



ASSOCIATED STUDENTS
OF THE
UNIVERSITY OF CALIFORNIA

CONSTITUTION

Adopted by vote of the student body on March 2, 1887
Amended by votes of the student body as of April 19, 2021

Table of Contents

[Preamble](#)

[Article I](#) - Establishment

[Article II](#) - Executive Officers

[Article III-A](#) - Senate

[Article III-B](#) - Appointed Officers

[Article IV](#) - Judicial Council

[Article V](#) - Graduate Assembly

[Article VI](#) - Fiscal Matters

[Article VII](#) - Elections

[Article VIII](#) - Environmental Sustainability

[Article IX](#) - Meetings

[Article X](#) - Bylaws

[Article XI](#) - Rights of Members

[Article XII](#) - Conflict of Interest

[Article XIII](#) - Amendments and Interpretations

[Article XIV](#) - Dissolution

[Article XV](#) - Oath or Affirmation of Office

[Article XVI](#) - Impeachment

PREAMBLE

We, the students of the Berkeley campus of the University of California, as an autonomous constituency of the university community, do provide by this Constitution an independent students' association committed to effective student participation in all areas of student concern, that we may, through independent action and in concert with other constituencies of the university and community, promote the welfare of students; participate in the formation and the improvement of educational programs; protect full freedom of assembly and expression in the university community; articulate and represent the student interest in the meaningful governance of the campus and university; provide services and coordinate activities for students; and advance our common interests and concerns as students, stakeholders in the university, and as members of the civic community, do hereby ordain and establish this Constitution.

ARTICLE I - ESTABLISHMENT

SECTION 1: NAME

The name of this association shall be the Associated Students of the University of California. The abbreviation of the name of the Association shall be the ASUC.

SECTION 2: MEMBERSHIP

- A. All regularly enrolled and degree-seeking students at the University of California, Berkeley in the fall or spring semester who have paid the mandatory supporting fees, and who so voluntarily choose, shall be members of this Association.
- B. Eligibility for membership in the Association shall begin when a person enrolls as a student for the fall or spring semester, but no earlier than the first day of the semester. Enrollment status shall be determined by the University Registrar.
- C. Upon becoming a regular member of the Association, a person shall continue to be a regular member until they resign membership, graduate, cancel university enrollment, withdraw from the university, are suspended or expelled from the university, or fail to become an enrolled student by the first day of a subsequent Fall or Spring semester.
- D. The Bylaws may provide for classes of associate and honorary membership and the procedures for assuming or losing such membership. Associate and honorary members shall not have the right to vote in Association elections, count towards the number of members required to petition the Association for matters established in the Constitution, sign petitions established in this Constitution, or to hold office in positions reserved for members.

SECTION 3: POSITIONS

- A. In order to assume or remain in any position in the Association, a person must be a member of the Association or be enrolled as a student during the spring or fall semester at the University of California, Berkeley Extension predominantly taking classes offered through the Concurrent Enrollment Program, Fall Program for Freshmen, or any

functionally similar programs offered in the future, unless the position is explicitly designated as non-student eligible.

- B. A person may remain in office during an inter-semester break if they were eligible to hold office on the last day of instruction of the immediately preceding semester.
- C. A person may assume office during an inter-semester break or run or apply for office at any time if they can demonstrate that they had been eligible to hold office at some point in the past twelve months and can become eligible to hold office by the first day of instruction of their term.
- D. The Judicial Council shall allow a person holding a position in the Association to continue holding that office, for no longer than one consecutive semester, if they cease to be eligible to hold office for the following reasons:
 - a. The individual is taking a leave of absence from the University for a parental, medical, family, or other reason recognized by the Bylaws which does not otherwise prevent the individual from fully executing their position in the Association with reasonable accommodation.
 - b. The individual is working towards the removal of a university-imposed impediment to their degree and is continuing to attend classes.
- E. A person may be determined ineligible to hold office pursuant to this section solely by the Judicial Council.

SECTION 4: AUTONOMY & NONPROFIT STATUS

Whereas the ASUC has been the official students' association at the University of California, Berkeley campus since March 2, 1887 and the Regents of the University of California have recognized the ASUC as an independent, nonprofit, unincorporated association since June 17, 1977:

- A. The ASUC is perpetually organized as a voluntary unincorporated association under the laws of the State of California and is fully independent and autonomous from the University of California, Regents of the University of California, and the Government of the State of California.
- B. The ASUC is organized and operated exclusively for nonprofit, public, charitable, and educational purposes as set forth in the Preamble of this Constitution within the meaning of the laws of the United States and the State of California. Additionally, this association may engage in any lawful activities that are reasonably related to or in furtherance of its stated purposes. In accordance with the law, no substantial part of the activities of the ASUC shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the ASUC shall not directly or indirectly participate or intervene in any political campaign on behalf of, or in opposition to, any candidate for public office.
- C. The Senate is authorized to enter into an agreement with the Regents of the University of California establishing the relationship between the ASUC and the Regents, providing for the governance and operation of campus buildings, revenue generating activities, and student services, subject to approval by a vote of the membership of the Association. The

Graduate Assembly shall be consulted on any aspects of the agreement that would affect graduate and professional students. All such agreements must specifically reference and abide by this section of the Constitution. Agreements active as of January 1, 2016 shall remain effective through their regular terms.

- D. The ASUC may not be dissolved or absorbed by any organization external to it, including those listed in subsection A, nor may it enter into any agreement which limits its legal autonomy or independence, including the right of the Association to operate independent revenue generating activities and student services.
- E. The whereas clause of this section is for historical information purposes only.

ARTICLE II - EXECUTIVE OFFICERS

SECTION 1: GENERAL QUALIFICATIONS, TERM OF OFFICE, VACANCIES

- A. Subject to the control of the Senate as specified in Article III-A, Section 1, the executive powers of the Association shall be vested in a President, an Executive Vice President, an External Affairs Vice President, an Academic Affairs Vice President, and a Student Advocate. The Executive Officers shall be elected during the spring semester. Their term of office shall be approximately one year, beginning on the day following the last day of the spring semester or upon the final certification of election results, whichever is later. Their term of office shall end when their successor's term begins. The Executive Officers shall be the principal officers of the Association.
- B. In the event of a vacancy occurring in any executive officer positions before the end of the normal term, the nomination for replacement shall be made in accordance with the Bylaws. The Senate shall consider such nominations, and shall, by a two-thirds vote, appoint a replacement.
 - 1. A person filling a vacancy shall serve for the remainder of the regular term.
 - 2. Upon assuming office, each Executive Officer, except for the President, shall submit an order of acting succession to the Judicial Council. The order shall rank at least one and no more than five individuals to assume acting office in case of vacancy or incapacitation of the officer. The order may be updated from time to time by submitting a new order to the Judicial Council.
 - 3. When an executive officer position is vacant, except for Presidency, the highest ranked willing and eligible person on the order of acting succession shall assume acting office and shall exercise the powers and duties of that office, until such time as a replacement is selected or elected. If a majority of the Senate objects in writing to the tenure of the acting officer, the next highest ranked willing and eligible person shall assume acting office. If there are no willing and eligible successors who have not been objected to by the Senate, the President shall assume acting office.
 - 4. When the position of the President is vacant, an Acting President shall exercise the powers and duties of the Presidency until such time as a replacement is selected or elected. The Acting President shall be the highest ranking willing and eligible person in the following order of succession: Executive Vice President, External

Affairs Vice President, Academic Affairs Vice President, Student Advocate, sitting Senators, and the Transfer Student Representative. Sitting Senator ranking will be determined in order of which Senator received the most votes.

