

**THE JUDICIARY OF THE LAW SCHOOL GOVERNMENT,
STUDENT BAR ASSOCIATION OF THE
WILLIAM S. RICHARDSON SCHOOL OF LAW**

In the Matter of SBA Dues, 2014-2015 Academic Year

Per Curiam

No. 2014-1

1. Both Associate Dean for Student Services Ronette Kawakami and Law School Government (LSG) President Makana Paris have independently requested that the Judiciary address questions regarding the Executive Board's ability to set the level of the Student Bar Association (SBA) dues. The questions were formulated differently, but both questions in effect request review of the Executive Board's August 4, 2014 decision to set the level of SBA dues for incoming 1Ls at \$65, a \$5 increase over prior years.

2. As this is the first case the Judiciary has been asked to address, we are still developing our procedures and will need some time to complete a full opinion. In the interests of providing the Executive and the Administration with the guidance needed to prepare for the incoming class, we are issuing this ruling now, in advance of a full opinion. Although this ruling is brief, it is the holding of the court, and is a binding decision on the merits of the Executive action in question. The opinion we issue subsequently will provide fuller reasoning for these holdings.

3. As a matter of first impression, we hold that the Executive and Legislative branches each have standing to request judicial review of the actions of either their own or the other branch of the government. *See* SBA Constitution §5.3.1.

4. As a matter of first impression, we hold that the Law School Administration has standing to request judicial review of the actions of the Law School Government in matters where the Administration will have an active role in executing the policies of the LSG. *See* SBA Constitution § 5.3.1; SBA Constitution §§ 1.6 – 1.7.

5. We hold that all branches of the Law School Government have an obligation to act to ensure the administrative continuity of both the Student Bar Association and the Law Student Government. *See* SBA Constitution § 1.9.3. In the event that a branch of the government fails to take actions necessary to ensure that the SBA and/or the LSG are able to function during an upcoming academic year, the other branches are obligated to act in their stead even if such actions would not normally fall within their ambit under the SBA Constitution. *See* SBA Constitution §§ 1.9.1, 1.9.3, 1.9.5, 2.2. However, failure to act by one branch of the LSG requiring the intervention of another branch must not be the result of a mere difference of opinion between branches or any other “political” reason. Such a failure to act must present a clear risk that the SBA and/or the LSG would be unable to function. If such intervention does become required, it would be subject to review by the Judiciary through standard procedures. *See* SBA Constitution § 5.3.

6. When acting to ensure administrative continuity, care must be taken to ensure that any trespass into the domain of another branch of the LSG is limited to the bare minimum required to ensure continuity.

7. We take notice of the Senate vote of April 23, 2014, which explicitly rejected a proposal to increase SBA dues for the upcoming school year. We hold that, however far the discretion of the Executive to act to “ensure LSG administrative continuity” may extend, it does not extend so far as to effectively overrule the express actions of the Senate in a matter that is explicitly committed to the Senate. *See* SBA Constitution §§ 2.2, 4.6.1, 4.6.3.

8. We therefore hold that while the Executive has the obligation to ensure that dues are collected from the incoming class in order to ensure the administrative continuity of the SBA, the Senate’s explicit rejection of a dues increase during the Spring, 2014 semester barred the Executive Board from taking any action that would constitute a dues increase. Simply put, while the Senate may have failed to explicitly set the dues for the upcoming year, the Senate did not fail to address the question of increased dues.

9. The Executive Board decision to set the dues for the incoming class of 2014 at \$65 is overturned as contrary to the SBA Constitution. In the interests of preserving the administrative continuity of the Student Bar Association, the Executive is directed to ensure that dues are collected from the incoming class, in an amount not to exceed \$60 for incoming JD students.

10. The Executive Board decision to set the dues for LLM, transfers, visiting, and UBC students does not reflect any increase over the prior year, and is therefore not in conflict with the Senate’s decision to reject a dues increase. We therefore hold that this decision was within the Executive’s discretion, and uphold the Executive action as a proper exercise of the Executive’s obligation to ensure continuity.

11. The Executive Board set the dues for incoming Advanced JD (AJD) students at \$45. AJDs are a new classification of student at the Richardson School of Law, entering in Fall 2014, so no dues amount has ever been set for them. Under § 2.2 of the SBA Constitution, students do not become full members of the SBA until they pay dues. If the Senate was to set dues for AJDs after the beginning of the semester and then ask the Treasurer to collect dues from the new AJDs, it could create ex post facto issues. *See* SBA Constitution §§ 3.3.6, 4.4. Therefore, considering that new students would be without full membership in the SBA – ensuring incoming students have the opportunity to attain full membership to gain the associated privileges certainly being a function of the SBA – and considering the lack of Senate action this issue, we hold that it was within the Executive’s power to set dues for AJD students.

12. Although our decision leaves the dues for incoming AJD students at an amount that is greater than the per-semester amount charged other students, we are unwilling to overturn the specific dollar amount on the current record. The Executive Board minutes do not reflect, for example, whether the dues were intended to be set entirely on the basis of semesters enrolled, or whether the amount is intended to also include some sort of base charge in addition to per-semester enrollment. We wish to make it clear that our decision to uphold the \$45 amount is based on the question before us, and that the question of the appropriateness of the amount may be revisited either on the basis of a subsequent request from a branch of the LSG or on the basis of a specific challenge brought by an incoming AJD student.