

Resolution 2

**The University Park Undergraduate Association (UPUA)
of the Fall 2007 Session**

October 3, 2007

*Be it Enacted by the Association, having been considered
by the Internal Development Standing Committee, a*

RESOLUTION

on

**The Refutation of the Special Committee on Constitutional Review:
Preparation for the implementation of the UPUA Constitution: Revised 2007**

(Decided: [Y/N/A])

Nature of the Situation:

The UPUA Constitution: Origin 2006 requires that all amendments passed are reviewed by a Special Committee composed of five individuals: 2 students selected by the Cabinet of Student Leaders; 1 student selected by the UPUA Adviser—The Associate Vice President for Student Engagement; 1 administrator from the Division of Student Affairs; and 1 faculty member appointed by the University Faculty Senate.

It was the responsibility of the Committee to review the rationality of amendments made to the UPUA Constitution, to ensure that irrational decisions were not made. History of student government demonstrates that students have indeed made legal, yet irrational decisions and the absence of checks had been detrimental. It is not, however, the responsibility of the Committee to decide what amendments were in the “best interest of students” nor was it in the Committee’s authority to render decisions that place the Committee in a position as deciding the course of action of the Association. Such actions violate fundamental principles of the Association and of all deliberative assemblies.

It is the joint responsibility of the UPUA Adviser and UPUA President to ensure the organization and convening of the Committee in a timely manner. The Association presented intent to amend the Constitution about one month in February 2007. At that time, there existed reasonable certainty that Constitutional amendments would be made, thus it would have been reasonable for the Committee to be organized and ready to convene.

The amendment was first proposed by a sub-committee of the Internal Development Standing Committee with hundreds of pages of supporting materials. This amendment was further considered by the Internal Development Standing Committee, which made changes, and ultimately was subject to substantial compromise, by the first Association. The Association rendered a 25-0-1 decision to pass a whole substitution to the old Constitution. This substitution is the new Constitution.

Following the Association’s passage of the substitution, the UPUA Constitution: Revised 2007 was not made available to the Association, to the Elections Commission, or the student public during the entire election season. The then UPUA President did not provide ongoing updates on the status of the organization of the Committee in public forum. Only a Daily Collegian article reflected any existence of the Committee with a membership list consisting of:

- Raquel Jones, Student
- Shaira Morales, Student
- Mark Taticchi, Student
- Dr. Stanley Latta, Administrator representing Student Affairs
- A Univ. Faculty member, the name of which was not known.

In regards to the University Faculty member, it was stated at a meeting of the Association that the Committee intended to convene without a Faculty member, had one not been selected. An action of this sort would be in clear violation of the UPUA Constitution: Origin 2006. Shortly following the release of the Committee names, Mark Taticchi decided to not accept his position. As such, Galen Foulke was substituted. The final members of the Committee were:

- Mr. Galen Foulke
- Mr. Nicholas Bates
- Mr. George Khoury
- Dr. Stanley Latta
- Professor Margaret Brittingham
- Dr. Felicia McGinty, Chair

UPUA members expressed their need for a swift decision in light of the existing election and pending merger with the USG. The Committee did not render a decision by the close of business on Friday, 27 April 2007, and the USG Trust decided not to uphold the merger with the UPUA, since there existed reasonable doubt that the conditions of the merger would not be upheld.

The Committee additionally did not render a decision by the Election Results certification deadline of Noon, Monday, 30 April 2007. This action severely hindered the ability of the Elections Commission to carry out its duties and for the new UPUA members to be organized for their first meeting.

It was made aware to various UPUA members that a decision would be rendered between 3PM and 5PM, Tuesday, 01 May 2007. A decision was not made public until 9:00PM that day, at which point the Election results were finally certified. This decision had no accompanying vote count, no record of attendance or minutes, and a belated rationale for the decision that the chair.

The Committee made a decision to accept Article X of the UPUA Constitution: Revised 2007. This decision is in violation of fundamental parliamentary law as the Committee decided in and of itself to divide a single amendment into many amendments in a manner that could not guarantee the compatibility or integration of the amendment pieces into the UPUA Constitution: Origin 2006.