- C. Any Executive Officer may resign by submitting a written declaration to the Judicial Council. The resignation shall become irrevocably effective upon certification of authenticity by the Judicial Council.
- D. Should an Executive Officer submit to the Judicial Council a written declaration that they are unable to perform the duties of their office or should the Judicial Council with the consent of a two-thirds vote of the Senate determine that an Executive Officer is incapacitated and otherwise unable to transmit such a declaration, an Acting Officer shall perform the duties of that office until the said Executive Officer submits a written declaration to the contrary. The Acting Officer shall be determined by the aforementioned methods of succession.

SECTION 2: PRESIDENT

The duties and powers of the President shall be:

- A. To serve as the chief representative of the Association.
- B. To monitor the health and well being of the Association and the student body which it represents.
- C. To direct by emergency order the taking of actions which are urgent and necessary to maintain the functioning of the ASUC until the Senate can again meet. Any reversible or unexecuted part of such emergency order automatically expires at the third regular Senate meeting following issuance of the order or upon termination by the Senate by petition signed by a majority of voting Senate members, unless the order is ratified by a majority vote of the Senate.
- D. To implement the Advocacy Agenda passed by the Senate with the assistance of other Executive Officers and the Senate.
- E. To carry out any other duties as set forth in this Constitution, the Bylaws, or assigned by the Senate.

SECTION 3: EXECUTIVE VICE PRESIDENT

The duties and powers of the Executive Vice President shall be:

- A. To serve as the second ranking representative of the Association and to be responsible for the general operations of the Association.
- B. To serve as the chairperson of the Senate.
- C. To vote to break a tie vote of the Senate, when the Senate is equally divided.
- D. To appoint members to committees of the Senate and Association through the method provided for in Article III-A Section 8, unless the Bylaws provide a different method for specific committees.
- E. To ensure that actions directed by the Senate are performed.
- F. To plan and direct the Senate Leadership Institute.

- G. To determine the need for and the assignment of office, storage space, and equipment to organizations sponsored by the ASUC subject to the regulations and guidelines and appeals process outlined in the Bylaws.
- H. To carry out any other duties as set forth in this Constitution, Bylaws, or assigned by the Senate.

SECTION 4: EXTERNAL AFFAIRS VICE PRESIDENT

The duties and powers of the External Affairs Vice President shall be:

- A. To present the position of the ASUC in matters involving other campuses, schools, and students from outside the University of California, Berkeley.
- B. To supervise the lobbies and governmental lobbying actions of the Association, including appointment or nomination of students to positions within the lobbies and on U.C. system-wide committees through the method provided for in Article III-A Section 8.
- C. To be the ASUC representative to the association of U.C. campuses, and unless the Bylaws provide a different procedure, to select students to positions in that association through the method provided for in Article III-A Section 8 .
- D. To carry out any other duties as set forth in this Constitution, the Bylaws, or assigned by the Senate.

SECTION 5: ACADEMIC AFFAIRS VICE PRESIDENT

The duties and powers of the Academic Affairs Vice President shall be:

- A. To be generally responsible for ASUC relations with the Academic Senate.
- B. Unless the Bylaws provide a different procedure, to be responsible for the selection of ASUC-chosen student representatives to Academic Senate committees and other campus committees, through the method provided for in Article III-A Section 8; to provide facilities and resources for the use of all student representatives; and to replace or request replacement of representatives not performing their duties.
- C. To supervise ASUC projects and operations involving academic matters on campus, as assigned by the Senate and the Bylaws, and to serve as a liaison between the Senate and organizations sponsored by the ASUC dealing with academic matters, except for those matters falling under the purview of the Student Advocate.
- D. To carry out any other duties as set forth in this Constitution, the Bylaws, or assigned by the Senate.

SECTION 6: STUDENT ADVOCATE

The duties of the Student Advocate shall be:

- A. To aid students charged with violations of university or campus upon request of such students. In addition, the Student Advocate shall assist students with Financial Aid problems, grade disputes, and the filing of grievances against members of the campus community.

- B. To present the position of the Association in discussions with University or campus administrations concerning student rights, campus rules, and other areas of student conduct.
- C. To educate the student body about students' rights, Campus and University policies, laws, regulations, and procedures, and to promote awareness of the availability of advice and representation services offered by the Office of the Student Advocate pursuant to this Section.
- D. To carry out any other duties as set forth in this Constitution, the Bylaws, or assigned by the Senate.

SECTION 7: RECALL

- A. Any Executive Officer of the ASUC may be subject to recall by presentation to the Elections Council and Senate of a petition signed by members of the Association numbering at least twenty-five percent of the total number of votes in the regular election of the previous academic year students and containing a statement of specific reasons for the proposed removal.
- B. The period of the recall election shall be set in accordance with Article VII-
- C. Concurrence of a simple majority of those members voting for or against shall be necessary to remove the officer.

SECTION 8: TERM LIMITS

- A. No person may hold the same executive office for more than two consecutive terms.
- B. For the purposes of calculating term limits, a partial term shall only count as a term if the person served as the executive officer, the acting executive officer, or a combination of both for more than a majority of the term.

ARTICLE III-A - SENATE

SECTION 1: PURPOSE

- A. Subject to the powers of the members and other limitations provided for in this Constitution, the activities and affairs of the Association shall be conducted and all legal authority shall be exercised by or under the direction of the Senate for the promotion of the welfare and interest of the students of the University of California, Berkeley.
- B. The Senate shall have the ultimate authority to enter any memorandums of understanding, contracts, and other legal instruments on behalf of the Association and to instruct the attorneys of the Association.
- C. The Senate may delegate its authority to any person or persons or committee, however composed, provided that the activities and affairs of the Association shall be managed and all legal authority shall be exercised under the ultimate direction of the Senate.

- D. The Transfer Student Representative shall provide the unique transfer student perspective to the Senate.

SECTION 2: MEMBERSHIP

- A. The voting membership of the Senate shall be composed of the twenty Senators (elected at-large in accordance with this Constitution and the Bylaws),~~and~~ the Executive Vice President, and the Transfer Student Representative. The Executive Vice President shall be the chair of the Senate and shall only vote to break a tie when the Senate is equally divided. The other executive officers shall be ex-officio non-voting members of the Senate.
- B. Seats shall be filled by the Spring regular election with terms of office beginning the first day of the Fall semester or upon the final certification of election results, whichever is later, and lasting until at least a majority of the succeeding Senators are seated.
- C. Senate Leadership Institute, to provide training and information to new Senators shall be held at the beginning of each new Senate term.

SECTION 3: REMOVAL AND REPLACEMENT OF SENATORS

- A. A Senator or the Transfer Representative shall be removed from office, upon certification of the facts by the Judicial Council, if at any time during a semester, they have incurred the following number of regular Senate meeting absences.
 - 1. Unexcused Senate meeting absences equal to twenty percent or more of the number of regular Senate meetings in that semester, or;
 - 2. Total Senate meeting absences equal to forty percent or more of the number of regular Senate meetings in that semester. "Total" shall be defined as both excused and unexcused absences
- B. Each Senator and the Transfer Representative must sit on at least one standing committee as specified in the Bylaws. A Senator shall be removed from office, upon certification of facts by the Judicial Council, if at any time during the semester, they have incurred the following number of regular standing committee meeting absences for the committee they sit on.
 - 1. Unexcused standing committee meeting absences equal to twenty percent or more of the number of regular standing committee meetings in that semester, or;
 - 2. Total standing committee meeting absences equal to forty percent or more of the number of regular standing committee meetings in that semester. "Total" shall be defined as both excused and unexcused absences.
- C. The Bylaws may require Senators and the Transfer Representative to perform certain mandatory activities for the betterment of the Association which are directly related to the ASUC's mission (e.g. office hours, outreach events, sitting on campus committees/boards, etc.). The Bylaws may provide that Senators and the Transfer Representative shall be assessed standing committee absences or fractions thereof for failure to complete these activities in the same semester. Senators and the Transfer Representative for the current term may also be assigned additional duties by a two-thirds vote of the Senate.

