



ADVISORY OPINION

THE DEFINITIONS AND QUALIFICATIONS OF CONSTITUENCY SENATORS AND NON-VOTING LEGISLATIVE REPRESENTATIVES WITHIN THE SENATE

January 28, 2025

Introduction

This advisory opinion is issued by the Student Judicial Court of the Undergraduate Student Government at the University of Iowa in response to an inquiry about the definitions and/or qualifications of Constituency Senators and Constituency Representatives within the Senate. This opinion is to provide guidance and clarification regarding a received advisory opinion request for clarification.

Background

The Student Judicial Court received a request on Monday, January 27th, at 10:11 am via Engage to review the constitutionality of adding Constituency Senators to the Undergraduate Student Government. The request inquired as to whether the Constitution of the Undergraduate Student Government or its Bylaws provide a clear definition of what constitutes a Constituency Senator or a Legislative Representative, and as to how one would be classified into each one as opposed to the other. The Student Judicial Court (SJC) decided upon review to issue a recommendation to establish more explicit guidelines for what constitutes an eligible constituency for representation, update the Bylaws to create a transparent and structured process for the addition of new Constituency Senators, and the difference between the roles and responsibilities for both Legislative Representatives and Constituency Senators.

Issue Presented

The issue presented is whether the addition of new Constituency Senators to the Undergraduate Student Government (USG) aligns with the USG Constitution and Bylaws, and whether there are any limitations on expanding the senate through new constituency-based positions. Additionally, the issue concerns the distinction between a Non-Voting Legislative Representative and a Constituency Senator, including the criteria that determine whether a position should be classified as one rather than the other.

Analysis and Findings

After a thorough review of the USG Constitution and Bylaws, we have determined that, as of February 2nd, 2025, there is no explicit definition or framework that delineates what constitutes a constituency eligible for representation in the Senate. Currently, Article II, Section A, Subsection 4 defines the current constituencies recognized under the Legislative and Executive Bylaws. These constituencies include the following:

- 1) "Twelve senators shall be appointed by the following constituencies with each constituency selecting one senator to serve on its behalf:
 - i. Asian Pacific Islander Desi American
 - ii. Black
 - iii. International
 - iv. Latine
 - v. LGBTQ+
 - vi. Disability
 - vii. First Generation
 - viii. Native American
 - ix. Veteran
 - x. Jewish
 - xi. Middle Eastern, North African, and Arab
 - xii. NCAA Student-Athlete"

Under Article II, Section E, Constituency Senators are further defined to hold the following responsibilities:

- 1) "All Constituency Senators shall be required to contact all student organizations and University of Iowa departments relevant to their constituency via email within two weeks immediately following their appointment to their position to establish and maintain formal connections with their constituency.
- 2) All Constituency Senators may choose to hold their office hours in their respective constituency community spaces in place of the USG office, if such a space exists for their constituency
- 3) All Constituency Senators shall be required to hold a minimum of two check-in meetings each semester with their assigned on-campus constituent organization. These meetings may count as a Constituency Senator's required office hour for the given week on which the check-in occurs.
- 4) All Constituency Senators shall be required to hold one roundtable event each semester, in which they make themselves available to the members of their constituency to discuss issues affecting their community and fulfill their role as a liaison between their constituency and USG.
- 5) All Constituency Senators shall be required to work on at least one initiative with the Justice & Equity Committee. Additionally, while Constituency Senators are

recommended to serve as members of the Justice & Equity Committee, none shall be required to do so if they desire to serve on other first-block committees.”

Currently, the Bylaws outline a nondescript process for appointing Constituency Senators, which does not include a framework for creating additional positions beyond those already established. The process for appointing Constituency Senators is outlined in Article III, Section D, Point 8.d:

“The Director of Justice and Equity shall coordinate with the SJC regarding the appointment of Constituency Senators and bear the primary responsibility of determining which relevant on-campus constituent organizations will be paired with the relevant Constituency Senator position.

- i) The decision of which on-campus constituent organization will be paired with each relevant Constituency Senator position shall be ratified through the results of a three-way vote between the Director of Justice and Equity, Deputy Director of Justice and Equity, and relevant Constituency Senator. The determined pairings of Constituency Senator positions with relevant on-campus constituent organizations shall remain unchanged administration to administration until such a time as a given Director of Justice and Equity deems it necessary for a specific pairing to be reevaluated, which may be done on an individual basis for each Constituency Senator position.”

Currently, Article II, Section G, Subsection 7, f.i, defined the Justice & Equity Committee’s primary role as:

"Organizing programming, enacting policies, and advocating for diversity, equity, and inclusion that better serve and represent the unique needs of students from historically marginalized groups (including but not limited to the communities represented by the Constituency Senator positions) on campus. The Justice and Equity committee will encourage broader multicultural education, cultural competence, and enrichment within the wider student body and administration. "

This description explicitly linked Constituency Senators to marginalized student communities, suggesting that their primary legislative function was centered on advocacy for historically underrepresented groups. However, the current Bylaw revision shifts this structure by stating:

"All Constituency Senators shall be required to work on at least one initiative with the Justice & Equity Committee. Additionally, while Constituency Senators are recommended to serve as members of the Justice & Equity Committee, none shall be required to do so if they desire to serve on other first-block committees."

The description clearly indicates that that Constituency Senators were intended to increase advocacy for “students from historically marginalized groups (including but not limited to those represented by constituency senators) on campus.” The new language still requires participation

in at least one initiative with the Justice & Equity Committee. This requirement emphasizes USG's ongoing commitment to the founding principle of Constituency Senators: ensuring that Constituency Senators relate to and are advocating for their constituents. However, this updated requirement allows for increased diverse representation in all USG committees.

