

Section 11: Letter Accepting Spring 1999 Amendments

October 1, 1999

Mike Levin
President
Associated Students of Stanford University
Stanford, CA 94305

Dear Mike,

I write in response to the ASSU request for approval of its Spring 1999 Constitutional Amendments, as submitted to me on May 5, 1999 by 1998-99 ASSU President Maren Norton.

As you know from my letter of June 1, 1999, the amendments included a number of substantial changes and required considerable thought and review. Early discussions regarding the proposed amendments raised a number of issues. I understand that the ASSU leadership and the Dean of Students and his staff met this summer to address these issues and develop possible solutions that could serve as interpretations or conditions for my approval. I have reviewed the conclusions of the working group and have used them as the basis for the interpretations and conditions included in this letter.

The separation of the existing ASSU singular structure into a dual undergraduate and graduate one is a change that I understand and am willing to support. It is my hope that this change will help the ASSU strengthen its ability to serve all Stanford students.

The University thus hereby transmits its acceptance of the Spring 1999 Constitutional Amendments, subject to the conditions and interpretations stated below:

Interpretations and Conditions

1. That the references to "consensus" in Article III, Section 6 shall be interpreted to mean "an opinion or position reached by a group as a whole, where each member of the group is willing to accede to the decision."
2. That Article III, Section 6.6 shall be understood to mean that in the absence of consensus, there will be no joint meeting of the Association legislative bodies.
3. That Article III, Section 6.7 shall be interpreted to mean that for items of business that the Executive Committee deems deserving of joint consideration, these items must be approved by both legislative bodies according to procedures identified in the Constitution or in each legislative body's respective By-Laws; and that without such approval from both legislative bodies, no action is taken.
4. That Article V, Section 9.C.1, C.2, and D and Article VI, Section 4.B.3.b be approved with the interpretation that the words "the Senate" refer to "the relevant Association legislative bodies."
5. The second and third sentences of Article VII, Section 3 (unconditional acceptance if the University takes no action on the proposed amendment within 90 days) were apparently sought to be reintroduced in the 1999 Spring Constitutional Amendments even though I rejected such a clause in my May 10, 1996 letter of acceptance of the Spring 1996 Constitutional Amendments. I stand by my earlier rejection of this section, in which I stated:

"Although I am confident that I or a future president of the University would act expeditiously in reviewing submitted amendments, one can readily imagine a situation in which either the issues involved or the surrounding circumstances, or both, would make the 90 day deadline unreasonable. In addition, and for reasons stated in this letter, it is inappropriate for this amendment to seek to impose such a requirement on the University."

I believe that it would be constructive to reiterate what those reasons were and are. In that May 10, 1996 letter, I began by noting that:

"As a matter of educational philosophy, the University subscribes to the view that the student body should be given wide latitude in creating the forms and functions of student government, and in addressing the issues and activities within the purview of that student government. I believe that the history of the relationship between the ASSU and the University has borne out the successful nature of this approach."

I went on to state, however, particularly in reference to proposed Article I, Section 6 ("Independence"), the following condition for my approval:

"The University approves the amendments on the condition that each and every provision in the Constitution, including Article I, Section 6, be interpreted in light of and subject to the terms of the following introductory clause which is to precede the Constitution (which clause is drawn from language required by the Board of Trustees as a condition of its approval of the 1963 Constitution):

'In order to encourage responsible citizenship and the exercise of individual and corporate responsibility on the part of students in the government of student affairs and activities, Stanford University, by approval of this Constitution, authorizes the Associated Students of Stanford University to exercise and discharge major privileges and responsibilities within the framework of policies and regulations established by the University through the President of the University and the Board of Trustees.'

This approval is conditioned on the understanding that the Board of Trustees retains ultimate and final authority over the University under law and under the Founding Grant, anything to the contrary stated or suggested in this Constitution notwithstanding."

I explained that this condition was appropriate in light of the relationship between the University and the ASSU:

"It should be noted that the relationship between the University and the ASSU is a multifaceted and long-standing one. All students who enroll at the University are required, as a matter of University policy, to become members of the ASSU, and the University collects student fees on behalf of the ASSU. The University looks to the ASSU to provide forms of government and services, such as a banking mechanism for student organizations. The ASSU nominates students for appointment to serve on University committees. The University provides space for the functions of the ASSU, assists in the audit of its books and provides the insurance services of the University's self-insurance reserve. The University's name is allowed to be in the name of the Association. The broad language of 'independence' found in Article I, Section 6 does not, in the absence of the context provided above by the introductory clause, accurately reflect the interrelationships between the ASSU and the University - many of which are reflected in the provisions of the Constitution itself."

I noted that the condition imposed also comported with the duties of the Board of Trustees:

"Moreover, under the terms of the Founding Grant, it is specifically provided that the Trustees 'shall have power, and it shall be their duty...(t)o manage and control the institution hereby founded" (emphasis added). Although (for example) the Board of Trustees has delegated broad

powers to the faculty via the Academic Council to address matters of academic policy, even in that arena the Board of Trustees has reserved to itself the power to approve and disapprove faculty action. Similarly, the Board cannot abdicate its responsibilities under the Founding Grant by ceding management and control in the area of student affairs."

