

# WARREN COLLEGE JUDICIAL BOARD

*Herrick v. WCSC*

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|----------------------------------|---|-----------------------------------|
| Mathew A. Herrick,               | ) |                                   |
| Warren College Freshman Senator, | ) |                                   |
| Complainant,                     | ) | November 10, 2004                 |
|                                  | ) |                                   |
| v.                               | ) |                                   |
|                                  | ) | <b>Order Granting Request</b>     |
|                                  | ) | <b>For Preliminary Injunction</b> |
| Warren College Student Council,  | ) |                                   |
| Respondent.                      | ) | B                                 |
|                                  | ) |                                   |
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Before Chair KHANNA.

## I

On November 8, 2004, complainant Mathew A. Herrick filed a Rules Violation Grievance alleging that Warren College Student Council had violated three of its bylaws in funding the *APSA High School Conference* on October 28, 2004, namely Article I §A, Article IV §A, and Article V §E-1 of the *WCSC Financial Bylaws*. Mr. HERRICK is asking for a preliminary injunction to prevent the funds from being released to APSA for this event until a full hearing can be held. For a preliminary injunction to be granted, “the complainant must show that a) there is probable cause the complaint is true and b) the harm to be incurred by the complainant if the preliminary injunction is not issued is greater than the harm to be suffered by the accused if the preliminary injunction is issued” (WCJB Bylaws, Art. VI §A-4).

## II

We first examine whether or not the complainant showed that there was probable cause the complaint is true. Probable cause in this instance is interpreted to mean: a reasonable belief that Council has violated its bylaws. In the context of that interpretation, we evaluate Mr. HERRICK’s three alleged violations.

The first bylaw Mr. HERRICK charges as violated is “Warren College Student Council (WCSC) shall allocate its funds to serve the Warren College Student body (WCSB) and to support registered UCSD and Warren Organizations whose projects benefit the Warren community” (WCSC Financial Bylaws, Art. I §A). Upon examination, this breaks down into three questions. 1) Did funding this event serve the Warren College Student Body in any way? 2) Is APSA a registered UCSD or Warren Organization? 3) Does the event we funded benefit the Warren community? To answer question 1, we refer to the comments of the spokesperson for the accused, Warren Student Advocate Charlene Cheng. Miss CHENG remarked in the preliminary hearing that there are “there are approximately 40

active members from Warren College on APSA at this time; at least 20 of those members sit on the APSA board and the high school conference committees.” Although this claim requires witnesses to be substantiated, even if it is partly true, clearly the event will affect the Warren College Student Body in some way. Therefore the answer to question 1 is a yes. The answer to question 2 should quite obviously be yes; APSA is a registered SOLO UCSD organization. The answer to question 3, however, is not so clear. Does this high school conference benefit the Warren community? Does the conference have to benefit just one Warren student for it to be ‘benefiting the Warren community’ or does it have to affect some critical mass? Or perhaps benefiting the Warren community has nothing to do with the number of people affected, but rather a program that increases diversity at Warren (like the event in question) is a benefit to the Warren community, even if no current Warren students are directly affected. This is a question that cannot be answered without further investigation. Because we have no answer at this point, we are forced to take a strict interpretation of that particular bylaw and assume that there has to be a direct benefit to the current (not future) Warren community, and therefore a reasonable belief argument that Council has violated its Financial Bylaws can be sustained.

At this point, we have established probable cause for Mr. HERRICK’s charge that Council violated Article I, §A of the *WCSC Financial Bylaws*. Although that would be sufficient to move on to the second criterion for issuing a preliminary injunction, we will continue to examine the probable cause/reasonable belief arguments of Mr. HERRICK’s second and third claims for the sake of completeness.

