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# Associated Student Government

## ASGJ – General Complaint Form

Approved for use: 14 November 2012

### Complainant's information:

Full Name (Anonymous Complaints not accepted): Mark Nabors

Student ID: \_\_\_\_\_ E-Mail: mnabors@uark.edu

Phone Number: \_\_\_\_\_ Cell Number: \_\_\_\_\_

Name of Individual or Party Accused: Interpretation Request concerning ASG President

Section of ASG Constitution/Code/Elections Packet in Violation: (Provide Section, Title, & Page No.)

Interpretation Request: Article I § 6 (D)

I hereby lodge an official complaint against (Name of Accused) \_\_\_\_\_, who engaged in behavior violating the ASG Constitution and/or Code and/or related Standing Rules/Guidelines as detailed below. If this is an Elections Violation Complaint, show how you believe the Campaign may have profited from the violation:

*[Detail the nature of the complaint. Be succinct and factual; do not engage in sarcasm or remarks of a personal nature. Attach supporting documentation or other proof in support of your complaint.]*

*Please see attached brief.*

Complainant's Signature: *Mark Nabors*

Do not file a complaint against a person or campaign unless you truly believe (and can prove) he, she or the campaign violated the ASG Constitution/Code/Standing Rules. Do not file a complaint to "get back" at anyone. Filing a groundless or "annoyance" complaint may be to your detriment.

#### For Official Use Only

Received by Office of Student Activities:

Received by: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Forwarded to ASGJ:

Received by: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

## Interpretation Request

Submitted by **GSC Secretary Mark Nabors, GSC Speaker Scout Johnson, GSC Vice Speaker Madeleine Forrest, GSC Treasurer Arley Ward**

February 8, 2016

*Specific constitutional provision to be interpreted: Article I § 6 (D):*

"The President shall have the power to veto any legislative action of the ASG Senate (except resolutions that call for a Student Referenda or summon the ASGJ) provided that the Chair of the Senate is notified of said veto within six (6) calendar days after the legislative action is taken by the ASG Senate. The President or other Executive Officer shall attend the following ASG Senate meeting to report and answer questions on the veto. The President shall have a line-item veto on any Appropriations Bill or RSO Funding legislation passed by the ASG Senate."

### **I. Introduction**

As an ASG Member and ASG Agent, I respectfully submit an interpretation request to ASGJ specifically concerning Article I § 6 (D) of the ASG Constitution. My legal question is whether the ASG Constitution grants the ASG President the power to veto GSC legislation. Based on a plain reading of Article I § 6 (D), I will argue that the ASG Constitution does not grant the ASG President this power, but restricts their veto power to Senate legislation only.

### **II. Constitutional Language is Senate-Specific and Does Not Address GSC**

The duties of the Office of the ASG President, as outlined in Article I of the ASG Constitution, are specific and carefully enumerated in order to ensure the proper functioning of student government at the University of Arkansas, Fayetteville. The President may only act under the authority specifically granted to him under the ASG Constitution and Code, provided provisions within the Code do not conflict with the ASG Constitution.

The President's power to veto legislation comes from Article I § 6 (D), and cannot be established elsewhere in the governing documents. This language is specific to legislation passed by the Senate, and does not address legislation passed by GSC.

The veto power is only referenced in three other areas outside this clause, specifically Article II § 7 (J), Article II § 17 (J), and Title I § 2 (A).

Article II § 7 (J) grants the Senate the power to override a presidential veto of Senate legislation with a two-thirds majority vote. This power is not disputed here.

Article II § 17 (J) grants the GSC the same power to override a presidential veto, which GSC has exercised in the past when the ASG President vetoed legislation. But if the ASG President never possessed that power, as is my contention, this power is essentially moot, and any past vetoes should be considered void.

It is important to note, however, that this section would apply in the event that the President vetoed a piece of joint legislation. Since such legislation must be approved by both bodies, we concede that the President has the authority to veto it. In that event, the veto may be overridden with a two-thirds majority vote in each legislative chamber.

Title I § 2 (A) mandates that the President must provide a written explanation of each veto to the Chair of Senate and the Speaker of the GSC. This is not a concern of the constitutional language, or lack thereof, in Article I § 6 (D).

### **III. In the Absence of Specific Constitutional Language, the ASG President's Powers Must Be Restricted**

ASGJ must assume that this omission is purposeful and significant. The powers of the President vis-a-vis the GSC were heavily debated by the ASG Senate, negotiated between the Senate and then-President Tori Pohlner, approved by the student body via referendum, extensively vetted by University Administration, and then revised per the directions of the Chancellor. Accordingly, ASGJ should interpret the plain language of the clause to mean exactly what it says: namely, that the ASG President may only veto legislation passed by the ASG Senate.

If the people believe it is wise to allow the ASG President to also veto legislative acts of the GSC, they must express that opinion in an election and change the language of the Constitution. ASGJ may not arbitrarily change that language.

If ASGJ agrees that the plain language of the ASG Constitution does not support the ASG President's right to veto legislation, it should immediately restrict the ASG President's ability to do so. While the ASG President has vetoed GSC legislation before, they may not continue to do so without an explicit grant of constitutional power.

### **IV. The Senate's Rejection of ASG Joint Bill 4 is a Rejection of the President's Veto Power over GSC Legislation**

ASG Joint Bill 4, the ASG Presidential Empowerment Act of 2015, was approved overwhelmingly by the GSC but rejected overwhelmingly by the ASG Senate. The Joint Bill did not get enough votes to advance to student referendum.

The proposed changes to the ASG Constitution included, in part, the following changes to Article I § 6 (D), the focus of this interpretation request (underlined portions are added):

"The President shall have the power to veto any legislative action of the ASG Senate or Graduate Student Congress (except resolutions that call for a Student Referenda or summon the ASGJ) provided that the Chair of the Senate and/or Speaker of the Graduate Student Congress is notified of said veto within six (6) calendar days after the legislative action is taken by the ASG Senate or Graduate Student Congress. The President or other Executive Officer shall attend the following ASG Senate or Graduate Student Congress meeting to report and answer questions on the veto. The President shall have a line-item veto on any Appropriations Bill or RSO Funding legislation passed by the ASG Senate or Graduate Student Congress."

This Joint Bill would have expanded the ASG President's authority, and would have settled the constitutional question of whether they have the authority to veto GSC legislation.

However, the Senate chose overwhelmingly not to add this language. Consequently, though possibly inadvertently, the Senate chose to endorse the current language in Article I § 6 (D) and the restricted power of the ASG President therein.

## V. Conclusion

Based on the above, I argue that the ASG President does not have the power to veto GSC legislation. Article I § 6 (D), which grants the President the power to veto legislation, only mentions the ASG Senate and legislation passed by the Senate. We must assume that the omission of the GSC is purposeful and significant. I therefore encourage ASGJ to uphold the plain language of the ASG Constitution and rule in favor of my proposed interpretation.

ASGJ's constitutional duty to interpret the ASG Constitution and Code means that it is responsible for holding the other branches accountable and to ensure that the governing documents of this organization are followed in both spirit and letter. As a former justice, I can appreciate the difficulty of this enterprise and the occasional dread of this responsibility.

I fully recognize that my proposed interpretation will not be a popular view. However, I believe this interpretation is truest to the plain language of the ASG Constitution. While this power arrangement may not be popular, it must be our constitutional reality until such time that the student body chooses to amend the Constitution.