



Student Union Assembly (SUA), Office of the Chair

1156 High Street, Santa Cruz, CA 95064
Student Union Assembly 2nd floor

June 17th, 2014

To: Student Union Assembly Officers and Representatives
From: SUA Chair Shaz Umer

Subject: Chair Umer Report on Divestment Resolution 2013-2014

Following the conclusion of the SUA meeting on Wednesday May 29th I received several questions regarding the validity of the vote and procedural process. Please find my comprehensive review which includes my comments on loose interpretation of University Policy and Robert Rules of Order Newly Revised 11th Edition. This report is meant for the SUA to review all questions as a reference for the concerns that were raised throughout the last few weeks leading up to and after the resolution had initially passed.

In considering this report, I found it helpful to provide an outline of all of the questions.

Question/Inquiry	Reviewed/Dismissed	Recommendation	Reference
Title VII	Dismissed	n/a	n/a
SUA Constitution Article I Section D: Nondiscrimination	Reviewed	yes	See report: University Policy
Process for Suspending Bylaws	Reviewed	n/a	n/a
Process for suspending bylaws after vote on main motion	Reviewed	no	See report: fundamental principles of parliamentary law
Standing rules	Reviewed	Yes	See report: Parliamentary Procedure
One-week notice for suspension	Dismissed	No	n/a
Previous notice on suspension	Reviewed	Yes	See report: Parliamentary Procedure
Process for motion to reconsider	Reviewed	n/a	n/a
Voting by members present or total membership	Reviewed	n/a	n/a



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Voting by raise of hands on suspension – Call for Division of the Assembly	Reviewed	Yes	See report: Parliamentary Procedure
Call for Orders of the Day – Suspension of bylaws was out of order	Reviewed	yes	See Report: Parliamentary Procedure
Counting Abstentions as ‘no votes’	Dismissed	No	n/a
Previous suspensions this year	Dismissed	No	n/a
Reducing threshold on campus-based student fees	Dismissed	No	n/a
Allowing non-students to speak during public comment	Dismissed	No	n/a

With this backdrop in mind, I will now address the four bases that were part of the review process.

1. University Policy

An issue was raised regarding Title VII: Civil Rights Act of 1964. This issue rose with concerns about the resolution that may have had criticisms towards the state of Israel or Israeli policies which are inherently anti-Semitic. However, I have dismissed this as a concern as it’s the responsibility of the University to advise or to look into any cases that may violate university policy. However, a similar complaint has come up regarding Article 1. Section D of the SUA constitution

2. SUA Constitution

Article I. Section D Nondiscrimination:

The Student Union Assembly shall not participate in or affiliate with any organization which discriminates (as discrimination is legally defined¹) on the basis of: race, color, national origin, creed, gender, religion, sex, disability, age, medical

¹ <http://www.eeoc.gov/laws/statutes/titlevii.cfm>



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condition, gender identity, ancestry, ethnicity, marital status, sexual orientation, military status, or socioeconomic status.

“Whereas, Elbit has been involved heavily in the construction of the *Apartheid* Wall in the West Bank.”

The word apartheid may have been used to delegitimize the state of Israel and is anti-Semitic. This may violate the SUA Constitution by discriminating against national origin. After reviewing this extensively, this clause is referring to the ‘security wall’ that is used to describe a barrier between the Palestinian and Israeli side.² The intent of the word is by interpretation only to describe the fence and not to discriminate or delegitimize. However, the use may be used to criticize certain policies around this issue.

“Whereas, UC Santa Cruz has a history of using divestment as a non-violent strategy, having used it to selectively and publicly divest from companies engaged in unethical acts, most notable in the case of South Africa and most recent in the context of fossil fuels;”

“Whereas, the role of student activists in exposing South Africa’s *Apartheid* system and supporting equality, freedom, and dignity sets an example for us to follow as students of global consciousness;”

The two above-mentioned clauses from the resolution are making a comparison between South Africa’s *Apartheid* system and the use of divestment tactics towards Israel³. This may be, to some extent, delegitimizing the state of Israel. However, this may be covered under the first amendment – freedom of speech.⁴

3. Bylaws and Robert Rules of Order Newly Revised 11th Edition

- a. Suspension of the Bylaws in order to reduce threshold to allow for simple-majority vote.

Article IX. Section B (1) “A two-thirds (2/3) vote of the SUA shall be necessary.

In addition Section C (15) (A) “Suspension of the Bylaws shall last only last for the duration of the meeting in which the motion is passed.”

