

RUSA

INTERNAL AFFAIRS
COMMITTEE

Rutgers University Student Assembly Report on Allocations Transparency

Internal Affairs Committee
Internal Affairs Subcommittee on Allocations Transparency

March 2018

Brief Overview of the Student Activities Fee and RUSA Allocations

The RUSA portion of the Student Activities Fee (SAF) is included as a mandatory fee as part of the school fee, which all undergraduate students pay¹. The RUSA Constitution provides for an Allocations Board, which is quasi-independent from the Assembly and which serves as RUSA's "primary allocating board," subject to all such allocations being "submitted to [t]he Assembly for approval."² The Assembly, furthermore, has the authority to legislate Allocations Guidelines, which are used by the Allocations Board in allocating the previously mentioned student fees³. Because the total amount of available fees is based on enrollment, the exact amount which is allocated varies by semester; however, the Assembly allocated approximately \$525,000 in general allocations for the Fall 2017 Semester⁴. In addition to the Allocations Guidelines passed by the Assembly, the Allocations Board is given leeway in terms of how the decision of how the SAF is allocated, and the Allocations Board has developed formula/caps sheets which are used in assessing the extent to which events or other items are fundable. Such information is presently not available to the public.

Legal Considerations Regarding Student Fee Allocations

Despite RUSA being a student government to which the administration has predominantly delegated the power of deciding how fees are allocated, because fees are mandatory and Rutgers is a public university, federal provisions exist which broadly govern how fees can be allocated. Much of those provisions concern how the first amendment has been interpreted by the courts, in that the university cannot generally prioritize certain viewpoints over others. In one particular case, *Southworth v. The Board of Regents of the University of Wisconsin System (2000)*, the United States Supreme Court ruled that allocation decisions made must be done so in a viewpoint neutral ("content neutral") manner⁵. Particularly concerning student fee allocation, the university, and thus the state, "is sufficiently involved in student government at public colleges and universities to satisfy the state action requirement of the Fourteenth Amendment," meaning that the requirements of the First Amendment apply⁶. Moreover, the *Southworth 2002* decision requires clear standards to prevent "unbridled discretion."⁷ In not being fully transparent as to

¹ Rutgers, The State University of New Jersey. (2017/2018). Mandatory Student Fees - New Brunswick Full Time Undergraduate. Provided from Student Accounting, Billing, and Cashiering.

² RUSA Constitution, Art. 6 § 01 (pg. 9)

³ RUSA Constitution, Art. 6 § 03 (pg. 9)

⁴ RUSA. (2017). Fall 2017 Budget Spreadsheet. Retrieved from the Allocations Board website.

⁵ The term "content neutrality" is frequently used by the Allocations Board. However, some articles concerning this requirement, like that published by the University of Wisconsin, use the term "viewpoint neutral."

⁶ University of Colorado. (n.d.). Viewpoint Neutrality and Student Organizations. Retrieved from <https://www.cu.edu/doc/counsel-viewpoint-neutralitypdf>

⁷ Foundation for Individual Rights in Education. (n.d.). Guide to Student Fees, Funding, and Legal Equality on Campus.

how the allocations process works, it is possible the RUSA, and consequently the University, could be open to liability.

Findings of the Internal Affairs Committee's Investigation

The Internal Affairs Committee conducted an investigation prior to the preparation of this legislation by the Internal Affairs Subcommittee on Allocations Transparency (IASAT), and the Committee concluded that the currently confidential formula/caps sheet used by the Allocations Board, or at least a previous version of the same, has been leaked and that it is most likely in the possession of student organizations within Rutgers University. Once such information is available, but only to some student organizations, it creates an inequality of access to information whereby some organizations stand to gain advantages over others in the allocations process. Moreover, even if some of the numbers are adjusted on the formula/caps sheet, they are developed by members of the Allocations Board based, in part, on then current expense⁸. Thus, it is a reasonable assumption, in the opinion of the Subcommittee on Allocations Transparency, that being privy to how the process works and how events and programs are assessed one year can lead to an unfair advantage in subsequent years. Furthermore, because the Allocations Board consists of students within Rutgers University -- New Brunswick who may be a part of organizations, it is possible that having such insights could further contribute to such inequality of access and thus unfair advantages.