- D. The Bylaws may provide that Senators and the Transfer Representative shall be assessed committee absences and senate absences for failure to attend the Senate Leadership Institute or other requirements that aide in the transition of Senators-Elect and the Transfer Representative-Elect . Requirements for attendance and any penalties for failure to attend, up to and including not being permitted to take office and having a Senate seat declared vacant, shall be as prescribed in the Bylaws.
- E. The Bylaws shall provide the definitions of attendance to meetings and completion of mandatory activities. The Bylaws may provide that fractions of absences shall be assessed for failing to attend a part of a meeting or activity.
- F. The Bylaws shall provide for the criteria and process by which absences may be excused. Only absence excuses submitted properly and on time with documentation as prescribed in the Bylaws shall be valid. Absences may be excused for the following reasons:
 - 1. Observance of a religious holy day or ceremony which prevents attendance.
 - 2. An extraordinary academic commitment during the meeting time, limited only to extraordinary mandatory activities directly resulting in a grade which cannot be taken at an alternative time (e.g. an exam). A regularly occurring academic commitment (e.g. scheduling a semester long class during the meeting) shall not be covered under this definition.
 - 3. Jury duty or mandatory appearance for legal/administrative proceedings during the meeting time.
 - 4. Illness, health condition, or medical treatment which prevents attendance. This shall be limited to instances where the Senator or the Transfer Representative is declared unable to attend by a healthcare professional.
 - 5. Death or emergency in the immediate family.
 - 6. *A force majeure* which prevents attendance. This shall be defined as an chance occurrence or unavoidable accident that is not the result of negligence or misfeasance by the Senator and the Transfer Representative.
- G. Senators and the the Transfer Student Representative shall not receive absences for:
 - 1. Failing to attend any special meetings.
 - 2. Any meetings or activities which occurred while they were not a Senator and the Transfer Representative or held outside of the spring or fall semester (except for Senators-elect and the Transfer Representative-Elect being required to attend Senate Leadership Institute and similar requirements as provided in subsection D).
- H. Senators and the Transfer Representative may resign by submitting a written declaration to the Judicial Council. The resignation shall become irrevocably effective upon certification of authenticity by the Judicial Council.
- I. Any Senator and the Transfer Representative may be subject to recall by presentation to the Elections Council and Senate of a petition signed by members of the Association numbering at least twenty-five percent of the total number of votes in the regular election of the previous academic year and containing a statement of specific reasons for the proposed removal.

1. The period of the recall election shall be set in accordance with Article VII.
2. Concurrence of a two-thirds of those members voting for or against shall be necessary to remove the Senator and the Transfer Representative.

J. Replacement:

1. In the event of a vacancy in the Senate, the vacancy shall be filled by a retabulation of the ballots which elected the vacating Senator, using the countback method, from amongst the still willing and eligible candidates who have not become Senators. The replacement Senator shall assume the vacated office for the remainder of the term.
2. If a Senator is removed from office, that Senator is not eligible to fill the vacated seat within that Senate term.
3. If a candidate is disqualified from the election, that candidate is not eligible to fill any vacated seat within that Senate term.
4. In the event that four or more vacancies simultaneously exist in the Senate and there are no qualified runners-up to replace them, the Elections Council shall schedule a special election to fill the vacant seats to occur within three regular Senate meetings or twenty one days (whichever is later) . The replacement Senators shall serve for the remainder of the term. The runners-up in this special election shall then be used for the purposes of clause 1 of this subsection
5. The replacement procedures in this section shall also apply to the Transfer Representative.

SECTION 4: REPRESENTATIVES TO THE SENATE

There shall be five representatives to the Senate:

- A. The Alumni Representative shall be an alumnus of the University of California, Berkeley, appointed by the California Alumni Association, and shall serve at its pleasure.
- B. The Chancellor's Representative shall be appointed by the Chancellor of the Berkeley campus and shall serve at the pleasure of the Chancellor.
- C. The Faculty Representative shall be a member of the Academic Senate of the University of California, Berkeley, appointed by the Academic Senate and shall serve for a term of one year.
- D. The two Graduate Assembly Representatives shall be selected according to the Bylaws of the Graduate Assembly.

SECTION 5: MEETINGS AND QUORUM

- A. A majority of the entire Senate, including the Transfer Representative, shall constitute a quorum. The Executive Vice President shall count towards calculating quorum.
- B. No meeting held outside of the Fall or Spring semesters shall be considered a regular meeting.
- C. The Senate shall hold a special meeting at the call of the President or the Executive Vice President, or at the written request of any five Senators.

- D. Unless otherwise provided for in the Constitution or Bylaws, the Senate shall take action by majority vote. A majority vote shall be defined as a simple majority of those voting “aye” or “no”.
- E. Unless otherwise qualified in the Constitution or Bylaws, a two-thirds vote shall be defined as a two-thirds vote of those voting “aye” or “no”.

SECTION 6: PETITION

A substantive original main motion in the form of a resolution may be introduced into the Senate by presentation to the Senate of a petition signed by members of the Association numbering at least one percent of the student body.

SECTION 7: [FORMALLY REFERENDUM, MOVED TO ARTICLE VII, SECTION 5]

SECTION 8: APPOINTMENTS AND SELECTIONS BY EXECUTIVE OFFICERS

- A. All appointments or selections by Executive Officers to positions referred to in this Constitution must be approved by a majority vote of the Senate unless otherwise stated. If the Senate votes on and fails to approve the appointment or selection of an individual that person shall immediately cease holding the position voted on.
- B. Executive Officers shall advise the Senate of appointments or selections and request votes of approval in a timely fashion. If an Executive Officer fails to notify the Senate of an appointment or selection at the next regular Senate meeting or within one week after appointment or selection, whichever is later, the appointee or selectee cannot continue in the position until appointment notice is given.
- C. The Senate may remove any person appointed or selected to a position under the provisions of this section by a majority vote. Every person facing removal shall be given due process including the opportunity to speak in their own defense.

SECTION 9: ADVOCACY AGENDA

The Senate shall develop at the beginning of its term an Advocacy Agenda in accordance with the Bylaws. The Advocacy Agenda shall consist of a series of student concerns to be advocated for by the Senate, the Transfer Representative, Executive Officers, and other units of the Association for the remainder of the term.

SECTION 10: VETO

Each substantive main motion passed by the Senate shall be presented to the President. It shall become effective upon approval by the President or after seventy-two hours if the President takes no action. The seventy-two hours shall be reckoned from the end of the Senate meeting at which the motion was passed. The President may veto the motion within those seventy-two hours by returning it with objections to the Senate, which shall enter the objections in the minutes and shall proceed to reconsider it. If the Senate then passes the main motion by a two-thirds vote it shall become effective. The reconsideration of a vetoed motion by the Senate shall not be considered a main motion in itself. The President shall not have the power of line item veto.

SECTION 11: INTER-SEMESTER COMMITTEE

- A. Outside of the Fall and Spring semesters, the powers of the Senate may be exercised by an inter-semester committee.
- B. The Senate, by the last meeting of each semester, shall appoint an even number of members to the committee by a two-thirds vote. If the Senate fails to appoint the members of the committee by that time, the Executive Vice President may appoint them with the written consent of two-thirds of the members of the Senate.
- C. The Executive Vice President shall be the chair of the committee and shall vote only to break a tie when the committee is equally divided. In their absence, the Executive Vice President may appoint some other person, with the consent of two-thirds of the committee, to act as chair and to vote to break ties. The committee may elect its own chair pro tempore in the absence of both the Executive Vice President and the acting chair.
- D. Unless an action is deemed urgent, an action of the committee shall not take effect until it has been ratified by written consent of the number of sitting voting Senate members which would be required to pass the motion at a meeting where all sitting voting Senate members were in attendance.
- E. An action deemed urgent by a two-thirds vote of the committee may take effect immediately, but any reversible or unexecuted part may be terminated by a petition signed by a majority of the voting members of the Senate.
- F. The committee shall meet regularly during inter-semester breaks.
- G. Actions of the committee shall be subject to presidential veto the same as actions of the Senate.

