

University of Wisconsin-Green Bay  
**Student Government Association**  
**Student Court**

Chief Justice Mach, Associates Justice Czypinski, Dorgu, Ruud & Schmidt

No: SC2008(3)

IN THE MATTER OF SGA EXECUTIVE v. SUFAC

*Filed: April 20, 2008*

*Opinion Released: August 18, 2008*

CHIEF JUSTICE MACH delivered the opinion of the Court, in which  
JUSTICE CZYPINSKI, JUSTICE DORGU, JUSTICE RUUD and  
JUSTICE SCHMIDT joined.

**I. Background**

Student Government Association (SGA) Executive is responsible for the review, compilation, and submission of an operating budget for SGA each year, composed of the Senate, Student Court, and Executive budget requests, for presentation to the Segregated University Fee Allocation Committee (SUFAC) annually. Within this budget, SGA Executive requests specific honorariums for elected and appointed SGA members, excluding Senators. The proposed budget is presented to SUFAC, which holds primary responsibility for the Segregated University Fee Budget. This budget includes the non-allocable budget, the allocable budget, and the Segregated University Fee level which is established by the committee and recommended to the Chancellor for approval. Furthermore, SUFAC holds annual public hearings regarding the allocable university budgets, and approves or disapproves requested items in such budgets, as furnished by the Constitution.

On or about April 1, 2008, SGA Executive submitted final requests for Spring 2008 honorariums to the Organization Finance Office (OFO), the financial management office for student organizations. The requested honorariums were determined by performance evaluations administered by the SGA Executive and liaisons. After review of such evaluations, honorariums were recommended according to tenure in office, attendance and efficacy. As a result, SGA

members were to be paid more, less, or exactly the allocated amount for their position. Upon receipt of these changes for reallocation, OFO forwarded the request to SUFAC for approval or disapproval. SUFAC reviewed the changes made by the Executive, in conjunction with the evaluation process, and made a final decision on honorariums. The Executive contends that SUFAC has no constitutional authority to overrule Executive decisions regarding honorariums.

## **II. Issue**

The Court has jurisdiction over any issues or disputes arising under the SGA Constitution (Article III, Section 1 (4)). The petitioner (SGA Executive) seeks judgment on SUFAC's constitutional authority to review honorariums after performance evaluations are administered. Furthermore, the petitioner seeks judgment on SUFAC's propriety to change SGA honorariums. We refer to two sections of the SGA Constitution in resolving this dispute. Article II, Section 1 (8) and Article I, Section 3 (10) specifically address SGA budget authorities and responsibilities.

- 1) The Segregated University Fee Allocation Committee shall have primary responsibility for the Segregated University Fee Budget, which shall include the non-allocable budget, the allocable budget, and the Segregated University Fee level which is established by the committee and recommended to the Chancellor for approval. SUFAC shall hold annual public hearings regarding the non-allocable university budgets, and make recommendations to the Chancellor regarding those budgets. SUFAC shall hold annual public hearings regarding the allocable university budgets, and shall approve or disapprove requested items in such budgets. The committee shall have responsibility for allocating any remaining fee monies whose distribution is requested during each fiscal year. The committee shall follow all state laws and court decisions applicable to its work. The Segregated University Fee Allocation Committee shall be chaired by the Secretary of Segregated Fees (Article I, Section 3 (10)).
- 2) The President and Vice-President are responsible for the review, compilation, and submission of an operating budget for the Student Government Association each year, composed of the Senate, Student Court, and Executive budget requests, for presentation to SUFAC annually (Article II, Section 1 (8)).

The Constitution makes clear the broad fiscal responsibilities of each entity. The Executive is visibly responsible for the SGA operating budget, duties including, but not limited to assessment of allocations, fiscal integrity, and collection of judicial and legislative budget requests. Within SUFAC's duties, the committee thoroughly examines budgets to ensure that student segregated fee monies are spent efficiently, wisely and appropriately. The petitioner contends that no clear legislative language exists regarding the exact budgetary relationship between the Executive and SUFAC. In the absence of such language, the petitioner contends the

Constitution does not explicitly provide authority to SUFAC to make executive decisions on honorariums. The respondent argues the constitution implicitly grants the committee authority to approve or disapprove student organizations' budgets and reallocations, including honorariums by virtue of its authority to approve requested items in allocable budgets, and as a matter of historical precedence in operating procedure. Moreover, SGA is like any other student organization and must follow the same procedures and guidelines set forth in SUFAC bylaws.

We agree with the petitioner that no legislative language exists that defines the budgetary relationship between the Executive and SUFAC. On petition for writ of certiorari to the Student Court, the petition was granted on April 22, 2008.

