

# WARREN COLLEGE JUDICIAL BOARD

*Herrick v. WCSC*

Mathew A. Herrick,	)	
Warren College Freshman Senator,	)	
Complainant,	)	November 10, 2004
	)	
v.	)	
	)	<b>Order Denying Motion for</b>
	)	<b>Chair KHANNA's Disqualification</b>
Warren College Student Council,	)	
Respondent.	)	A
	)	
	)	
	)	

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Before Chair KHANNA.

## I

Complainant filed a motion on November 9, 2004 requesting that the presiding member recuse himself over both the preliminary hearing and any other potential hearings having to do with this case. He cites that the member spoke in favor of the original funding request at the WCSC Legislative Board meeting and is therefore predisposed to a particular outcome in this case. The *Bylaws of the Warren College Judicial Board* state that 1) "WCJB members shall be required to recuse themselves from a case to which they are a party or a witness" and 2) they "shall be expected to use good judgment in determining if they have a conflict of interest in a case to which they have a personal connection and recuse themselves accordingly" (WCJB Bylaws, Art. III §A).

## II

The argument put forth by complainant involves the fact that I am on record as supporting the funding of the event in contention and thusly I should disqualify myself from the case because of potential bias. I remind complainant that the Legislative Board meeting in which the alleged violation occurred was a "big" meeting (for lack of a better term) in which all *ex officio* members of Legislative Board were required to attend. All Judicial Board members are *ex officio* members of Legislative Board. Therefore, all Judicial Board members were required to attend this meeting. Implicit in this requirement to attend the meetings is the requirement to participate in the meetings. Attendance of *ex officio* members at Legislative Board meetings would be of little value if the *ex officio* members could not participate. Theoretically, all of the Judicial Board members should have been present at this meeting and all of them should have participated in the vigorous debate that ensued on funding this particular program. If I were to disqualify myself from this case, it would send a very mixed message to all members of Judicial Board. On one hand, they are encouraged to participate in the debates in Legislative Board; on the other hand, the moment a grievance is filed they would all be asked to step down for having an

opinion on the issue. This is unacceptable and the distinction must be drawn between having an opinion and having a bias.

### III

This brings us to the question of whether my actions fall under the two requirements for recusal articulated in the *Bylaws of the Warren College Judicial Board*. Clearly, I am not a party or a witness to the case, so my actions do not fall under the first category.

However, do my actions fall under a ‘personal connection’ to the case? I would argue that personal connection implies that I have a personal, vested interest in the outcome of the case, for example, if I were a member of APSA. In my opinion, debating the merits of a program as an *ex officio* member of Legislative Board does not correlate to a personal connection. Because the bylaws require that I use my own “good judgment” in determining if I have a personal connection to the case, and my judgment is that I do not have a personal connection to the case, I conclude that my actions do not fall under the requirements for recusal (WCJB Bylaws, Art. III §A-2).

### IV

It is important to note that unless the member in question is a party or a witness to the case, s/he has the sole discretion over whether or not to take him/herself off the case. The personal good judgment that the member must use in determining whether or not s/he has a personal connection to the case is one that may only be exercised by that member and whomever s/he wishes to confer with. No one may push anyone off a case if the member in question is not a party or a witness to it. In the instant case, I consulted with the Judicial Board, and the recommendation was that I should not remove myself from the case. I have accepted their recommendation, and complainant’s request for my disqualification is denied.

*So ordered.*

Chair HARRY KHANNA