The Prerogative of RUSA to Increase Transparency on Principle

It is the opinion of the Internal Affairs Subcommittee on Allocations Transparency that it is incumbent upon the Assembly to be forthcoming and open about how it operates as what is in effect a "trustee" of student fees. The Subcommittee believes that it is the right of students to know how their money is allocated within the university, and RUSA's student fee allocation is directly within the purview and power of RUSA to change⁹. The Subcommittee believes that because the Assembly approves the budgets passed by the Allocations Board,¹⁰ it is therefore important to know how the funding is determined. While the Allocations Board has graciously offered to explain the process in confidential briefings to some members of the Assembly, this creates a scenario where more students could potentially leak confidential information; moreover, it still keeps the public 'in the dark' as to the mechanics behind how their fee money are used. Moreover, in testimony to the Internal Affairs Subcommittee, the Auditor of the Allocations Board noted that most organizations did not use most of their funds¹¹; if RUSA were to discuss reforming the process by which it allocates student fees, it would be imperative

⁸ According to statements made by current members of the Allocations Board during discussions with members of IASAT.

⁹ Such power can be in the form of a standing order to the Allocations Board, similar to how the Assembly required that the Board produce an audit report for the Fall 2017 semester.

¹⁰ RUSA Constitution, Art. 6 § 03 (pg. 9)

¹¹ From the draft of the minutes prepared by the Secretary Pro Tem of the Internal Affairs Committee. 16 Feb 2018.

for as much information to be readily available as possible, although such reformations are not within the scope of this legislation.

Development of the Legislation

The Internal Affairs Subcommittee on Allocations Transparency and its members met with five (5) members of the Allocations Board and two (2) Advisers to the Allocations Board from the Department of Student Centers and Involvement in order to review the legislation and to receive feedback. The Chair of the Allocations Board also discussed the issue of transparency, among other things, before the Internal Affairs Committee.¹² IASAT aimed to ensure that all requirements were reasonable, that the Act would only go into effect after such point in time when the Allocations Board could make any adjustments within the current framework of the allocations process, for which suggestions were provided by the Chairman of the Subcommittee. The legislation is modeled, in part, after the NJ Open Public Records Act¹³. The act establishes definitions, ensures that budgeting and auditing information will be furnished in due time to the Assembly for consideration as was already included in practice or prior legislation, and provides for more transparency in terms of how the RUSA allocations process works, the latter being the crux of the Act. IASAT is confident that while there may be differences of opinion in terms of whether or not students should know how their fees are used or such information should be kept in secret from them, IASAT has made constant efforts to ensure that all opinions were heard and that any interested person was able to review the legislation and provide feedback¹⁴, and that all provisions concerning the timing which which records must be furnished will be of no additional burden to the Allocations Board. Finally, IASAT would like to note that, generally, that there will be no major burden timewise for Allocations, except for the time needed to make the previously mentioned documents publicly available online.

Transparent Models in Other Student Governments

Other student governments have successfully been transparent in how their funding process works. The Assembly's Big 10 Liaison in his capacity as the liaison to other Big 10 university student governments has conducted outreach and has found examples of successful and transparent models, such as that at the University of Wisconsin¹⁵. Within Rutgers University -- New Brunswick, professional school student governments have been successful in being transparent as to how student fees are allocated. The most similar, perhaps, to RUSA's funding process is the Engineering Governing Council (EGC), which has a similar internal formula/caps

¹² At the regularly scheduled meeting of the Internal Affairs Committee. 2 Feb 2018.

¹³ New Jersey P.L. 2001, c. 404, available for review at <http://nj.gov/grc/laws/act/>.

¹⁴ The Chairman of the Subcommittee has frequently advertised such opportunity during public meetings of the Assembly and during meetings of the Internal Affairs Committee, where regular reports and updates were provided.

¹⁵ Any and all of such examples from other Big 10 Universities were provided through the RUSA Big 10 Liaison by official officers/representatives of those respective student governing associations.

sheet used by the Finance Committee¹⁶. While the sheet is not as comprehensive as RUSA's and while RUSA funds noticeably more organizations, such a model demonstrates that student governments can still function while being transparent about how student fees are used. Additionally, in response to a question asked to the Auditor of the Allocations Board by a member of the Internal Affairs Committee, the Auditor believes that the Allocations Board, through its auditing capacity, would be able to find violations and take corrective action even if the allocations process is made more transparent, such as releasing the formula/caps sheets, and that they would still be able to find organizations abusing the system and that more transparency in that respect would not affect the ability of the auditor.