² <http://america.aljazeera.com/articles/2014/3/12/visual-activism-activestillsphotographsthebarrierwall.html>; <http://www.jpost.com/Opinion/Op-Ed-Contributors/Israeli-Apartheid-the-new-form-of-anti-Semitism-343649>; <http://www.state.gov/r/pa/prs/ps/2011/10/175339.htm>

³ http://www.icc-cpi.int/nr/rdonlyres/ea9aef7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf

⁴ <http://www.uscourts.gov/multimedia/podcasts/Landmarks/NewYorkTimesvSullivan.aspx>



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- The vote to suspend the section C (10) (B) (II) (e) passed by the required two-thirds with the final vote being 24-12. There is nowhere in parliamentary procedures that explains in great detail that an assembly can suspend after the fact. However, we did follow procedure outlined in our bylaws which takes precedent of Robert Rules of order. Therefore, I don't see any immediate issues regarding this procedural move. However, the question rose regarding fundamental principles of parliamentary law.
 - o PG 263 lines 1-28: RULES THAT CANNOT BE SUSPENDED. Rules contained in the bylaws (or constitution) cannot be suspended-no matter how large the vote in favor of doing so or how inconvenient the rule in question may be-unless the particular rule specifically provides for its own suspension, or unless the rule properly is in the nature of a rule of order as described on page 17, lines 22-25. A rule in the bylaws requiring that a vote-such as, for example, on the election of officers-be taken by (secret) ballot cannot be suspended, however, unless the bylaws so provide (see also Voting by Ballot, pp. 412-13). No Applicable procedural rule prescribed by federal, state, or local law can be suspended unless the rule specifically provides for its own suspension. Rules which embody fundamental principles of parliamentary law, such as the rule that allows only one question to be considered at a time (p. 59), cannot be suspended, even by a unanimous vote. Thus, since it is a fundamental principle of parliamentary law that the rights to vote is limited to the members of an organization who are actually present at the time the vote is taken in a regular properly meeting (p. 423), the rules cannot be suspended so as to give the right to vote to a nonmember* (The rules may be suspended to allow for a nonmember to speak in debate). Since it is a fundamental principle that each member of a deliberative assembly is entitled to one-and only one- vote on a question, the rules may not be suspended so as to authorize cumulative voting (pp. 443-44).
- b. Violation of Standing Rules⁵
 - i. These included members of the public and assembly members not following the agreements that were voted on in fall 2013: 1) address the chair 2) no snapping. The enforcement of such rules are outlined in the duties of the presiding officer of an assembly (pp. 449-451)

⁵ <http://sua.ucsc.edu/assembly/governing-documents/Community%20Agreements>



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1. To open the meeting at the appointed time by taking the chair and calling the meeting to order (p. 25), having ascertained that a quorum is present (p. 21; 40).
 2. To announce in proper sequence the business that comes before the assembly or becomes in order in accordance with the prescribed order of business, agenda, or program and with existing orders of the day (41).
 3. To recognize members who are entitled to the floor (pp. 29-31; 42)
 4. To state and to put to vote all questions that legitimately come before the assembly as motions or that otherwise arise in the course of proceedings (except questions that relate to the presiding officer himself in the manner noted below), and to announce the result of each vote (4); or, if a motion that is not in order is made, to rule it out of order.
 5. To protect the assembly from obviously dilatory motions by refusing to recognize them (39).
 6. To enforce the rules relating to debate and those relating to order and decorum within the assembly (pp. 22-25, 42-44; 43)
 7. To expedite business in every way compatible with the rights of members.
 8. To decide all questions of order (23), subject to appeal (24)-unless when in doubt, the presiding officer prefers initially to submit such a question to the assembly for decision.
 9. To respond to inquiries of members relating to parliamentary procedure (parliamentary inquiry, pp. 293-94) or factual information (request for information, pp. 294-95) bearing on the business of the assembly.
 10. To authenticate by his or her signature, when necessary all acts, orders, and proceedings of the assembly.
 11. To declare the meeting adjourned when the assembly so votes or-where applicable-at the time prescribed in the program, or at any time in the event of a sudden emergency affecting the safety of those present (8,21).
- ii. Section C (13) (D): No person at the meeting shall engage in disrespectful or disruptive behavior, or to attempt to disrupt the decorum of the chambers. Any person doing so may be asked to leave by presiding officer.
- c. Previous notice (pp.121-124) on suspension. According to Section B (1).
“A two-thirds (2/3) vote of the SUA shall be necessary to ratify, modify,



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or *suspend* portion of the bylaws.” (2). “One-week notice must be given to the Assembly before amendments, creation or removal of any bylaws.”

