

Associated Students, Inc.
California Polytechnic State University
San Luis Obispo

Resolution #20-07

RESOLUTION OF CENSURE OF THE BOARD CHAIR

- WHEREAS: The ASI Board of Directors serves as the official voice of students at California Polytechnic State University (Cal Poly), San Luis Obispo; and
- WHEREAS: The ASI Board of Directors is simultaneously charged with guarding the integrity of a 501(c)3, nonprofit corporation and managing a \$19 million budget; and
- WHEREAS: In February 2020, the ASI Executive Director learned of possible unauthorized compensation given by the Chair of the ASI Board of Directors (Chair) to the chairs of ASI standing committees¹; and
- WHEREAS: Thereafter, in a meeting with the ASI Executive Director, ASI Associate Executive Director, and the Chair confirmed he made payments of \$1,500 each from his personal funds to the four standing committee chairs not currently receiving ASI scholarship funding²; and
- WHEREAS: The Chair attempted to keep these payments confidential, which indicated he knew the payments may have been inappropriate, and which demonstrated an intentional lack of transparency and failure to consult the Board of Directors; and
- WHEREAS: The ASI Bylaws explicitly state, “all corporate power should be exercised by or under the direction of the Board of Directors”³; and
- WHEREAS: The payment of additional compensation to the committee chairs for their, “good work”, regardless of the source of these funds, was an exercise of corporate powers without authorization from or prior notice to the Board of Directors⁴; and
- WHEREAS: The Chair is responsible for ensuring the Board of Directors exercises its ultimate management responsibilities for fiscal, operational and personnel policies⁵; and
- WHEREAS: In the case of speaking pro or con on any issue, the Chair is required to step down as Chair demonstrating their role as a neutral facilitator⁶; and

¹ ASI Board of Directors Meeting Minutes #20-12; <https://www.asi.calpoly.edu/discover-asi/public-documents/agendas-minutes/board-of-directors-minutes/>

² Ibid

³ ASI Bylaws, Section 4.2.1

⁴ ASI Board of Directors Meeting Minutes #20-12; <https://www.asi.calpoly.edu/discover-asi/public-documents/agendas-minutes/board-of-directors-minutes/>

⁵ ASI Bylaws, Section 7.4.3

⁶ ASI Bylaws, Section 7.4.3.5

WHEREAS: Although ASI is not aware of any violations of law or university regulations, and the ASI Bylaws do not directly prohibit the Chair's payments to the standing committee chairs, his actions demonstrate impropriety, a neglect to acknowledge the risk to ASI as a corporation, and ultimately a failure to act as a neutral facilitator without consultation with the board; and

WHEREAS: The Board of Directors, including the Chair, is bound to follow California Corporations Code, which mandates that a director has a Duty of Good Faith, a Duty of Inquiry, and a Duty of Loyalty to the Corporation⁷; and

WHEREAS: The Duty of Good Faith, as outlined in the California Corporations Code, as well as the ASI Bylaws Section 4.7.1, requires one to act "in the best interests of the Corporation and its shareholders" and refrain from actions which may injure the Corporation⁸; and

WHEREAS: The Chair's actions have caused conflict and upset among board members and have disrupted the operations of the board, thus demonstrating a failure to act in the best interest of the corporation, abandoning his Duty of Good Faith; and

WHEREAS: If the Chair is uncertain if their actions are in Good Faith, The Duty of Inquiry requires them to act "with such care, including reasonable inquiry"⁹; and

WHEREAS: While the Chair did inquire with relevant full-time staff, they advised him against giving gifts, and encouraged him to speak with the ASI Associate Executive Director; and

WHEREAS: The Chair did not seek advice from the ASI Associate Executive Director regarding the legal or corporate impact of his actions, and ultimately acted in his own interest, abandoning his Duties of Good Faith and Inquiry; and

WHEREAS: The Duty of Loyalty includes a duty "to avoid conflicts of interests between the directors individually and the Corporation"¹⁰; and

WHEREAS: In awarding monetary gifts to certain board members, the Chair not only created the appearance of impropriety, but also created a potential conflict of interest by him and the leaders of the standing committees, violating his Duty of Loyalty; and

WHEREAS: In order to preserve the integrity of the Chair position, the integrity of the ASI Board of Directors, and the integrity of Associated Students Incorporated as a California Polytechnic State University

7 California Corporations Code Section 5231 (a) and 309 (a); <https://leginfo.ca.gov/faces/codesTOCSelected.xhtml?tocCode=CORP&tocTitle=+Corporations+Code++CORP>

8 Ibid

9 ASI Bylaws, Section 7.4.1

10 Lawyer's Document

auxiliary organization, a Resolution of Censure of the Chair is an appropriate sanction for the Chair's violation of the Duty of Good Faith, Duty of Inquiry, and Duty of Loyalty and requires the Board of Directors to act accordingly; and

THEREFORE
BE IT

RESOLVED: The ASI Board of Directors hereby censures Rob Moore, Chair of the ASI Board of Directors for his actions and the reasons documented in this Resolution.

Certified as the true and correct copy, in witness thereof, I have set my hand and Seal of the San Luis Obispo Cal Poly Associated Students, Inc. this _____ day of _____, 2020.

ADOPTED at the regular meeting of the Board of Directors at San Luis Obispo Cal Poly Associated Students, Inc. this _____ day of _____ 2020.

Attest: _____
ASI Secretary

Signed:
ASI Chair of the Board

Signed:
ASI President

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