

## IN THE UNIVERSITY OF KANSAS STUDENT SENATE COURT OF APPEALS

Michaeli Hennessy	)	
Student Senate Court of Appeals Chief Justice	)	
Respondent and Writer	)	Date Issued: March 7, 2017
Sara Prendergast	)	
Student Senate Court of Appeals Pro-Tempro	)	
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Student Senate Court of Appeals Justice	)	
Respondent and Writer	)	
Joseph Uhlman	)	
Student Senate Court of Appeals Justice	)	
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Annie Calvert	)	
Student Senate Court of Appeals Justice	)	
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### ADVISORY OPINION

As Chief Justice, and on behalf of Student Senate Court of Appeals, we would first like to extend gratitude to all individuals who continuously strive to uphold the integrity that the University of Kansas has established over many years.

Harrison Baker (hereinafter “Petitioner”) filed a Petition for Writ of Certiorari on March 2, 2017, asking for a permanent injunction. The Court of Appeals believes this authority is not specifically laid out within the Court’s current powers and, if acted upon in a binding manner, would result in a scenario that extends past our jurisdiction. That said, Student Senate Court of Appeals would like to offer our Advisory Opinion regarding Resolution 2017-303 filed by Petitioner.

Pursuant to Student Senate Rules and Regulations (hereinafter “SSRR”), Appendix P: III, Rule 17, the Court is permitted to issue an Advisory Opinion. An advisory opinion is simply an outlook offered in situations in which there is concern of question regarding the interpretation of validity of the law. This Advisory Opinion issued should be observed and considered as merely a recommendation from the Court on this particular matter and cannot be held enforceable.

Student Senate Court of Appeals has concluded, after thorough, extensive evaluation and consideration of SSRR, the following opinions on how to move forward with such matter. Below you will find a detailed summary laying out the Court’s thoughts as well as our official Advisory Opinion.

### *Courts Decision to Offer Advisory Opinion*

The powers of the Court of Appeals are specifically laid out within SSRR Article IV and in conjunction with Appendix P.

Though the Petitioner states that he believes the Court does inherently have the power to issue a permanent injunction, the Court believes it does not in regards to a case of this nature. This case involves a resolution that was passed through full Senate and was enacted.

As of now, the Court believes it does not have the jurisdiction to invalidate passed legislation. As argued by the Petitioner, SSRR Article IV, Section One provides a very broad overview of the Court's purpose. Though we agree with this, we believe SSRR Article IV, Section One acts as a general purpose of the Court and then further leads into specific roles the Court holds within SSRR 4.1.1 – 4.1.5. As noticed, the right to invalidate a passed bill is not stated within this section. The Court feels as though interpreting Section One in a broad enough sense to allow jurisdiction over legislation brings up serious issues with separation of power. Interpreting the powers of the Court in such a broad sense opens the door for future Court's to define their powers in a much larger sense than was intended. The Court believes that staying within the explicitly listed powers of the Court helps preserve the balance of powers within Senate.

With that, the Court does recognize that there lies an underlying discrepancy between the wording in SSRR and in Resolution 2017-303. This apparent discrepancy led the Court to issue this Advisory Opinion before Senate.

The Court would like to reiterate that this case is a prime example as to why specification within SSRR is of great necessity. Without specific powers laid out, the various branches of Senate could easily take advantage of these flaws for their own benefit, which can lead to an overreach of powers. Our governmental institution functions and prides itself on the separation of powers. We must continue to uphold the document that forges this body together as one.

However, the Court is in the process of editing and updating both Article IV and Appendix P together as one document. The members of the Court do recognize that changes need to be made, but only the members of the Court have seen these rules and regulations enacted. We hope to present these changes to full Senate in the fall in order to 1) bring attention to these proposed changes, 2) have the Court's current and future powers be recognized by Senate and 3) work together as one body instead of a fractured entity.

### *Opinion of the Court*

We, the Court, believe that SSRR is the fundamental foundation of Student Senate. This statement is warranted by SSRR 1.5, which reads that, "where in conflict with prior legislation, Student Senate Rules and Regulations shall supersede and take precedent consistent with Article 1, Section 3."

According to SSRR 9.7.4, “if the proposed legislation receives over 50% of the vote, it shall be treated as a regular enactment of the Student Senate.” The Court interprets this as requiring a majority of votes in order to pass. The current referendum states that, “if the number of ‘YES’ votes receives a plurality, the Elections Commission shall immediately notify the Chief of Staff.” The referendum lists three voting choices – yes, no and abstain. Due to the presence of three possible options, a plurality of votes may not be a majority.

With that, the wording within SSRR, as was clearly stated, does indeed supersede the wording applied to Resolution 2017-303 coming out of full Senate. The current wording within the resolution does contradict what is stated within SSRR as pointed out by the Petitioner.

The Court believes an amendment to Resolution 2017-303 is needed and justified in order to uphold the document that binds all of Senate together – SSRR. A simple remedy for this contradiction would be to amend language within the resolution to state “majority” instead of “plurality.”

At this point, the University of Kansas Student Senate Court of Appeals concludes the opinions offered. The Court would like to once more reiterate that this Advisory Opinion should only be viewed as a recommendation and cannot be held enforceable.

We continue to support the unrelenting dedication of Student Senate at large to uphold the institutional integrity of the University of Kansas through cooperation and adherence to the rules and procedures set forth in Student Senate Rules and Regulations.

If you have any questions or concerns regarding the Advisory Opinion, please feel free to direct them to Chief Justice, Michaeli Hennessy.

Respectfully submitted,

The University of Kansas Court of Appeals

/s/

Michaeli Hennessy  
Chief Justice

/s/

Sara Predergast  
Pro-Tempro

/s/

Jake Vance  
Justice

/s/

Joseph Uhlman  
Justice

/s/

Annie Calvert  
Justice