KRASCHNEWSKI, J.

I. Background

The State-Langdon Neighborhood Association applied to receive GSSF eligibility for the first time in the fall of 2001. As provided by the recently amended Part III ASM Bylaws Art V, such groups are required to attend an eligibility hearing before the SSFC, which the SLNA did on Sept. 30. Todd Jarrell and another representative represented the organization in a presentation describing its basic qualities and aims. The group was denied eligibility to receive segregated fees by a 9-0 vote of the SSFC members present.

The SLNA argued in its complaint that it meets all the specified criteria to receive funding, citing specific requirements and calling upon the examples of other groups who receive funding. Mr. Gathing continued to claim that the group was discriminated against by the SSFC and directly violated Part I ASM Bylaws Art IX, §1a, 1b, 3, and 4c, ASM’s policy on Viewpoint Neutrality. Discrimination on the basis of political ideology in the allocation of student fees to organizations is prohibited. Mr. Gathing stated that discrimination could be erroneous, and not necessarily malicious. He continued to argue that the SLNA did not receive eligibility to funding due to discrimination by the SSFC. The SSFC refuted this claim by declaring ignorance as to both the political ideology of the SLNA as well as that of Mr. Gathing. Both Mr. Smith and Mr. Modell (who testified for the defendant) said they knew little of Mr. Gathing, aside from possibly hearing or reading his name.

Mr. Gathing cited an article from the Badger Herald (author unknown) in which a member of the SSFC was quoted to have called the group “political in nature and exclusive to students that live in the neighborhood.” Based on this article he reached the conclusion of discrimination as he felt the second reason given was not true. All students, he claimed, could attend a meeting of the SLNA and learn something, verifying the group’s claim to educate students.

The SSFC provided some of the reasons for the organization’s ineligibility with the testimony of Matt Modell (an SSFC member), none of which had to do with the group’s political nature or lack thereof. Mr. Modell stated that the purpose of the group and its benefit to students was a primary concern. While anyone could attend its meetings, non-
members (non-residents) were allowed limited opportunities, among those restricted was voting. In this way, Mr. Modell testified that the group was discriminatory in itself, as it didn’t allow equal opportunities to all.

Another criteria of eligibility was that the organization provided services not provided elsewhere. Mr. Gathing stated that the group seeks to represent students at the city level, unlike any other student group. Since this area has two alderpersons to represent it, Mr. Modell declared that this was indeed a service provided elsewhere. The SSFC member continued to state that it was an opinion among the committee’s members that the group did not present clear goals.

In cross-examination, Mr. Gathing asked Mr. Modell to compare the SLNA with groups like WISPIRG and Vets for Vets, both of whom receive funding. Mr. Modell explained that these groups did not state as their primary goals the representation of students, but rather offered an educational aspect. The major service the SLNA seeks to provide is representation of students living in that area. Mr. Gathing argued that benefiting these students would ultimately benefit the entire student body. When asked how it would represent the ideas of students who are not residents of the State-Langdon area, Mr. Gathing compared the SLNA to LGBT, who represents more than just the students that are members.

The panel inquired into what particular political belief held by the SLNA or by himself Mr. Gathing felt was used in the discrimination. He mentioned that he was a member of Progressive Danes. Mr. Smith stated that he did not discriminate against the SLNA due to his ignorance of Mr. Gathing’s political ideology. He affirmed that no member of the SSFC, to his knowledge, discriminated against the group. The committee’s vote was unanimous against the group.

Mr. Gathing requested as remedy the possible impeachment of SSFC Chair Smith as provided by Part I ASM Bylaws Art IX§3c. He also sought the minimal amount of funding provided under Part III ASM Bylaws Art V§2c(1).

II. Discussion

The primary area of issue in this case is that of discrimination. It is unlawful to, when distributing funds, discriminate against an organization based on its political ideology. Aside from a newspaper quote that merely suggested the group tends to be political in nature, the SLNA offered evidence neither as to its political ideology nor as to confirm discrimination.

Discrimination, though, as argued by the complainant, can be easily hidden as a reason for a declaration of ineligibility. To examine this further, the panel sought to see for itself if the SLNA met the requirements used by the SSFC to determine eligibility. Some criteria, like being in existence for two or more years, were easily confirmed, while others, like offering valid services not offered elsewhere, were not as discernable. It is not the SJ’s intent to suggest that it is more capable than the SSFC to comprehend issues regarding funding and RSOs. Admittedly, the members of the SSFC are more qualified by virtue of their primary purpose than the panel to decide if a group offers such services. For this reason, the panel focused on the main issue of alleged discrimination.
The panel dismissed the idea of a produced discriminatory effect from an undiscriminating action. While it is unclear if such an effect would be produced or not, it is evident that the Bylaw prohibits discrimination in the primary action, i.e. in the allocation of student fees.

Questions were raised regarding discrimination based on content versus that which is based upon political viewpoint. It was ultimately decided that the Bylaws prohibit the latter and that there was not enough evidence of such.

III. Remedy

The complainant offered remedy by way of III Bylaws V §2c(1) and I Bylaws IX §3c. Since the former deals with Eligibility Criteria, it is believed that the complaint referred to the not yet amended Bylaw, which provides for recommended funding for eligible groups. Since there was no evident discrimination against the SLNA based on its political ideology, the panel decided to uphold the decision of the SSFC that the group was ineligible based on previously set criteria. Both of the complainant’s requests for remedy are based upon its proposed eligibility, which does not exist.

IV. Order

a. We determine that the SSFC did not discriminate against the SLNA when deciding the group’s eligibility to receive student fees.

b. We order that the SSFC’s decision is valid and be upheld.

By the Court, it is SO ORDERED

Jana Kraschnewski, SJ  
Asia Mitchell, SJ

1 This is believed to be a citation of a version of the ASM Bylaws not yet amended, now referred to as Part III ASM Bylaws Art V §3c(1).