Purpose of the Request:

There exists substantial concern over the legitimacy of the Committee and its decision, creating cause for the Association to not accept the functionality of the Committee. The following matters exist:

- It is questionable as to why the Committee was not organized at the time of passage of the Spring Elections resolution, when at such time there existed reasonable certainty of Constitutional amendments passing.
- It is questionable as to why the Committee has apparently made decisions on the basis of deciding, “what is best” rather than checking for the existence of rationality and due process, as it was designed to do.
- The independence of the Committee is questionable given that:
 - COSL members are selected by the VP of Student Affairs and COSL itself is not guaranteed to be representative of the whole student body as it is comprised of specific classes and types of student leaders.
 - Mr. Foulke, while not a member of the UPUA, exhibited a direct interest in the organization’s founding, putting him under similar questions of independence as any current UPUA member or participant in the 06-07 transition.
 - Dr. Latta served as a “special consultant” to the Constitutional Review Committee that drafted the original UPUA structure
 - The University Faculty Senate as a whole was not aware of its role in the Committee until 24

- April 2007, weeks after amendments were passed. It is not known who selected the Faculty member and it certainly was not done appropriately.
 - Mr. Bates and Mr. Khoury served as the Vice President of CCSG.
- It is unknown as to whether or not the Committee received all of the supporting documentation for the amendment, including but not limited to: the sub-committee report, ID committee minutes, and Association meeting minutes.
- The rationale issued in the Committee's Report is illogical, unfounded, and demonstrates an ignorance in both parliamentary procedure and justification for the reversal of the changes made by the Association.
- There were no clear and defined organizational plans for the Committee given their convening at the last possible day and rendering of a decision at the "11th hour."
- The Committee violated its duties under the Constitution and fundamental parliamentary law by modifying to their own desires the question under consideration. The Committee at minimum violated the UPUA Constitution: Origin 2006 three (3) times.

Deliberative Assemblies such as the UPUA have a right to be run as they so choose. It is a duty to the students that UPUA be free to organize as it sees fit, following a representative decision. The Committee, through its decision, conveys that it is of better reasoning and judgment than the Association as a whole, for it felt empowered to overturn a 25-0-1 decision by a democratically elected and diverse body through 4-1 vote by persons hand selected and lacking independence on the matter of student governance.

The end result of this policy will be to resolve an internal debate on an already agreed document, the submission to a legitimately constituted Special Committee for review, and the hopeful passage and successful transition to the UPUA Constitution: 2007 for the next Association.

Plan for Action:

1. The Assembly deems the decision of the Special Committee, which reviewed the substitute amendment, unconstitutional and null and void.
2. Given the failed process of the Special Committee and the unconstitutional decision that was a result, the substitution amendment to the UPUA Constitution: Origin 2006 passed on the 15 April, 2007 is considered eligible for review by a special committee as defined by the governing documents of the UPUA and subject to the rules defined within them. This directly implies that the UPUA Constitution: Revised 2007 is expected to be used during the 2008 election cycle and for the 3rd Association to perpetuity.
3. The Association in conjunction with the 2nd Assembly will ensure that there is a proper and successful transition to the 3rd Association and its entities (Assembly, Executive Board, and Board of Arbitration) following the Spring 2008 elections by:
 - The 2nd Assembly passing revised Bylaws to ensure a functioning Assembly under the UPUA Constitution: Revised 2007
 - The Executive Board will develop and implement executive rules and procedures (Bylaws) outlining the role and duties of officers currently serving and will serve under the UPUA Constitution: Revised 2007 (all departments). These rules and procedures will emphasize the necessity that the President seek out people of diverse thought and background so that the various communities of Penn State are represented in the Department of Multicultural Affairs, Department of LGBTQA Affairs, Department of Women's Affairs, and Department of Religious Affairs. In addition, these rules and procedures should require the President to regularly consult with these departments on the current business of the Association.

- The UPUA shall be obligated to fund and do what is otherwise necessary to ensure advertisement of position, of the next Association, this may only imply maintaining a minimum balance to ensure proper funding for the next administration and Assembly and possibly transition the election’s hearing board into the Board of Arbitration.
 - The Association will ensure a functioning office by securing office assistance(s), computers, office dividers, printer(s), a copier, and other supplies needed by a functioning governmental body.
 - The Internal Development Committee shall review The UPUA Constitution: Revised 2007 and propose amendments for the consideration by the 2nd Assembly.
4. A letter shall be composed containing the rationality for pursuing this action and a brief executive summary highlighting the major differences between the 2006 and 2007 versions of the UPUA Constitution and their benefits. This letter shall be signed by the President, Vice President, Internal Development Committee Chair, and the author(s) of the resolution. It shall be distributed to the UPUA advisor, the Vice President for Student Affairs, the Chair of the Faculty Senate, the President of the University, the Chair of the Board of Trustees, and other stakeholders in the UPUA as the president sees fit.

Respectfully submitted,

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Date