SECTION 12: Transfer Student Representative

- A. The Transfer Student Representative shall act as an elected, permanent twenty-first voting member of the Senate, with the Executive Vice President voting to break ties when the voting body is equally divided. The Transfer Student Representative shall be vested with senatorial voting powers and fiduciary responsibility. This member shall neither be considered a senator, nor an executive.
- B. All bylaws addressed to a "Senator" shall also apply to the Transfer Student Representative.
- C. This member shall provide the perspective for the logistical, or cross-cutting 'transfer' identity to the ASUC Senate and monitor the well-being of transfer students on campus. "Logistical" refers to the means by which transfer students enroll as juniors with a 2-year timely graduation rate and different sets of academic requirements from more traditional freshmen. U.C. designates each student as either a freshman or transfer student its basic admission functions. "Cross-cutting" refers to the fact that every transfer student have additional non-logistical identities, thereby rendering this logistical identity as existent alongside other forms of identification or academic major.
- D. There shall be no requirement that allows only transfer students to run for this position.

- E. When chosen through the electoral process, this position shall not be placed alongside senatorial candidates on the ballot. This position shall have its own category on the ballot.
- F. The Bylaws shall provide for additional responsibilities and duties of the Transfer Student Representative.
- G. All removal and replacement clauses pertaining to Senators in Section 3 of this Article shall also apply to the Transfer Student Representative.
- H. Interim and Sunset Clauses
 - a. The Transfer Representative position shall be first elected during the 2019-2020 elections. The 2018-2019 year shall serve as an interim year.
 - b. All of Section 12H shall automatically be stricken from the Constitution upon the certification of the 2019-2020 elections results by the Elections Council and the Judicial Council.

ARTICLE III-B - APPOINTED OFFICERS

SECTION 1: ESTABLISHMENT

- A. The Appointed Officers of the Association shall be the Chief Financial Officer, Chief Legal Officer, and any other Appointed Officers created in the Constitution or Bylaws. The Constitution and Bylaws may also provide for appointed officials who are not Appointed Officers (positions shall not be considered Appointed Officers unless explicitly designated as such).
- B. The Bylaws shall provide for a method by which the Senate shall nominate and appoint the Appointed Officers. They shall be regularly appointed by the twelfth week of the semester preceding the beginning of their term spring semester before the regular election to serve a term beginning on the day following the last day of the fall or spring semester. The Bylaws shall provide whether an appointed officer's term is either the academic year or the calendar year. Their term of office shall end when their successor's term begins. The Senate may not consider any other business, unless it determines by a two-thirds vote that prompt action is urgent and necessary to maintain the functioning of the ASUC, after the twelfth week of the semester during which the appointment is required to be made the spring regular election if all of the Appointed Officers have not yet been appointed. Appointments must be made by a two-thirds vote of the Senate. Officers-designate shall shadow incumbents from their appointment to the start of their terms.
- C. The Bylaws shall provide for a method by which the Senate may remove Appointed Officers with due cause by a two-thirds vote of the Senate. Every officer facing removal shall be given the opportunity to speak in their own defense.
- D. Appointed Officers may resign by submitting a written declaration to the Judicial Council. The resignation shall become irrevocably effective upon certification of authenticity by the Judicial Council.

- E. The Judicial Council may remove any Appointed Officer with the consent of a majority vote of the Senate if it finds them responsible of serious nonfeasance, misfeasance, or malfeasance.
- F. The Bylaws shall provide for a method by which the Senate shall fill any vacant Appointed Officer positions, given that appointments must be made by a two-thirds vote of the Senate. The Bylaws may also provide for acting officers who shall function if an appointed officer position is temporarily vacant.

SECTION 2: CHIEF FINANCIAL OFFICER

The duties of the Chief Financial Officer shall be:

- A. To act as the Treasurer of the ASUC.
- B. To be a non-voting ex officio member of the Senate and all the Senate committees related to fiscal matters. The Chief Financial Officer may be a voting member of such committees if so specified by the respective bylaw.
- C. To provide advice and assistance to the Senate regarding financial matters.
- D. To facilitate the annual budget process.
- E. To ensure that units of the Association stay within their budgets.
- F. To carry out other duties as set forth in this Constitution, the Bylaws, or assigned by the Senate.

SECTION 3: CHIEF LEGAL OFFICER

The duties of the Chief Legal Officer shall be:

- A. To ensure that the Constitution, Bylaws, and all other regulations of the Association are followed and implemented and to investigate any violations.
- B. To be a non-voting ex officio member of the Senate and all the Senate committees related to legal or governance matters. The Chief Legal Officer may be a voting member of such committees if so specified by the respective bylaw.
- C. To be the default representative of the Association when it is a party to a dispute before the Judicial Council.
- D. To provide advice and assistance to Association officials and bodies regarding legal matters.
- E. To carry out other duties as set forth in this Constitution, the Bylaws, or assigned by the Senate.

ARTICLE IV - JUDICIAL COUNCIL

SECTION 1: AUTHORITY

The Judicial Council of the Association shall be vested with the authority to adjudicate all disputes arising under this Constitution, the Bylaws, official actions of Executive Officers, Appointed Officers, employees, the Transfer Representative, and the Senate; direct action to remedy all such disputes; to interpret these documents pursuant to Article XIII; maintain custody of the governing documents; order the attendance of those holding positions in the Association; certify the results of

Elections jointly with the Elections Council; and any matters delegated to the council by the Senate or this Constitution or Bylaws.

SECTION 2: MEMBERSHIP

- A. The Judicial Council shall consist of nine members. Six seats shall be nominated by the Senate or a committee thereof as provided for in the ASUC Bylaws. Three seats shall be nominated by the Graduate Assembly as provided for in the Graduate Assembly Charter or Bylaws. All nominees shall be appointed with the consent of a two-thirds vote of the Senate.
- B. Each Judicial Council seat shall have a term of approximately two years beginning on the first day of the Fall semester or upon appointment (whichever is later) and lasting until the day before the first day of the Fall semester two years later or until their successor has been appointed (whichever is later).
 - 1. Three of the Senate-nominated seats and two of the Graduate Assembly-nominated seats shall have terms of office beginning and ending in even years.
 - 2. Three of the Senate-nominated seats and one of the Graduate Assembly-nominated seats shall have terms of office beginning and ending in odd years.
 - 3. Any member appointed to fill a vacancy shall only serve for the remainder of such term.
- C. Judicial Council members shall be regularly nominated and appointed during the spring semester preceding the beginning of their term. Unexpected vacancies shall be filled in a timely manner.
 - 1. The Senate may not consider any other business, unless it determines by a two-thirds vote that prompt action is urgent and necessary to maintain the functioning of the ASUC, after the fourth regular Senate meeting of the Fall semester until all Senate-nominated seats which are vacant have been filled.
 - 2. The Senate may not consider any other business, unless it determines by a two-thirds vote that prompt action is urgent and necessary to maintain the functioning of the ASUC, if it fails to appoint a replacement within four regular Senate meetings following the occurrence of an unexpected vacancy in a Senate-nominated seat.
- D. A nomination must be introduced as an original main motion in the Senate. The Senate shall consider the nomination at its next meeting which is at least a week after the introduction of the nomination. The Senate may not consider any other business after this meeting until it appoints or rejects the nominee.