Concluding Remarks

In an effort to ensure transparency and to provide the Assembly and the undergraduate student body of Rutgers University -- New Brunswick with all of the information necessary to understand and assess how the RUSA Allocations process works, it is the recommendation of the Internal Affairs Subcommittee on Allocations Transparency and of the Internal Affairs Committee that the Assembly adopt the accompanying resolution/legislation.

¹⁶ Provided to the Chairman of the Subcommittee courtesy of the Treasurer of EGC.

RUSA

INTERNAL AFFAIRS COMMITTEE

RUSA #####

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Sponsor: Internal Affairs Committee, Public Relations Committee

Bill to Ensure Transparency in the RUSA Student Activities Fee Allocation Process The “RUSA Allocations Process Transparency Act” (RAPTA)

Whereas the Rutgers University Student Assembly (RUSA) allocates over \$1,000,000 per academic year in Student Activities Fees (SAF) through its Allocations Board,

Whereas the Assembly has the power to enact guidelines and requirements by which the Allocations Board must abide,

Whereas it is a moral imperative of RUSA to ensure that its portion of the Student Activities Fees (SAF) is allocated in a responsible manner that is fair and fully compliant with all applicable laws and regulations, both those enacted by the Assembly and by the State of New Jersey or the United States, as applied through applicable courts of law, and

Whereas it is incumbent upon RUSA to ensure that it is transparent in its allocation of student fees as a student government and thus as a “trustee” of student fees,

Be it hereby resolved, by a majority vote that the Rutgers University Student Assembly:

1. **Affirms** its commitment to serving the students and be transparent in how it allocates student fees, and
2. **Directs** the Secretary of the Assembly to make available online a copy of this legislation after enactment;

Be it further resolved, the Assembly hereby charges the Internal Affairs Committee with reviewing this legislation during the Fall 2018 Semester and to render any recommended revisions to the Assembly for consideration as may be needed; and

RUSA Allocations Process Transparency Act (RAPTA)

Be it enacted by the Rutgers University Student Assembly.

1. Enactment

- a. This Act shall be known as the “RUSA Allocations Process Transparency Act” or “RAPTA” and may be referenced as such in all future publications.
- b. This Act shall become effective three (3) weeks after enactment and shall remain in effect as a standing order unless and until repealed by the Assembly, except for Section 3 and all other sections based on the time frames established in Section 3, which shall become effective July 1, 2018.

2. Definitions

- a. All terms which are used in the Constitution or the Standing Rules may be incorporated into this act and shall be interpreted accordingly, unless otherwise specified.
- b. In the event of any ambiguity with respect to the definition of terms in this Act, the Parliamentarian shall advise the Assembly as to how such language is to be interpreted, which, except where abridged by any governing documents of the Assembly, shall be considered effective unless and until this Act is amended by the Assembly.
- c. For the purposes of this Act, the following terms shall be defined as follows:
 - i. Public Record: a record made available to the public upon a proper records request to the respective custodian of record.
 - ii. Custodian of Record: the official responsible for keeping and maintaining a given record and providing the record upon a proper records request,
 - iii. Record: any prepared material information, be it written, recorded, or maintained electronically.
 - iv. Records Request: a request for a record which exists, or is required to exist, which shall be valid when submitted by an individual or entity, or anonymously, to the custodian of record.

- v. Proper Records Request: a records request, as defined above, communicated in a written or electronic manner to the custodian of record, or through an alternative manner as may be prescribed by the custodian, specifying the records to be produced.
- vi. Budgets or Proposed Budgets: the master budget for all RUSA funded organizations, including the Assembly itself, which must be approved by the Assembly by a majority vote.

3. Proposed Budgets

- a. Budgets proposed by the Allocations Board for adoption before the Assembly shall be provided to the Secretary of RUSA a minimum of seventeen (17) days before the budgets are scheduled to be adopted by the Assembly, unless waived by a simple majority vote of the Assembly.
- b. The Secretary of RUSA shall subsequently submit the proposed budgets to the members of RUSA and all undergraduate students requesting regular updates through the public list no later than fifteen (15) days before the budgets are scheduled to be adopted by the Assembly, unless waived by a simple majority vote of the Assembly, although the Secretary of the Assembly shall submit such budgets within two (2) days of receipt.
- c. Proposed budgets shall be submitted electronically, except in cases where the electronic dissemination is not feasible; in which case, the records shall be submitted in writing.
- d. The Allocations Board Secretary, or another member designated through the Allocation Board bylaws, shall serve as the primary custodian of record for previously submitted and approved budgets, which shall be considered public record.