- i. A suspension isn’t specified in B(2) as it is in B(1); therefore, doesn’t necessarily require a one-week’s prior notice. However, this leads on the next concern of requiring previous notice which is outlined in parliamentary procedure
- ii. Previous notice on this resolution should have been given before the motion could have been recognized regarding suspension of any bylaws pg. 122 lines 6-16:
 1. Accordingly, it is ordinarily desirable to give previous notice if there is a possibility of serious disagreement. The adoption or amendment of special rules of order requires (a) previous notice and a two-thirds vote or (b) a vote of majority of the entire membership-as does the amendment of bylaws if they do not prescribe the procedure for their amendment, which they should do. Bylaws sometimes provides requirement of notice for original main motions dealing with certain subjects.
 2. Lines 19-25: If previous notice is given at a meeting, it can be given orally unless the rules of the organization require it to be in writing-which is often the case with notice of amendments to bylaws. Unless the rules require the full text of the motion, resolution or bylaw amendment to be submitted in the notice, only the purport need be indicated; but such a statement of purport must be accurate and complete.
 - a. Based off of this information, previous notice should have been given. Since there was no previous notice on the motion to suspend C (10) (B) (II) (e), the vote would have required a majority of total membership in addition to the two-thirds required by our bylaws. The vote to suspend the section was 24-12. Total membership of the SUA is forty-two (42). In this case, majority of total membership was achieved, and therefore a violation of previous notice did not occur.
- d. Process to reconsider was valid – no comments
- e. Pg. 14 Table of Rules Relating to Motions: The vote needed for suspension of the bylaws was 24-12 (66.67% or 2/3rds). Since this vote barely reached threshold, a member should have called for a ‘Division of the Assembly’ which calls for verification of a voting result by an uncounted rising vote or in this case raise of hands. Once recognized, and



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the motion is made, it doesn't require a second, we would have immediately gone into a roll call vote on the suspension to ensure the vote reached the 2/3rds majority.

- f. Orders of the day pg. 354-375: An order of the day is a particular subject, question, or item of business that is set in advance to be taken up during a given session, day, or meeting, or at a given hour, provided that no business having precedence over it interferes.
 - i. Pg. 373 lines 1-9: Changing an agenda (this includes the suspension of the bylaws) - When the adoption of a proposed agenda is pending, it is subject to amendment by majority vote. After an agenda has been adopted by the assembly, no change can be made in it except by two-thirds, a vote of majority of the entire membership, or unanimous consent. (Taking up business out of its proper order, pp. 363-364; p. 630, lines 12-17)
- g. SUA Votes using majority of the entire membership which is (pg. 403-04): total number of those who are members of the voting body at the time of the vote. In a convention members entitled to vote as set forth in the official roll of voting members of the convention (pp. 7, 617). The vote of a majority of the entire membership is frequently an alternative to a requirement of previous notice and is required in order to rescind and expunge from the minutes (see p. 310). Otherwise, prescribing such a requirement is generally unsatisfactory in an assembly of an ordinary society, since it is likely to be impossible to get a majority of the entire memberships even to attend a meeting, although in a certain instances it may be appropriate in conventions or in permanent boards where the members are obligated to attend the meetings.
 - i. SUA Constitution Article II Section E (3): Abstentions by members of the Assembly shall not be counted towards any constitutionally required two-thirds (2/3) vote.

4. Other inquiries

- a. The SUA suspended a portion of its bylaws four times this year. The first three were all budgetary items, and the suspension took place before the vote on the main motion was taken. This is different than what had occurred on Wednesday May 29th when the suspension happened after the vote on the main question was recorded.
- b. Winter Quarter 2014, the SUA voted to reduce a mandatory 33.3% threshold required for all campus-based student fees to meet in order to be considered. However, this was compared to the suspension of the bylaws in order to reduce the two-thirds required for simple majority. What was overlooked in this inquiry was SUA did in fact reduce the campus-based student fee threshold to 25% but also increased the required threshold for it to pass by at 66% approval from the overall voter turnout as specified in



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UCSC Student Policies and Regulation Handbook section 84.00

“Procedures and Required Approvals for Establishing or Increasing a Campus-Based Student Fee⁶.

- i. Campus-Based Compulsory student fees 2010-2013: required 33.3% voter turnout with a simple-majority approval (50% plus one).
 - ii. Campus-Based Compulsory student fees 2014: required 25% voter turnout but with a super-majority approval (66.0%).
- c. The final question raised was whether or not individuals who were not members of the SUA space, specifically those who weren't undergraduate students, are allowed to make announcements or speak in public comment. This inquiry was dismissed since it states in Bylaws Section C (8) (B): Announcements from non-members, as defined in the constitution, shall be permitted upon the approval of the presiding officer. In this case, public comment allowed for anyone in the space to speak for a maximum of one time for two minutes. Debate during this time was not allowed. SUA Constitution Article 2 Section D confirms the forty-two voting members in addition to the four advisory members. After public comment, the SUA assembly went into debate for an additional two hours and discussion was restricted to voting members.

⁶ <http://deanofstudents.ucsc.edu/pdf/student-handbook-interim-sept-2011.pdf>