I concluded by stating:

"In approving a new constitution in 1969, President Pitzer used similar language to that required by the Board of Trustees in 1963. In my view, the introductory clause required above states the proper relationship between the ASSU and the University, and the terms of this Constitution are therefore to be interpreted in light of and are subject to it."

Three years after my May 10, 1996 letter, my views remain the same, both on the broader question of the relationship between the ASSU and the University, and on the narrower question of the proposed provision - which I once again reject.

Other Comments

Along with my formal review and approval of the Spring 1999 Constitutional Amendments, I wish to raise a few additional concerns that do not rise to the significance of an interpretation or condition - but are nonetheless important in my view to preserving an effective relationship between the ASSU and the University.

First, I wish to speak to the definition of subsets of the Association as set forth in Article I, Section 2.2. It is the University Registrar who has the responsibility and authority to determine undergraduate or graduate student status.

Second, in my letter approving and interpreting the Spring 1997 Constitutional Amendments, I stated my interpretation of the amendment adding Article VII, Section 6 (which elaborated on Article VII, Section 4) as follows:

"AMENDMENT 2: Article VII, Section 6: 'Integrity of this Document. The official text of this constitution shall consist of its original text and letters of acceptance, appended with its amendments and associated letters of acceptance, numbered sequentially. All amendments that are placed on the ballot shall be numbered sequentially without regard for year.'

I interpret this to mean that a master file of the constitution with amendments and associated letters of acceptance as described above will be kept by ASSU [sic]; however the standard working document will reflect all edited changes." (emphasis added)

It is my understanding, however, that the Constitution, as amended from time to time, has not clearly reflected the substance of past presidential letters of acceptance. For example, the 90-day unconditional acceptance provision remained in 1997, 1998, and 1999 working copies of the Constitution even though I rejected this provision in 1996. Furthermore, those working copies did not include "the introductory clause [quoted above] which is to precede the Constitution" concerning the authority of the ASSU, as imposed as a condition of approval of the Spring 1996 Constitutional Amendments. I encourage the ASSU to prepare future working copies - as well as future constitutional amendments - with the care and attention befitting a Constitution designed to provide a sense of order and clarity for the student body. In particular, I encourage the ASSU (perhaps through its Constitutional Council) to undertake the task during academic year 1999-2000 of creating a definitive working version of the ASSU Constitution - one that is current,

accurate and clearly annotated.¹ This process could compensate for the awkwardness of the current situation, as described in the preface to Appendix A to the Constitution ("Selected Letters of Acceptance"):

"The following are selected letters of acceptance of amendments to this Constitution. These letters are as binding as the text of the Constitution itself. However, some of their provisions have been superseded by the text of later amendments and/or their letters of acceptance. In addition, references to specific sections in the Constitution may not be accurate due to periodic renumbering of sections after their amendment."

The creation of a definitive working version would also greatly clarify any future constitutional amendment process, allowing ASSU legislative bodies and the electorate to have clearly presented to them - through techniques such as the use of a red-lined version - precisely what changes are being proposed.

Third, it is my suggestion that the ASSU work with the Dean of Students and his staff in the creation of such a working version, as well as early in the preparation process of any future proposed constitutional amendments. With early consultation, it is my belief that the approval process of the Spring 1999 Constitutional Amendments could have proceeded more efficiently. While it is ultimately my responsibility to review for approval all constitutional amendments, I rely heavily on the advice of the Dean of Students. It is both my hope and expectation that future amendments are developed using the Dean of Students and his staff as a resource early in the process.²

Fourth, the new ASSU structure has the potential to cause unnecessary duplication of effort in various ways. I expect the ASSU to invite senior University officers and staff (e.g., the President, Provost, Vice Provosts, etc.) to attend joint legislative body meetings in an effort to minimize this problem. (Of course, University officials are available to meet with particular student groups regarding issues unique to that group.) Similar steps should be taken to avoid other duplications of effort.

Finally, I wish to comment on what I understand to be the major philosophy that drove much of the development of the Spring 1999 Constitutional Amendments: the desire to enhance the quality of graduate student life and strengthen graduate student voice in the life of ASSU [sic] and the University. These are goals that are shared by the University. We all need to be mindful, however, that a system that has the potential for giving better focus to the needs of students at different levels in their educational careers also has the potential to impose certain costs. In particular, it is my hope that this new structure will help the ASSU realize its vision without creating inefficiency or divisiveness between undergraduate and graduate students.

In conclusion, I approve the Constitutional Amendments as passed in the ASSU Spring 1999 Election, with the interpretations and conditions contained in this letter. With this approval, I also acknowledge that the collection of the ASSU fees and the operating budget remain approved.

I wish you and the Association well in implementing these changes. With best wishes for a successful year,

Sincerely,

Gerhard Casper

¹ The amended Constitution submitted to me on May 5, 1999, for example, contained at least one error in the transcription of my May 10, 1996 letter, as well as two different sections numbered Article II, Section 12. In this latter regard, the ASSU may also wish to consider a numbering system that is more consistent than the one used at present.

² Such consultation should also reduce the number of occasions in which I am asked, as part of the review process, to correct errors in the amendments as passed by the voters. See, for example, my October 16, 1997 letter approving the Spring 1997 Constitutional Amendments.