

No.

---

*In the ASUNM  
Student Court*

---

YOUNG McCARTHYISTS

Petitioner

v.

RILEY DUNCAN, ASUNM Vice President

Respondent

---

**BRIEF FOR THE RESPONDENT**

---

EMILY HARTSHORN, ASUNM Attorney General

## BRIEF FOR THE RESPONDENT

---

### QUESTION PRESENTED

Whether ASUNM can fund an appropriation for a political organization that is *not* a part of ASUNM Government, *nor* an ASUNM Student Service Agency, *nor* a chartered student organization; whether such an organization can be defined as a *service entity*

### JURISDICTION

No contest to jurisdiction.

### STATUTORY PROVISIONS INVOLVED

Finance Code Art. III §3 (p. 53)

### ARGUMENT

This situation, similar to a situation that occurred in 2017 with Milo Yiannopoulos, is full of hotly contested ideological differences. While ideologies may differ, the ASUNM Finance Committee does not discriminate against student organizations on the belief of the group.

The ASUNM Finance Committee considered the “AFCU” a service entity when funding their appropriation. As their appropriation was said to be used to “host a speaker in the SUB”, the AFCU claimed that the event would be open to all students, in a public forum that is accessible to all students. As the definition of service entity in the Law Book is, “a program whose primary purpose is to provide service to the students of UNM”, the AFCU were considered to be a service entity. The public speaker, in a public forum, was a service that was accessible to all UNM students. Previous service entities that have been funded include the UNM Student Activities Center for “Welcome Back Days”, as well as Johnson Gym for lockers used for intramural sports. Both of these entities have the ability to serve a large portion of the student population. Another notable aspect, is that the Student Activities Center and Johnson Gym are not chartered student orgs, nor do they comprise of undergraduate students, but the services that they are providing are accessible to UNM undergraduate students. Because of this precedent, AFCU, while not a chartered student organization, can be classified as a service entity, since they are providing a service to the undergraduate students of UNM. This was the justification that the ASUNM Finance committee used, and as such, they did not violate the ASUNM Finance Code, Article III, Section 3.

In response to the requested relief, only one of the requests would be possible. Financial enjoinderment, and an eventual reversion of funds, would be a process that would occur through the ASUNM Finance Committee, and would be completely up to the determination of the entire finance committee, not the ASUNM Student Court. However, disciplinary action towards the ASUNM Vice President or the ASUNM Finance Committee Chair, is not warranted nor is it appropriate. As stated in the ASUNM Constitution, the only grounds for “disciplinary action are

violation of ASUNM law(s), willful neglect of office, gross misconduct, or malfeasance”, none of which were committed by the ASUNM Vice President nor the ASUNM Finance Chair, in accordance with the definitions in the ASUNM Constitution.

Gross misconduct, defined as, “an intentional act forbidden or unlawful performed with indifference to known or obvious harmful consequences” in the ASUNM Constitution, does not fit the actions of the ASUNM Vice President, nor the ASUNM Finance Chair, as neither of them committed an unlawful act. Malfeasance, defined as, “commission of a wrongful act which an official has no legal right to do, or any wrongful conduct which affects, interrupts, or interferes with the performance of official duty, or an act for which there is no authority or warrant of law”, also does not apply, as the decision to fund the “Americans for Communist Utopia” has not interfered with the official duties of the ASUNM Vice President or the ASUNM Finance Chair. Finally, Neglect of Office, which is defined as “willful knowing, and intentional failure to attend to one’s official duties”, does not play a role in this case, as no official duties have been neglected. The ASUNM Finance Committee went about their official duties when funding the “Americans for Communist Utopia” as a service entity.

### **CONCLUSION**

The official opinion of the Associated Students of the University of New Mexico is that the ASUNM Finance Committee engaged in no illegal acts when funding the “Americans for Communist Utopia”. Because of this, none of the requested repercussions should be taken by the court.