

The Segregated University Fee Allocation Committee's Response

The Black Student Union (BSU) has alleged procedural violations in the deliberations and the decision of the Black Student Union budget for 2008-2009. The Segregated University Fee Allocation Committee (SUFAC) will prove that the board did not violate its procedures or bylaws, the Student Government Association Constitution, Wisconsin state law, or Federal Court decisions.

The first issue to address is the allegation that "SUFAC violated its own standing rule of viewing all student organization budgets "line by line" during the BSU budget allocation on D-Day" (BSU Affidavit). The Segregated University Fee Allocation Committee has no standing rule or formal rule about making budget decisions "line by line." In multiple meeting minutes there is an established ideal that the SUFAC board will *review* each Student Organization's budget "line by line" in order to keep a consistent and well organized method of budget review. The SUFAC board reviewed budgets "line by line", or in other words section by section to ensure fair and equitable review of each student organization's budget on Decision Day (D-Day March 1). This "line by line" method of review did not require, however, that the SUFAC board vote on items "line by line." There is a large difference between looking at or reviewing budgets "line by line" and deciding or voting on budgets "line by line." SUFAC was consistent in its budget review and decision process, and violated no standing rule of its board.

In addition the SUFAC board reviewed every budget and applied two sets of guidelines to student budgets. The first set of guidelines was established in May 1997 and revisions were applied in October 2004. These traditional guidelines provide the board with direction but also allows for requests to be considered case by case. The traditional guidelines have been and still are available on the SUFAC website. The second set of guidelines was established on D-Day, prior to the review of any organization budget, in order to create a consideration process that was consistent and efficient which gave SUFAC the time to treat all student organizations equitably. This set of guidelines was a simple list of points for the board to consider when reviewing student organization budgets. This set of guidelines does not carry the authority of bylaws or "official" procedures but are rather reference points that the board may use in its deliberations. For example one of the guidelines for Food Requests was to provide \$100 per semester for a recruitment meeting if the Student Organization requested food for a recruitment meeting. Thus, SUFAC did establish and consistently apply guidelines in its budget review and decision process.

In its second allegation, BSU alleges "SUFAC violated Section 3 (11) of the Student Government Association Constitution" (BSU Affidavit). This allegation claims that the Segregated University Fee Allocation Committee did not follow state law and court decisions which would not only have violated the SGA constitution but also SUFAC's own By-Laws. The Segregated University Fee Allocation Committee By-Laws state in, Article IV Section C: Conducting Meetings sub-section 2, that meeting must be conducted "In accordance with the Wisconsin Open Meeting Laws." Compliance with the Wisconsin Open Meeting Laws are built into weekly meetings and the D-day meeting, for example Wis. Stat. §

19.82 (2)- ““Meeting” means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested by the body...”¹ This statute goes on to explain that in order for the meeting to conduct business that at least one half of the members must be present. On D-Day the SUFAC board did have quorum, all members were present and only one member left midway through the meeting. BSU further alleges that the Segregated University Fee Allocation Committee violated the United States Court of Appeals Seventh Circuit decision of *Southworth v. the Board of Regents of the University of Wisconsin*. The Court of Appeals did not find the Board of Regents in violation of the United States Constitution, in fact they stated that; “ We reverse the district court’s decision that the mandatory fee system unconstitutionally grants the student government unfettered discretion”.² The Appeals Court does explain that the Supreme Court’s ruling on viewpoint neutrality would be violated **if** the University’s Fee system exercised unbridled discretion but the Appeals Court does not agree with the plaintiff on the idea that the University Fee system exercised unbridled discretion.³ Also the Appeals Court never used the words “vague standards” in their opinion. The SUFAC board did not exercise unbridled discretion in its funding decisions, rather, the board did use the discretion appropriated to it within the SUFAC guidelines, the By-laws, the SGA Constitution, Wisconsin State law, and Federal court cases. In fact the Supreme Court did say that universities and its designees may “ration or allocate the scarce resources” as long as they do it in a viewpoint neutral manner.

Lastly the SUFAC board would like to point out an important procedural matter of relevance. Committee of the Whole procedure is a quasi committee where the normal rules of discussion are suspended in order for informal debate and freewheeling discussion to be held. When in Committee of the Whole the secretary is only responsible to record the votes and recommendations made. *Webster’s New World Robert’s Rules of Order Simplified and Applied* states that when the assembly is in committee of the whole “the secretary of the assembly keeps the minutes of the committee’s votes and recommendations.”⁴ On D-Day and on the April 17th meeting the SUFAC board regularly made motions to enter Committee of the Whole in order to discuss student organization budgets and appeals in a free discussion. Therefore the SUFAC board respectfully requests that evidence from both the March 1 D-Day meeting minutes and the April 17th meeting minutes be dismissed on the grounds that the minutes taken during Committee of the Whole were not taken with the intent of providing precise verbatim statements made by board members. The minutes are merely a summary. The BSU affidavit amounts to nothing more than “cherry picking” individual statements from, what is recognized as a very incomplete transcript of the deliberations, for the sole purpose of supporting the complaint. Further, the board requests that evidence used from the book *Fire’s Guide to Student Fees, Funding, and Legal Equality on Campus* by Jordan Lorence also be dismissed based on the grounds that FIRE, the Foundation for

¹ Chapter 19 General Duties of Public Officials, <http://www.legis.state.wi.us/statutes/Stat0019.pdf>

² United States Court of Appeals for the Seventh Circuit: No 01-1912, 2002, pg 2
<http://caselaw.lp.findlaw.com/data2/circs/7th/032314p.pdf>

³ United States Court of Appeals for the Seventh Circuit: No 01-1912, 2002, pg 55-56
<http://caselaw.lp.findlaw.com/data2/circs/7th/032314p.pdf>

⁴ Robert McConnell, *Webster’s New World Robert’s Rules of Order Simplified and Applied second Edition*, (Indianapolis, Indiana: Wiley Publishing Inc 2001), 96.

Individual Rights in Education, is a biased interest group that cannot offer legal opinions as implied by the BSU appeal.

In summary, the Segregated University Fee Allocation Committee is prepared to prove that it has not violated its own procedures or exercised unbridled discretion as alleged in BSU's Affidavit of Support. The evidence will show that the SUFAC board followed traditional guidelines and D-Day guidelines, their By-laws, the SGA constitution, Wisconsin state law, and federal court decisions when reviewing and deciding student organization budgets on Decision Day March 1, 2008.