The second bylaw Mr. HERRICK charges as violated is “WCSC shall not fund the following types of events: those that do not benefit Warren College students or the Warren Community [and] those not open to Warren students” (WCSC Financial Bylaws, Art. IV §A). This breaks down into two questions: 1) Does this event benefit either Warren College students or the Warren Community? 2) Is this event open to Warren students? Question 1 is similar to question 3 of Mr. HERRICK’s first charge, however it is a slightly lower bar for Council to pass because the event can affect Warren College students OR the Warren Community. We have already established that whether or not the event affects the Warren community is a question that needs further investigation. Does this event benefit Warren students? What qualifies as affecting Warren students? Does it affect one student? Ten? A hundred? Or should it not be quantified? This question is impossible to answer in a preliminary hearing; however, if we are again forced to take the strictest possible interpretation, affecting one Warren student qualifies as ‘affecting Warren students.’ Therefore, the answer to question 1 is yes, because it affects Warren students even though it doesn’t necessarily affect the Warren community. The second question we consider is whether or not this event is open to Warren students. According to the minutes of the Legislative Board meeting on October 28, 2004, “Erik: How many Warren students do you expect will attend? APSA: I don’t know an exact number, but we have a lot of volunteers from on campus orgs who are helping out. Yee: How can we sign up to help you guys and volunteer? Do you guys have a volunteer booth? APSA: I believe we have our contact info on the budget sheet and you can contact us that way” (Minutes 10/28/04, WCSC Legislative Board). From APSA’s response, we can infer that Warren students are allowed and encouraged to help with the event. This begs the

question: does Warren students 'helping' with the event qualify as the event itself being open to Warren students? Although this is a question that also requires further investigation, I do not believe that there is a reasonable belief that this event is not open to Warren students if Warren students are encouraged to help out. It is a question to examine in a full hearing; however, as it stands, I hold that it does not meet the standard of reasonable belief. Therefore, taken as a whole, Mr. HERRICK's second charge does not meet the standard of probable cause.

The third bylaw Mr. HERRICK charges as violated is "The organization must name WCSC as a co-sponsor of its event on all publicity. Failure to do so may result in the suspension of any future funding to the organization. The event must be advertised to Warren Students" (WCSC Financial Bylaws, Art. V §E-1). Any argument that the Judicial Board should suspend funding for this event on the grounds of that APSA violated these bylaws is categorically rejected. The respondent in this case is Warren College Student Council, not APSA. If APSA does not follow through with their obligations, the Legislative Board has the authority and the responsibility to suspend their funding for future events; the Judicial Board should not and does not have jurisdiction over the matter. There is a subtle, but important distinction. In the previous two charges, the requirements that Warren Council fund only events that affect Warren students or the community are requirements of *Council*. The requirements articulated in these bylaws that APSA advertise to Warren students and list WCSC as a co-sponsor are requirements of *APSA*. Again, I reiterate that this grievance is filed against Council, and not APSA. Therefore, this charge is not valid and certainly does not meet the standard of probable cause.

Out of complainant's three charges, one of them has met the standard of probable cause. This is sufficient to examine the second criterion of issuing a preliminary injunction.

### III

The event in contention is occurring this Saturday, November 13, 2004. If the injunction is not issued and the funding is disbursed to APSA, the complainant's case would become little more than an empty exercise in student governance jurisprudence. A precedent may very well be set, but the case itself would have no substance and no real controversy would exist. All of complainant's arguments would cease to have any real substance. If, however, the injunction is to be issued, Warren College Student Council would feel the very real effects and the potential backlash of student orgs who feel they cannot trust the funding issued by Council at a meeting. Both of these are very serious concerns. However, I hold that the harm to be incurred by the complainant if the preliminary injunction is not issued is greater than the harm to be suffered by the accused if the preliminary injunction is issued. If the injunction were not issued and the funding were disbursed, complainant would lose any path of judicial relief; the money would be irrevocably spent. Complainant requires this injunction for this case to be meaningful and for it to go forward. The complainant satisfied the second criterion for a preliminary injunction.

### IV

Complainant satisfies the two conditions for a preliminary injunction: probable cause the complaint is true, and that the harm to be incurred by the complainant if the preliminary injunction is not issued is greater than the harm to be suffered by the accused if the preliminary injunction is issued. I reiterate that this is a preliminary hearing and a preliminary decision and they have no bearing on the outcome of the final case. This temporary ruling may be upheld, or it may be vacated by the full Judicial Board.

The preliminary injunction is granted and funding to the APSA High School Conference event is hereby temporarily suspended, pending a full hearing by the Warren College Judicial Board. The Business Manager is requested to not disburse any of the approved funds to APSA for this event until further notice by the Warren College Judicial Board.

*So ordered.*

Chair HARRY KHANNA  
Preliminary Hearing Officer  
Warren College Judicial Board