SECTION 3: RULES OF PROCEDURE

- A. The Judicial Council shall frame, approve, and revise, during well-advertised open hearings, rules and procedures for the exercise of its responsibilities. Included in these rules and procedures shall be the procedures by which the Judicial Council shall select from amongst its members a Chairperson. Public notice of such a meeting must be given at least one week in advance. Proposed changes to rules of procedure shall be forwarded to the Senate for

approval by majority vote. Proposed changes shall not be open to amendment by the Senate, except for deletion of individual clauses. Should the Senate fail to vote on proposed changes within three regular meetings after their receipt by the Senate, the proposed changes will be automatically approved.

- B. The legal standard for burden of proof in the Judicial Council shall preponderance of evidence.
- C. The Senate may propose changes to the Judicial Council Rules of Procedure by a majority vote. The Judicial Council must promptly consider such proposals. If the Judicial Council accepts these changes without amendment, they shall be automatically approved. Otherwise, the Judicial Council shall forward any revised changes to the senate using the procedure described in clause A of this section.

SECTION 4: [REMOVED]

SECTION 5: FINALITY

All decisions of the Judicial Council shall be final unless reversed by subsequent council action.

SECTION 6: REMOVAL FROM OFFICE

- A. Any member of the Judicial Council shall be removed from office for nonfeasance, misfeasance, or malfeasance. Charges may be brought by any five Senators or by three members of the Judicial Council.
- B. The Chairperson of the Judicial Council shall promptly notify the Senate, and Graduate Assembly, if applicable, of a vacancy if a member is removed by the Judicial Council or the Senate from office for reasons laid out in Section 6 E.
- C. In open session, the Senate shall give equal opportunity to the accused member to defend themselves as is given to hearing of the accuser. Removal shall require a two-thirds vote of the Senate.
- D. The Judicial Council Rules & Procedures will provide the criteria and process in which to request excusals. Only reasons discussed in Article III-A Section 3 F may be used for excusals.
- E. By a two-thirds majority, the Judicial Council may remove one of its own members for failure to attend meetings of the Judicial Council. The criteria for removal shall be as follows:
 - 1. Unexcused regular Judicial Council meeting absences totaling thirty percent or more in any one semester of the total meetings held in that semester; or;
 - 2. Total regular Judicial Council meeting absence equal to sixty percent or more in any one semester of the total meetings held in that semester. Total shall be defined as both excused and unexcused absences.
 - 3. This calculation of absences shall not be performed until the end of a given semester.
- F. Interpretation of this section shall be the sole right of the Senate.

- G. Any Judicial Council member may resign by submitting a written declaration to the Senate. The resignation shall become irrevocably effective upon certification of authenticity by a two-thirds vote of the Senate.

SECTION 7: PUBLIC DEFENDER

- A. There shall exist a Public Defender who shall offer representation to any person or organization who is a respondent in a Judicial Council matter brought by the Association or one of its subordinate bodies, if the respondent chooses to use their services, unless the matter is brought against a person acting in their capacity as an Association official. While not participating in any Judicial Council matter, the Public Defender shall carry out such tasks as assigned in the Bylaws and by the Senate.
- B. The Public Defender shall be nominated by the Judicial Council and shall be appointed by the Senate through the same process as the Appointed Officers in Article III-B of this Constitution, given that the Senate shall not be prevented from doing business if the Judicial Council fails to nominate the Public Defender. The office may become vacant for the same reasons as in Article III-B.
- D. The Public Defender shall cease any work prescribed by the Bylaws or Senate during a Judicial Council matter if it would create a potential for a conflict of interests.
- E. If the Public Defender has not been appointed, is unavailable, or is unable to represent a respondent due to a conflict of interests, the Judicial Council shall be required to appoint a temporary Public Defender at the request of the respondent before any adjudication or hearing may commence.
- F. Respondents in any suit brought by the Association or one of its subordinate bodies shall be made known of their right to a Public Defender by the Judicial Council before any adjudication or hearing may commence. Failure to do so shall be grounds for a re-hearing.

ARTICLE V - GRADUATE ASSEMBLY

SECTION 1: PURPOSE

The Graduate Assembly of the ASUC shall speak for the ASUC on matters concerning graduate students. On all other issues, the Graduate Assembly shall forward its position to the Senate to be dealt with by the Senate within five regular meetings, such position becoming the position of the Senate if not modified, postponed, or rejected by the Senate within that time. A motion so approved shall be subject to presidential veto.

SECTION 2: CHARTER

The Graduate Assembly shall frame a charter that includes its purpose and limitations for carrying out its functions as established in this Constitution. The charter shall include a section concerning funding. Changes in that section shall require the approval of both the Graduate Assembly and a two-thirds vote of the Senate.

SECTION 3: MEMBERSHIP

The Graduate Assembly shall be composed of one delegate per each one hundred students or fraction thereof in each department, school, college, or other academic unit within the graduate division, as set forth in its Charter and Bylaws. Executive Officers and Senators who are graduate students shall be ex-officio, non-voting members of the Graduate Assembly.

SECTION 4: FUNDING

- A. The Graduate Assembly shall receive funding each year from the ASUC of an amount at least equal to five-sevenths of the total amount of ASUC discretionary fees paid by graduate students, including those enrolled in the School of Law, during the past academic year.
- B. If Graduate Assembly expenditures for the year are less than the funding required by Section A, the difference shall be automatically carried over into Graduate Assembly accounts for the following year, such amount to be in addition to funding required by subsection A.
- C. The Graduate Assembly shall have the authority to seek non-ASUC funds as it so desires, so long as such action does not conflict with the goals of the entire student body as expressed by this Constitution and does not in any way endanger the tax-exempt status of the Association.
- D. In times of fiscal emergency as outlined in Article VI, Graduate Assembly funding shall be decreased in no more than an amount proportional to the decrease in funding of ASUC activities, considered as a whole.

SECTION 5: LIMITATIONS

The Graduate Assembly shall recognize the authority of the Senate to speak for the students of the University of California, Berkeley as a whole.

ARTICLE VI - FISCAL MATTERS

SECTION 1: SENATE FISCAL AUTHORITY

- A. The Senate has the ultimate authority over the ASUC budget, including the budgets of all ASUC units and the funding of sponsored organizations.
- B. The ASUC may initiate changes in student fees paid to the ASUC, subject to a vote of the membership of the Association (as provided for Article III-A Section 7) and approval by the Regents of the University of California. Provisions of such fees may not be repealed or amended by the Senate, unless the proposition language explicitly provides an exception.
- C. The ASUC Budget shall annually be approved by a two-thirds vote of the Senate. All financial appropriations, reductions, or other budgetary amendments shall require a two-thirds vote of the Senate for approval.

SECTION 2: [REMOVED]

SECTION 3: [REMOVED]

SECTION 4: BALANCED BUDGET

The budget of the Association must be in balance such that expenditures for the fiscal year do not exceed revenues from that fiscal year and previous reserves, allowing for a surplus if so desired by the Senate.

SECTION 5: FISCAL EMERGENCY

- A. If at any time the Chief Financial Officer, President, Executive Vice President, or any five Senators have reason to believe that expenditures for the fiscal year will exceed revenues from that fiscal year and previous reserves, such person or persons may petition the Judicial Council for a full or partial freeze on parts or all of the Association's budget. The Senate shall immediately be notified of such petition and the reasons for requesting the freeze.
- B. Such a freeze shall remain in effect until the Judicial Council finds that the Senate has taken effective action to balance the budget of the Association.

SECTION 6: SENATE CONTINGENCY FUND

- A. [Removed]
- B. The Senate shall annually allocate an amount no less than eight percent of the total amount allocated to expenditures to a contingency fund.
- C. The Senate shall establish an Emergency Legal Fund, expenditures from which may be authorized only for the purpose of emergency legal action, which the Association may undertake. The Senate shall annually allocate an amount no less than one percent of annual revenues, unless and until the Emergency Legal Fund is equal to or greater than ten percent of annual ASUC revenues.

