of the Senate. If the IVP delegates that role, they are not abiding by their constitutional duties, and as such, are exposed to the threat of a recall. There is a difference between convening the Senate and serving as the Presiding Officer.

While this effort is in no means illegal, in fact there are existing procedures as to how to achieve this effort, it endangers the IVP to a recall as it effectively announces that the IVP is denying to fulfill their constitutional duties. This Office cannot comment on the politics of this effort, but the Senate may request the personal comment of the Chief Compliance Officer.

Another item to note is that there is no established procedure for yielding chairship from First Pro-Tempore to any other senator. This Office has noticed that this was proposed under the First Pro-Tempore’s 10/30 report. As there is no established allowance for this action under existing legal code, this Office can only comment that there is also no established legislation that prohibits this action. This Office refers to the Senate Parliamentarian and the Attorney General for their opinion of this action under their respective governing sections.

One final issue that is present is the definition of ‘presiding officer’. There is no formal definition found in legal code as to this term. In Robert’s Rules, there is a formal definition. However, nowhere does legal code explicitly state to follow definitions within Robert’s Rules. Thus, a more general definition of ‘presiding officer’ could be utilized here. This Office, however, does recognize that throughout legal code, such as UCSB AS Constitution, Article VI§2(B), this term is utilized in ways that imply the definition defined in Robert’s Rules. Yet that does not restrict its usage to that defined within Robert’s Rules. This Office refers to the Judicial Council to make a determination as to the formal definition usage of ‘presiding officer’ within legal code.

Due to the urgent and political nature of this issue, this Office shall not make a formal recommendation at this time. In summary, this office notes that:

1. There are existing procedures for the IVP to yield chairship to the First Pro-Tempore and for the Senate to extend that chairship up to a total of 4 weeks at a time.
2. There are no restrictions on the IVP and Senate to invoke this policy again after 4 weeks, thus allowing for a cycle of yielding and chairship approval.
3. While this policy protects the Senate in fulfilling their duties, it does not remove the IVP from their constitutional duties.
4. Invoking this policy may be a direct violation of the IVP’s constitutional duties to serve as the presiding officer of the senate.

5. There is no explicit definition of 'presiding officer'. Thus, interpretation may vary and this office will refer to the Judicial Council for interpretation on this matter.

Should you have any further questions, please do not hesitate to reach out to this Office for additional comments.

Sincerely,

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