Without a formal definition of what constitutes a constituency, there is no clear limitation or guidance on whether new constituencies should be tied to equity-based advocacy.

Under Article II, Section A, Subsection 7, Legislative Representatives are defined only by their non-voting status. There is no existing framework that clarifies how a representative is chosen, which constituencies are eligible for a non-voting representative, or whether they must be tied to an on-campus organization:

“One non-voting legislative representatives shall be appointed by the following constituencies with each constituency appointing one member to serve on its behalf:
a. Transfer Student”

Non-voting legislative representatives' primary distinguishing feature is that they do not hold voting rights in the Senate. Additionally, the non-voting legislative representative position is not given the power to serve on either the Finance or Internal committees in Article II, Section D, Subsection 2, Sub-subsection c.:

“Representatives shall serve on two standing committees, with the exception of Internal Affairs and Finance Committee.”

This definition further differentiates Non-Voting Legislative Representatives from Senators by withholding governing and financial responsibilities from Senate Representatives.

However, despite outlining the responsibilities and rules surrounding a Non-Voting Legislative Representative's function in the Senate, the governing documents lack a concrete definition by which a Non-Voting Legislative Representative is selected. Nor does it outline a process by which the Senate determines what groups qualify as a Non-Voting Legislative Representative versus a Constituency Senator. Without additional structural guidance, the distinction between these roles relies primarily on historical precedent rather than codified procedure.

Further, there are existing provisions that address the review and oversight of Non-Voting Legislative Representatives. These provisions suggest that the necessity and effectiveness of these positions are periodically evaluated, but the process for introducing new positions or altering existing ones remains unclear. Under Article II, Section D, Subsection 2, a & b:

“a. Legislative Liaison positions shall be reviewed every three years by the Internal Affairs committee.
b. The positions necessity, success, and legislative status are subject to review.”

Currently, SJC has found no evidence that the Transfer Student Representative position has been filled since its establishment in February 2020. Additionally, there is no record of the Internal Committee conducting a review of non-voting legislative representative positions, besides a renewal in the Fall of 2021, which should have been evaluated for renewal in Fall 2023.

Conclusion

SJC has determined that there is no clear definition or framework in the USG Constitution and Bylaws for what makes a constituency eligible for Senate representation, nor did legislative documents provide a detailed appointment process for Constituency Senators or Non-Voting Legislative Representatives to the Senate. Therefore, SJC has provided an outline above for USG's current processes based on role descriptions from the governing documents. While this annotated outline may clarify some aspects of the questions presented, SJC suggests further explanation and development of what these roles entail within the governing documents.

Any actions taken to expand the Senate or modify the roles of Constituency Senators and Non-Voting Legislative Representatives should be approached with caution, as they may encounter constitutional, procedural, or legal challenges due to the ambiguities in the governing documents. The Senate may want to consider undertaking comprehensive updates to the Bylaws and Constitution to better reflect the current and future needs of the student body, ensuring that the Senate's expansion aligns with clear guidelines and legitimate constitutional authority.

Recommendations

Based on the limited framework that is provided in the current USG Constitution and Bylaws, it is recommended that the Senate establish more explicit baseline requirements for what qualifies a constituency as eligible for representation. As part of this process, criteria should be created outlining when and how a new Constituency Senator position should be introduced. These criteria should be written in such a way that it is adaptive to evolving student needs and should therefore have a review policy to ensure that it is updated regularly. Clarity regarding this matter will largely rest on the Bylaws being updated and amended accordingly, with a more transparent and structured process for the addition of new Constituency Senator and Non-Voting Legislative Representative positions.

SJC recommends that the Internal Affairs Committee works in conjunction with the Justice and Equity committee and USG leadership to reinvigorate the **USG Constituency Senator Restructuring Commission** that was temporarily established by President Winterlin's 2023-2024 Executive Order. The commission could work towards forming an official policy outlining the differences in the roles, responsibilities, voting abilities, and the basis for classification for both Representatives and Constituency Senators.

Given the sensitive and turbulent nature of defining and appointing Constituency Senators and Non-Voting Legislative Representatives, SJC recommends that USG leadership consults with USG advisors and other relevant campus partners to ensure that a concrete process is created. Due to the overt lack of an established selection and denial process, SJC recommends that no additional Constituency Senators or Non-Voting Legislative Representatives be appointed until a thorough process is established and vetted.

Limitations

While this advisory opinion aims to provide clarification, several limitations of it must be acknowledged. All recommendations provided should be considered within the context of these constraints.

One major limitation is the lack of updated constitutional guidelines regarding the addition or responsibilities of Constituency Senators and Non-Voting Legislative Representatives. The USG Bylaws and Constitution do not provide a comprehensive framework for how and when new Constituency Senator positions may be created, alluding to potential ambiguity in interpreting the governing documents. Without a clear set of criteria, any decisions made regarding Senate expansion could be challenged as lacking constitutional authority. Along with this, the lack of Bylaw updates to reflect the recent structural changes or evolving student needs may result in constraints due to outdated language and provisions.

Compliance Statement

This advisory opinion was issued in accordance with the governing documents and procedures of the University of Iowa's Undergraduate Student Government (USG) and the Student Judicial Court (SJC). All relevant provisions of the USG Constitution and Bylaws, as well as the established procedures of the SJC, were followed in the issuance of this opinion.

Please note that this advisory opinion is non-binding but serves as guidance for decision-making purposes within the Undergraduate Student Government at the University of Iowa. For further assistance or clarification, please contact the Chief Justice Faith Briones.

Thank you,

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Chief Justice

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