The questions before the Court are as follows:

- 1) In light of Article II, Section 3 (1), Article II, Section 1 (8) and Article I, Section 3 (10) of the Constitution, must the SGA President and Vice-President seek SUFAC approval of SGA honorariums?
  
- 2) In light of no clear legislative language or precedent, does SUFAC possess the authority to change SGA honorariums without the approval of the SGA President and Vice President?

### **III. Analysis**

In analyzing the Constitution, we employ a structural interpretation. Two principles of constitutional order are the separation of powers and checks and balances. Taken together, these define how separate constitutionally-defined entities share power. Undoubtedly, the Executive and SUFAC share powers regarding the budget. While the constitution does not contain the phrase "separation of powers," the very structure of the text gives life to the principle. As a method of interpretation, structuralism believes that the meaning of individual constitutional provisions can only be discerned by a thorough examination of the entire Constitution. Thus, "structural arguments are inferences from the existence of constitutional structures and the

relationships which the Constitution ordains among these structures.”<sup>1</sup> In the narrowest sense, this means that the meaning of specific, isolated clauses is less significant than the location of the clause and its interaction with the whole text. In a broader sense, we seek unity and coherence not only in the text, but in the larger political order the text signifies. Moreover, our interpretation concentrates on the meaning of the Constitution and not on what has been said about it. Lastly, structuralism works well in cases that involve structural issues and relationships, such as separation of powers.

To begin the analysis, an understanding of the budget process within the context of SGA is necessary. As detailed in the Constitution, the President and Vice-President compile and submit a budget to SUFAC. SUFAC is one of eight standing committees of the Student Senate. The committee’s responsibilities have been noted above. Historically, SUFAC has examined the SGA budget and made changes based on SUFAC’s procedures and guidelines. Oral testimony from the respondent indicated that the single largest determinant for budgetary approval is fiscal responsibility. Meaning, student organizations must demonstrate that segregated fees are being spent wisely. However, the respondent was unable to explain with specificity what criteria are used in the judgment of fiscal responsibility, giving rise to a discussion of discretion and autonomy.

The respondent contends the committee has sole responsibility for deciding SGA budget requests, thus honorariums, consistent with Article I, Section 3 (10). Adopting this perspective would compel the Court to conclude that SUFAC is, in fact, autonomous from SGA and lending discretion exclusively from its bylaws. However, the structure of the Constitution clearly indicates that SUFAC is a standing committee of the Senate; thus, subject to the Constitution and its provisions. This section of the Constitution provides SUFAC *primary*, but not sole responsibility for the Segregated University Fee Budget. Again, the structure of the Constitution allows shared, yet separate responsibility of the SGA budget. Therefore, we agree with the petitioner that SUFAC is not autonomous and does not possess complete discretion over the SGA budget as the Constitution plainly gives the Executive some budgetary responsibilities and authorities.

In this view, SGA is unlike any other student organization. The whole of SGA, as elected

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<sup>1</sup> Bobbitt, *Constitutional Fate*, p.74

student officials, is charged with representing the interests of the student body. The duties of representation demand practices which reflect honesty, integrity, transparency and accountability. The allocation of segregated fees is especially no exception. As *the* student organization responsible for reviewing and allocating segregated fees requests for all other student organizations, SGA must ensure the budget process is not muddied by struggles for authority. The structure of the Constitution gives the Executive the authority to review, compile and submit a budget. Article II, Section 1(8) indicates that the Executive must present the budget to SUFAC. This section stops short of providing language that suggests the SGA budget itself must be approved by SUFAC, one of its own standing committees. From Article I, Section 3(10), the SGA budget is part of the allocable budget, a component of the Segregated University Fee Budget, and recommended to the Chancellor for approval. Our structural analysis of the Constitution leads the majority to believe that Article 1, Section 3(10) is intended to grant SUFAC authority over every student organization, except SGA, in part.

As the governing student organization, the SGA budget must reflect the whole interest of the student body. Article I, in its entirety, makes certain the need for student representation within SGA. As elected student officials, Senators are charged with the creation of standing rules, confirming Presidential appointments, passing legislation, etc. SUFAC, a standing committee of the Senate, is subject to Senatorial review, per Article 1, Section 3 (12 & 13). Meaning, SUFAC's discretion is ultimately limited by the Senate, and thus, through its elected representatives, the student body. The current budget process does not reflect this structure. In fact, the only budgetary item decided by the Senate is the SUF rate. As an elected student organization, the Senate must ultimately decide the SGA budget as student fees are used to pay SGA members in all branches. The respondent suggested in oral arguments that SUFAC membership reflects this commitment to the interests of the student body in its composition. SUFAC is comprised of a Chair, Vice-Chair, eight Senators, six at-large students, two reserved seats for students from the American Intercultural Center and the International Center, and six ex-officio (non-voting) members. Anything short of full Senate approval, by a majority vote, of the SUF rate and budget, is unconstitutional. Thus, the SGA budget cannot reflect the will of the student body with only eight of potentially thirty-five Senators voting on such a budget.

