Regarding the matter of the 1994 Associated Students of Madison Student Council Elections, all related appointments, policies and general business of the council and its newly elected representatives and officers, the Student Judiciary of the ASM is unanimous in its final and binding decisions concerning the following:

The complaint filed by Mr. Kukuljan and The Daily Cardinal alleges that ballots were checked by individuals who were not members of the Student Election Commission. The Rules of Election Procedure in force at the time of the fall semester elections in Section V, Part C clearly state that

“before the counting of the votes, each ballot must be checked for to determine a possible multiple number of votes given by one person. The procedure is to be done only by the members of the SEC.”

Cross checking of votes by non-SEC members to determine multiple votes of any individual is an improper election procedure according to the rules of procedure of the SEC.

However, the term “members of the SEC” as used in the rule above includes not merely the commissioners of the SEC but any and all poll workers and ballot counters involved in the elections process. Because pollworkers and ballot counters can be considered members of the SEC, no violation of the SEC Rules of Election Procedures occurred. The complaint is dismissed.

The complaint filed by Mr. Kukuljan states that all votes must be by secret ballot according to the constitution of the state of Wisconsin statutes as an agency of the state. The ASM and the SEC are not required to follow the rules of the election procedure of the state of Wisconsin regardless of weather it is an agency of the state or not according to the State of Wisconsin Elections Commissions (Barb Julseth, State Elections Specialist).

The ASM is not bound to the following state elections procedures as recognized by the State of Wisconsin Elections Commissions. The status of the organization as agency of the state is not relevant to this complaint. The ASM is obligate it first and foremost to the constitution of the ASM and the rules of the election procedure of the SEC. Since there was no violation of the laws of the ASM constitution or the rules of the SEC in the voting procedure used during the 1994 fall semester elections of the ASM, and because the ASM is not bound to follow state elections procedures, the integrity of the elections process recognized by the ASM and its student members was not compromised. Therefore, the current student government and all decisions, appointments and policies of this

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*Editors Note – This case precedes the official numbering system. Pursuant to the Order Revising Citation Formats, 2004 SJ Ord. 3, the case has been designated 1994 ASM SJ 1.*
government are valid.

The Complaints file by Mr. Kukuljan and the Daily Cardinal state that a candidate must receive a majority if votes in order to win a race.

The Student Elections Commission Rules of Procedure clearly state that:

“the candidate receiving the most votes will win the race for the respective office.”
(section V, Part D)

The SEC Rules of Procedure and the Constitution of the ASM (Article IX, Section 2) stipulate that the candidate with the “most” votes, or a “plurality” of votes, respectively, shall be the winner.

This means that the candidate with the most votes, or the greater amount of the votes of all the candidates in contention for a seat, will win that seat. There is no specification in the constitution or rules of election procedure that a specific majority must be obtained in order to win a seat. Therefore, no violation of procedure occurred and the complaint is dismissed.

The complaints of Mr. Kukuljan and the Daily Cardinal state that a Student Judiciary was not formed to hear complaints during the election proceedings.

The Temporary Selection Process for the Student Judiciary for Fall Elections Only, special rules adopted by ASM on September 11, 1994, state that the

“Election commissioners shall be completely in charge of all ASM elections. They shall be given initial jurisdiction over all election cases arising from the ASM constitution and Bylaws, or from any bill, resolution or rule approved by the ASM”
(Article 2)

and

“the student Judiciary will function as a three member appeals court to review decisions made by the (Sudden)Election Commission.”(article 2)

According to these rules the Student Judiciary was to act on possible complaints against the SEC only after the elections had run their course. The SEC had initial jurisdiction on complaints and the Student Judiciary was to hear complaints after the elections had taken place.

The formation of the Student Judiciary after the elections did not disrupt the elections process nor did it inhibit the complaint process or the timely adjudication of the complaints brought to the attention of the SEC. The Student Judiciary was formed in compliance with the ASM Constitution and Rules of Procedure to review decisions made by the SEC or complaints regarding the outcome of the elections, not to review and rule on the elections during the process itself.
The complaint of David Ford alleges that his eligibility status was inadequately assessed and that he is entitled to remuneration from the ASM for costs which he incurred. Because the complaint submitted to the ASM by Mr. Ford was inexact in nature and because of his failure to attend the hearing held by the Judiciary regarding the elections, for which he had suitable notice, the information presented regarding his complaint is deemed inadequate and without enough evidence to allow an informed decision to be made regarding his complaint. It is therefore dismissed.

The decisions presented herein by the Student Judiciary of the Associated Students of Madison are final and binding. These decisions are unanimous with no dissent.

Signed this 29th day of November 1994

Rick Cruz    Naheed A. Qureshi    Hal N. Schwartz
Chair, Student Judiciary    Student Judiciary    Student Judiciary