SECTION 7: SPONSORSHIP

- A. When a group applies to the Senate for sponsorship, funding, or affiliation it shall describe its membership requirements, recruiting methods, and any other information required by the Bylaws.
- B. [Removed]
- C. The ASUC shall not fund any group or activity that violates Article XI, Section 7.
- D. The Chief Legal Officer shall fully investigate upon receipt of complaint by any member of the ASUC, at their own initiative or at the direction of the Senate, any alleged violation of this section and shall initiate action before the Judicial Council as appropriate. This subsection shall not be deemed to limit in any way the right of any member of the Association to initiate action before the Judicial Council under this section.

SECTION 8: FISCAL ACCOUNTABILITY

- A. The ASUC shall specify in the Bylaws restrictions on the use of ASUC funds.
- B. Those restrictions may be waived as provided for in the bylaws.

- C. Any fund restriction waivers must be requested in a standardized document created by the Chief Financial Officer. This document shall include, but not be limited to: the name of the unit or organization requesting, the amount of the waiver, and the reason the waiver is requested.
- D. All granted fund restriction waivers must be noticed at the next regular Senate meeting and must be made accessible for review by the public.

ARTICLE VII - ELECTIONS

SECTION 1: GENERAL

- A. Control of all Association elections and related activities shall rest with an Elections Council as empowered by the Bylaws. If the Elections Council is unable to function due to vacancy, its powers shall temporarily be assumed by the Judicial Council.
- B. All members of the Association shall hold equal voting rights in Association elections. Any student who is eligible to be a member but has not yet become a member shall be offered a way to do so immediately at the polls.
- C. One regular Association election shall be held each year during the spring semester. Special elections (including recall elections) shall only be held pursuant to this Constitution.
- D. Elections results shall not be effective until certified by both the Elections Council and Judicial Council.
- E. The Bylaws may provide limits on campaign activities and an appropriate punishment for their violation (up to and including the disqualification of candidates from the election), not inconsistent with this Constitution's protection of rights. The Elections Council or an officer thereof shall be the primary investigator and prosecutor of elections violations in accordance with the Bylaws. The Judicial Council shall have the sole power to try, punish, or disqualify violators in accordance with the Bylaws.
- F. No member of the Elections Council, Judicial Council, and the Public Defender may take a public position in support or in opposition to any candidate or proposition in an Association election. No Association funds may be used in support or in opposition to any candidate or proposition in an Association election. This shall not be interpreted to prohibit neutral elections related spending by the Association or a system of public campaign financing.

SECTION 2: ELECTION DATES

- A. The specific dates for regular elections and for any special elections shall be set by the Elections Council as determined by the Constitution and Bylaws. The election period for special elections (including recall elections) must be during the spring or fall semester, not on a Saturday or Sunday, and not on an official school holiday. The election period for regular elections must be during the spring semester, not on a Saturday or Sunday, and not on an official school holiday.
- B. The Elections Council shall set the election voting period of a recall election no later than one regular Senate meeting or seven days, whichever is later, following receipt of the

petition by the Elections Council and Senate. A recall election must be held no later than the second regular Senate meeting or fourteen days, whichever is later, following the setting of the voting dates.

- C. Regularly, the vote on a proposition shall take place at the next regular election following receipt of the petition or vote of the Senate, provided that the date of receipt or Senate vote is before the end of the elections filing period for that election (as determined by the Bylaws); otherwise, the vote shall take place at the second regular election thereafter.
- D. If the Senate finds by a two-thirds vote that it is urgent and necessary that a vote on a proposition occur outside of the next regular election, it may order the Elections Council to schedule a special election.

SECTION 3: ELECTION NOTICE

Notice of an election and full statement of any proposed recalls and propositions shall be published freely on a widely available website at least fourteen days before a regular election and at least seven days before a special election.

SECTION 4: PROPOSITIONS

- A. Upon the presentation to the Elections Council and Senate of a petition signed by members of the Association numbering at least ten percent of the student body or by a majority vote of the Senate, any proposition question, (except a Constitutional amendment which shall be governed by Article XIII, Section 1), may be submitted to a vote of the membership of the Association . The voting dates shall be set in accordance with Article VII.
- B. Concurrence of a simple majority of those members voting for or against shall be necessary to pass such propositions questions (except a Constitutional amendment which shall be governed by Article XIII, Section 1). A vote on a proposition shall not be valid, unless at least a majority of the votes are not abstain votes.
- C. A matter passed by vote of the membership may not be repealed or amended by the Senate for five years, unless the proposition language explicitly provides an exception. Such matters may be amended or repealed by a subsequent majority vote of the membership of the Association at any time.
- D. In the case of two or more conflicting proposition questions passed concurrently, all non-conflicting parts shall be enacted and the conflicting parts which are part of the measure receiving the highest proportion of positive votes, excluding abstentions, shall be enacted.
- E. No proposition which is determined to do any of the following by the Judicial Council, shall be binding on the Association:
 - 1. It appropriates funds, unless it also raises an equal or greater amount of revenues.
 - 2. It poses a significant and unreasonable risk of depriving or restricting the authority and discretion of the Senate in the management of the Association's operations, business, and affairs.

3. It poses a significant and unreasonable risk of subjecting the authority and discretion of the Senate in the management and operation of the Association to any third party or entity.
 4. Its wording or mandates are so broad, ambiguous, or materially misleading that they do not provide practical specificity about the nature, scope, or effect of the proposition or it would require an unreasonable expenditure of time, money, and resources to determine the Association's obligations thereunder.
 5. It poses a significant and disproportionate risk of substantial disruption to the Association's operations, business, affairs, or loss of capital.
 6. It directs the Association to commit any act which is illegal or ultra vires.
- F. Subsection E shall not apply to any part of a proposition which causes the Association to take a certain advocacy or political position just because of the advocacy or political position itself, excluding political positions which violate Article I.

SECTION 5: VOTING

- A. All voting in Association elections shall be by secret ballot.
- B. In each race, the single transferable vote system with fractional transfer of surplus votes shall be used. The voter shall list candidates on their ballot in order of preference, until they have no further preference between candidates. The ASUC may not limit the number of candidates the voter may list.
- C. A vote on a special election proposition or recall election shall not be valid, unless the number of votes cast for or against is equal to at least a majority of the number of votes cast in the previous regular election.

SECTION 6: CAMPAIGN FINANCE

- A. Executive Officer candidates and or other persons or organizations, which act in coordination with the candidate, may spend up to a total of \$1,000 on the respective candidate's ASUC election campaign. Senate candidates and the Transfer Student Representative and or other persons or organizations, which act in coordination with the candidate, may spend up to \$200 on the respective candidate's ASUC election campaign.
- B. These provisions shall be administered by the Elections Council in accordance with the Bylaws. This section shall not be construed to prohibit additional campaign finance regulations in the Bylaws.
- C. The Bylaws shall provide for campaign finance limits on any parties or similar organizations which appear on the ballot.
- D. The Bylaws shall provide a method by which all persons or organizations listed in subsections A and C shall be required to publicly reveal the sources of their campaign funding and their campaign expenditures in as timely a manner as feasible.

SECTION 7: NEW ELECTIONS

- A. The Judicial Council may void an election on the grounds of serious malfeasance or misfeasance by the Elections Council, irreparable interference in the execution of the election, or in the case of irreparable failure of the elections mechanism, if such malfeasance, misfeasance, interference, or failure substantially affects the outcome of the election.
- B. If the Judicial Council voids an election, a new election shall be held within four full semester weeks or as soon as it is feasible. The Judicial Council may order any actions urgent and necessary to maintain the integrity of the new election.

ARTICLE VIII – ENVIRONMENTAL SUSTAINABILITY

SECTION 1: PURPOSE

The ASUC shall conserve and protect natural resources by adopting environmental sustainability as a policy.