In support of this structural reading, we point to the national budget process. At the

national level, congressional consideration of the federal budget begins once the President submits a budget request. Next, the House and Senate budget committees both are responsible for drafting budget resolutions. The committees then finalize their drafts and submit it to the respective floors for consideration and adoption. Once both houses pass the resolution, selected members negotiate a conference report to reconcile differences. The conference report must be approved by both the House and Senate to become binding. It is important to note that congressional budget committees do not ultimately decide the national budget. Rather, it is our elected officials in their entirety that vote on requested budgets.

This structural reading of the Constitution is not to strip SUFAC of its participation within the SGA budget process. Simply, the Constitution is structured in a way that calls for full (a majority) Senate approval of the budget. This is not to suggest that SUFAC plays no part in the process. SUFAC members are able to participate in budget hearings and request supporting documents as any other student participant. Additionally, it is expected that senior members of SUFAC would critique the Executive budget as if reviewing other student organizations' requests. However, a majority of Senators must approve said budget.

#### **IV. Opinion**

We granted certiorari to the petitioner on two issues:

- 1) In light of Article II, Section 3 (1), Article II, Section 1 (8) and Article I, Section 3 (10) of the Constitution, must the SGA President and Vice-President seek SUFAC approval of SGA honorariums?
  
- 2) In light of no clear legislative language or precedent, does SUFAC possess the authority to change SGA honorariums without the approval of the SGA President and Vice President?

In regards to the first issue, we believe the SGA President does not have to seek SUFAC approval of SGA honorariums within the limits of the total honorarium allocation in the SGA budget. There is no legislative language that mandates SUFAC approval. However, our analysis does not lead to the conclusion that either the Executive or SUFAC maintain complete discretion over honorariums. Rather, we believe that the Constitution intends that the Executive must seek

approval of budgetary requests from the Senate, the representational branch of the student body. Simply in the absence of legislative clarity, SGA has mistakenly relied on historical precedence which no longer applies since SUFAC became a Senate standing committee. *We find in favor of neither party.*

The second issue is moot due to our finding in the previous inquiry. We discuss reallocations with respect to honorariums in the following section of this opinion.

*It is hereby ordered.*

### **V. Recommendations and Considerations**

The following section contains recommendations of the Court. In addressing matters regarding reallocations, we recommend the Executive seeks SUFAC approval for purposes of efficiency. Obviously, the Executive needs to make frequent reallocation requests without consulting the entire Senate for approval. This view is consistent with Article I, Section 3(12).

In regards to honorariums, we appreciate and recognize the petitioner's argument for discretion in terms of tenure in office and performance. We agree the Executive should be able to change honorariums, based on days served, or when members vacate one position to or accept another position in SGA. For example, if the Chairperson of Health and Safety accepts the position of Vice-President mid-semester, then her/his honorarium should be pro-rated based on days served in each position. Thus, pay should be equal to 50 percent of the honorarium for each position. If the Chairperson of Health and Safety is paid \$500.00 per semester and the Vice-President \$1000.00 per semester, his/her honorarium should be pro-rated at \$750.00—reflecting a half semester as the Chairperson of Health and Safety and a half semester as the Vice-President.

In regards to performance, the Court believes all performance standards must be based on objective criteria. For example, if the President and Vice-President wish to conduct performance evaluations, then such an evaluation should be measurable and transparent. Moreover, an evaluation based on office hours, attendance to meetings and alike are objectified criteria to evaluating and determining honorariums. In addition, an objective criterion effectively avoids subjective assessments that may contain biased opinions and unwarranted pay decreases. To

provide this limited discretion, we recommend language in the budget to read “not to exceed \$X” for each position. In this light, the Executive would have the opportunity to adjust honorariums, but only downward, based on tenure in office and performance.

Finally, the Court recommends that SGA be afforded special status within the budget development process. The final SUFAC budget, historically presented in two parts (allocable and non-allocable) might be presented in three parts, to include a separate delineation of the SGA budget itself. This would allow for fully informed and transparent discussion of the SGA budget, including all honorariums, for review by the students and approval by the Senate.

The Court therefore returns these recommendations to the Executive and Senate for further consideration.