SECTION 2: POLICIES

The adopted environmental sustainability policies shall include the following:

- A. All copying and printing paper purchased shall be of at least 30% post-consumer recycled content.
- B. All ASUC administrative purchases of the same product that exceed two hundred dollars within a period of one fiscal year shall adhere to the following conditions, the purpose being to use more environmentally preferable products:
 1. An environmentally preferable product shall be purchased instead of a non-environmentally preferable product if its price falls within ten percent of the price of the non-environmentally preferable product.
 2. For the purposes of this Article, the phrase “environmentally preferable product” shall mean products that have a lesser or reduced effect on human health and the environment when compared with competing products that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product.

SECTION 3: EXECUTION OF POLICIES

The Executive Vice President, or an ASUC official or body otherwise designated by the Bylaws shall:

- A. Oversee the environmental sustainability policies, and;
- B. Generate an annual ASUC report on environmental sustainability policy implementation.

ARTICLE IX - MEETINGS

SECTION 1: CLOSED SESSION

- A. All meetings of ASUC boards, councils, committees, and other bodies shall be open and public except as provided in this article.
- B. The Senate, the Judicial Council, the Graduate Assembly, and any body of the Association may hold closed sessions only if two-thirds of their membership approve. Such closed sessions may be held only for the discussion or consideration of the following
 1. Legal matters subject to attorney-client privilege, when discussing in open session concerning those matters would adversely affect the interests of the ASUC.
 2. The acquisition, disposition, or management of property, investments, revenue generating activities, or other proprietary businesses if discussion of these matters in open session could adversely affect the ability of the ASUC to acquire, dispose of, or manage the property, investments, other revenue generating activities, or other proprietary businesses on the terms and conditions it deems to be in the best interest of the Association.
 3. Matters concerning the appointment, employment, performance, compensation, sanctioning, or dismissal of employees, excluding elected and appointed officials. Matters concerning the sanctioning or dismissal of officials may be held in closed session with the consent of the person facing sanctions or dismissal.
 4. Deliberation on a hearing in order to arrive at a judgment, for the Judicial Council only. This shall not be interpreted to allow entire hearings to be held in closed session, unless they otherwise qualify by some other clause.
 5. Matters relating to labor-related negotiations.
 6. Matters involving negotiations or bargaining between the Association, on the behalf of students, and the University or some other entity, if discussion of these matters in open session could adversely affect the ability of the ASUC to promote the welfare of students on the terms and conditions it deems to be in the best interest of the Association.
- C. The agenda for closed sessions shall be approved in open session and no further items shall be considered in closed session. No final action on a main motion shall be taken during a closed session.

SECTION 2: PUBLIC NOTICE

- A. The Senate and the Graduate Assembly shall not take final action on any original main motion unless and until that motion has been publicly posted for at least one week. The Judicial Council may not hold a hearing to adjudicate a dispute until notice of this hearing has been posted for at least one week, given that this right may be waived with the joint consent of the respondent, petitioner, and Judicial Council.
- B. Notice of the agenda for any meeting of any Association body must be publicly posted and given to all members of the respective body, at least forty-eight hours prior to the meeting. During the inter-semester periods (i.e. winter break and summer break) the agenda for a

Senate or Graduate Assembly meeting must be posted for one week. Notice must also be given to any individual or organization that has filed a request for it.

- C. The call and notice of a special meeting shall specify the business to be transacted. No other business shall be considered at these meetings.
- D. The requirements of this section may be waived by two-thirds vote of the membership of a body mentioned in Section A or B in the case of emergency situations involving matters upon which prompt action is urgent and necessary.
- E. A motion to make an appointment shall not be considered “urgent and necessary to maintain the functioning of the ASUC” for the purposes of waiving public notice, if a body is unable to consider any other business because it has failed to appoint an official by a deadline created in this Constitution or in the bylaws.
- F. The presiding officer of the bodies mentioned in Section A shall provide notice and public posting of such situations and actions as soon as practicable.

SECTION 3: VOTING BY PROXY

Members of the Senate or any board, council, or other organization of the Association may not vote by proxy on any ASUC matter. This clause shall not be interpreted to prevent the creation of a system of alternates or appointed designees, except in the Senate and Judicial Council.

SECTION 4: RULES OF ORDER

The parliamentary rules governing meetings of the Association shall not be inconsistent with this Constitution or the Bylaws of the Association.

ARTICLE X - BYLAWS

SECTION 1: PURPOSE

The Bylaws shall supplement this Constitution by establishing such boards, councils, committees, and subordinate organizations as the Senate deems necessary. The Bylaws shall enumerate powers, duties, and rules pertaining to these official organizations. The Bylaws shall also lay out procedures governing the functions of activities described in the Constitution and may assign additional duties to executive officers, Senators, and appointees.

SECTION 2: AMENDMENTS

A two-thirds vote of the Senate shall be necessary to ratify, modify, or suspend portions of the Bylaws. All such actions shall be considered original main motions for purposes of Article IX. The Bylaws may contain provisions prohibiting the suspension of specific portions of the Bylaws.

ARTICLE XI - RIGHTS OF MEMBERS

SECTION 1: DUE PROCESS AND EQUAL PROTECTION

The ASUC shall not sanction any person or organization without due process of law, nor shall the ASUC deny to any person within its jurisdiction the equal protection its rules.

SECTION 2: FREEDOM OF EXPRESSION

The ASUC shall make no rule respecting an establishment of a religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the members peacefully to assemble, and to petition the ASUC for a redress of grievances.

SECTION 3: RIGHTS OF THE ACCUSED

No member shall be subject for the same offense to be twice put in jeopardy; nor shall be compelled in any case to be a witness against themselves. The accused shall enjoy the right to a speedy and public hearing, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against them; to have the opportunity to present witnesses; and to have the assistance of counsel for their defense. The privilege of seeking appeals or re-hearings shall not be suspended. The integrity of counsel-client privilege shall not be denied.

SECTION 4: SANCTIONS

Excessive fines shall not be imposed, nor shall cruel and unusual punishments be inflicted. No bill of attainder or ex-post facto rule shall be passed.

SECTION 5: FREEDOM OF INFORMATION

Except as prohibited by privacy laws or other applicable laws, all official ASUC documents, records, and other written and recorded information with the exception of those involving matters described in Article IX, Section 1-B and private student records shall be made accessible to the public upon request. The ASUC must furnish copies of requested information to interested students without undue delay and may not charge above cost for doing so.

SECTION 6: RIGHTS NOT ENUMERATED

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the membership.

SECTION 7: EQUITABLE ACCESS

The ASUC shall provide equitable access to all services and opportunities. In particular, the Association shall not engage in, promote, sponsor, or fund any activities or organizations which inequitably disadvantage people based on their identities or characteristics including, but not limited to, race or color, national or ethnic origin, religion, age, sex, gender, sexual orientation, marital status, pregnancy or parenthood status, disability, medical condition, genetic information, immigration status, academic status, socioeconomic status, military or veteran status, political

activity or belief, criminal record or status, or status as a survivor of harassment, assault, stalking, or domestic violence.

ARTICLE XII - CONFLICT OF INTEREST

SECTION 1: MULTIPLE POSITIONS

- A. No person may simultaneously hold more than one of the following positions: Executive Officer, Transfer Representative, Appointed Officer, Senator, or Graduate Assembly Delegate/Officer, except that a person may simultaneously be a Graduate Assembly Delegate/Officer and a Senator. A person holding one of the positions listed in the previous sentence may not also hold any staff position in an office of another.
- B. No member or support staff of the Judicial Council may hold any other position in the ASUC (inclusive of the Graduate Assembly).
- C. No member or support staff of the Elections Council may hold any other position in the ASUC (inclusive of the Graduate Assembly), excluding ex-officio members who are called to serve on the Council, such as the Chief Legal Officer and Graduate Assembly Rules Officer
- D. No one position may be held by more than one person.
- E. An exception to clause A shall be that a Senator who is elected as an Executive Officer in the regular election may concurrently serve in both positions until their term as Senator expires.

SECTION 2: PAYMENTS RECEIVED

- A. No person holding one of the positions mentioned in Section 1 may be otherwise employed by the ASUC, be an independent contractor of the ASUC, be employed by the University in a support function for the ASUC, nor may receive payment under a Personal Services Agreement for services rendered while holding such a position unless the Senate by a two-thirds vote of the Senate makes a specific exception.
- B. No officer or signatory of an ASUC-sponsored organization may receive payment under a Personal Services Agreement from that organization without the specific approval of a two-thirds vote of the Senate.

SECTION 3: INTERESTS

- A. Whenever a person holding one of the positions mentioned in Section 1 has a financial or personal interest in any matter coming before a body of which they are member of, the affected person shall fully disclose the nature of the interest and shall withdraw from discussion, lobbying, and voting on the matter. Any transaction or vote involving a potential conflict of interest shall be approved only when the required majority of disinterested members determine that it is in the best interest of the Association to do so. The minutes of meetings at which such votes are taken shall record such disclosure, abstention, and rationale for approval.
- B. Whenever a person holding an officer position has a financial or personal interest in exercising their duties, they shall fully disclose the matter to the Senate (or Graduate

Assembly instead of Senate if a Graduate Assembly Officer). The Senate or Graduate Assembly shall take such action as is necessary to assure that the matter is completed in the best interests of the Association without the substantive involvement of the person who has the possible conflict-of interest.

- C. "Financial or personal interest" shall be defined as the same standard applicable to officers or members of public bodies of the State of California by law.

ARTICLE XIII - AMENDMENTS AND INTERPRETATIONS

SECTION 1: AMENDMENTS

- A. An amendment to this Constitution may be proposed by either a two-thirds vote of the Senate, by a constitutional review committee or convention, or by a petition signed by members of the Association numbering at least ten percent of the student body and presented to the Elections Council and Senate, which shall then call a proposition vote on the amendment in accordance with Article VII.
- B. A favorable vote of sixty percent of the votes cast for and against the amendment proposition shall be necessary for adoption of the amendment; if adopted, the amendment shall take effect on the date specified in the amendment, or if no date is specified, on the day following the last day of the spring semester immediately following the election or upon the final certification of election results, whichever is later.
- C. If two or more conflicting amendments shall be passed simultaneously, all non-conflicting parts shall be enacted and the conflicting part or conflicting parts of the measure receiving the highest proportion of positive votes, excluding abstentions, shall be enacted.

SECTION 2: INTERPRETATION

All questions of interpretation of this Constitution, except for Section 6 of Article IV, shall be decided by the Judicial Council, which may be advised by a practicing attorney, professional mediator, professional arbitrator, or a faculty member of the School of Law, Political Science Department, or a closely related department. No such advisor may be a member of the university administration, or have any other conflict due to an affiliation with the university, except that employment as a member of the faculty shall not constitute such a conflict in its own right.

SECTION 3: CONSTITUTIONAL REVIEW

The Bylaws may provide for a constitutional review committee or convention, its composition, its rules, and its powers. The Bylaws may specify that such committee or convention shall be convened automatically at regular intervals, at the call of the Senate, and/or by call approved by vote of the membership of the Association through the proposition process. A properly convened committee or convention may propose and directly place any constitutional amendments on the ballot.

ARTICLE XIV – DISSOLUTION

The assets of the ASUC constitute a continuing trust for the benefit of the students at the Berkeley campus of the University of California. In the event of the dissolution of the Association for whatever reason, the assets, after payment or adequate provision for payment of all outstanding debts and obligations of the Association, shall be transferred to a nonprofit fund, foundation, or corporation which is organized and operated exclusively for educational or charitable purposes for which the ASUC is established.

ARTICLE XV – OATH OR AFFIRMATION OF OFFICE

SECTION 1: OATH OR AFFIRMATION

Each Elected Official, Judicial Council member, and Appointed Officer before they enter into their respective office, shall take and subscribe the following Oath or Affirmation: “I do solemnly swear (or affirm) that I will faithfully and honestly execute the office of [name of office] of the Associated Students of the University of California, that I will fulfill my fiduciary responsibilities to the student body as an official of the Association, that I will work diligently and to the best of my ability to serve the students of the University of California, Berkeley whose interests will be my highest priority, and that I will, to the best of my ability, preserve, protect, and defend the autonomy and the Constitution of the Associated Students of the University of California.”

SECTION 2: ADMINISTRATION

The Oath or Affirmation of Office may be administered by any member of the Judicial Council, the President, Executive Vice President, or a California notary public.

SECTION 3: TERMS AND CONDITIONS

The Bylaws may require officials to agree to additional terms and agreements before they assume office. No such agreement may limit an official’s political rights guaranteed by Article XI.

ARTICLE XVI – IMPEACHMENT

SECTION 1: IMPEACHMENT

- A. Any person holding an elected office under this Constitution may be removed through the impeachment proceedings.
- B. Impeachment proceedings may be initiated against an elected official by an impeachment petition signed by at least seven elected officials submitted to the Chair of the Judicial Council or by a ruling of the Judicial Council. The petition or ruling must be made in good faith, and only for one or more of the following reasons:
 1. Serious nonfeasance, misfeasance, or malfeasance in office. It is required that that such contraventions be supported by a Judicial Council ruling or a by a ruling of a

court of law.

2. Serious misconduct. It is required that such contraventions be supported by a Judicial Council ruling, a UC Berkeley Student Conduct ruling, or by a ruling of a court of law. Misconduct shall be defined to include:

- i. Serious Academic Misconduct or Other Dishonesty
- ii. Larceny, Burglary, Robbery, Fraud, Theft, Embezzlement, Bribery, Extortion, Arson, or Destruction of Property
- iii. Physical Abuse, including but not limited to, Assault, Battery, Sexual Assault, Threats of Violence, Stalking, Hazing, Terrorizing Conduct, or other conduct that seriously threatens the health or safety of any person.
- iv. Sexual, Racial, or Other Forms of Harassment. Harassment is defined as conduct that is so severe or pervasive, and objectively offensive, and that so substantially impairs a person's access to Association or University programs or activities, that the person is effectively denied equal access to the Association's or University's resources and opportunities.
- v. Illegal possession, use, or manufacture of Destructive Devices or Weapons.

3. Expulsion from the University.

- C. Upon the filing of the impeachment petition, the Chair of the Judicial Council shall notify all elected officials and give public notice.
- D. At the next Senate meeting, which is at least two days after the petition has been filed, the Senate shall deliberate whether to formally initiate the impeachment proceedings. The petitioner shall be given an initial opportunity to present their case for impeachment and must demonstrate probable cause. The Senate may begin the impeachment proceedings by a majority vote.
- E. The Senate shall try the respondent at an open impeachment hearing, which shall be held at least seven days after the impeachment proceedings have officially begun. The Chair of the Judicial Council shall preside over the impeachment hearing. The respondent shall be given the opportunity to defend themselves, and the petitioner shall be given the opportunity to present their case for impeachment. The hearing may be held in closed session with the consent of the respondent and a two-thirds vote.
- G. Once the impeachment proceedings have begun, the Senate may for reasons of health and safety by a two-thirds vote temporarily suspend the respondent from office, temporarily suspend their membership on any Association body, and/or temporarily bar the respondent from entering Association spaces (except as to be present for the impeachment hearing) for the duration of the impeachment proceedings.

- H. The respondent shall be permanently removed from office if the motion to impeach is passed by a two-thirds vote of the entire Senate. If the respondent is a member of the Senate, they shall be barred from discussion and voting on the motion to impeach once the impeachment proceedings have officially begun and shall not count towards the membership of the Senate for any votes on the motion.
- I. The rules governing the impeachment hearing shall be part of the Bylaws.