4. Summary Reports for Allocations

- a. The Allocations Board shall prepare a summary report to accompany the proposed budgets which are to include:
 - i. The total amount of funds requested by RUSA-funded organizations,

- ii. The amount of funds which would be allocated to RUSA-funded organizations given the current criteria and without respect to funding constraints, and
 - iii. The total amount that is to actually be allocated given the proposed budgets.
- b. The above mentioned report shall accompany the budget and shall conform to the same requirements with respect to publicizing such records before the budgets are to be considered before the Assembly, as set forth in Section 3.
- c. The Allocations Board Secretary, or another member designated through the Allocation Board bylaws, shall serve as the primary custodian of record for previously submitted and approved budgets reports, which shall be considered public record.

5. Records Concerning the Preparation of Proposed Budgets

- a. All records used in conjunction with requested budgets from RUSA-funded organizations shall be public record and shall be published a minimum of one (1) month prior to use by the Allocations Board, except for minor adjustments made where schedules of fees published by the university are altered and where such adjusted records are sent out as soon as adopted by the Allocations Board and no less than forty-eight (48) hours prior to use.
 - i. All such records already used by the Allocations Board prior to the enactment of this legislation shall not be excluded from the public record.
 - ii. The publication of those records shall include the Allocations Board causing notice to the Secretary of RUSA, who shall provide those records to the members on the Assembly and those undergraduate students on the public list no later than five (5) days of such notice being provided to the Secretary.
 - iii. Changes to such records shall require the Allocations Board conducting a public forum during a regularly scheduled meeting of the Allocations Board, during which undergraduate students may comment, and such

forum shall last no fewer than ten (10) minutes if members of the public are present and willing to speak.

- iv. All methods used in determining the budgets, including any formulas or functions shall be formalized into such a public record.
- b. The Secretary of RUSA shall keep and maintain the most current version of those records and make those records available to the public.
- c. The Allocations Board Secretary, or another member designated through the Allocation Board bylaws, shall serve as the primary custodian of record for previous or current records concerning the preparation of budgets, which shall be considered public record.
- d. This section shall not go into effect until September 30, 2018. The Executive Board may, by majority vote, vote to delay this date by six months at a time.

6. Publication of Allocations Board By-Laws

- a. Any and all internal by-laws or procedures used within the Allocations Board, as may be permitted by the Standing Rules, shall be considered public record.
- b. The Secretary of RUSA shall be the primary custodian of record for any such by-laws or other operating procedures.

7. Summary of Audits

- a. The Allocations Board shall publish a summary of audits of RUSA-funded organizations which it conducts to ensure proper usage of student fees.
- b. The results of any audits, including any discovered misuse of student fees, shall be incorporated into a written report published by the Allocations Board which shall be entered into the public record.
- c. Such reports shall continue to be compliant with RUSA Bill S17-5, which shall remain in effect to the extent that it does not violate the terms of this Act, although this section shall apply to any and all additional reports on audits created by the Allocations Board.
- d. The Allocations Board Auditor, or another member designated through the Allocation Board bylaws, shall serve as the primary custodian of record for the previously published summary of audits, which shall be considered public record.

8. Requesting Records

- a. All proper records requests shall be fulfilled by the custodian of record within a reasonable period of time, which shall not exceed seven (7) days during the school year and fifteen (15) days during breaks, as established in the Academic Calendar approved by the University Senate. Any proper records requests submitted during the summer break shall be fulfilled no later than sixty (60) days of receipt or seven (7) days from the start of the semester, whichever is first.
- b. Requests furnished electronically, which shall occur upon request or where the method of delivery is not otherwise specified, shall be provided by the custodian of record free of charge.
- c. In any such cases where the requestor explicitly indicates a written form of delivery, either through picking up such records at the RUSA office or through mail, the primary custodian of record may acquire the actual fee for such services associated with printing the material and mailing such records to the requestor, if applicable, provided such fee is collected in advance of the record and where such fees are clearly communicated to the requestor, who may then choose to receive the records electronically for no fee.
- d. Personally identifiable information, including, but not limited to, the names, NetIDs, email addresses, physical addresses, Rutgers ID numbers, phone numbers, and login credentials, must be redacted or removed from records furnished as a result of a proper records request; this section shall not be construed to exclude from public records the information identifying individual organizations, or sources of revenue, or expenditures.
- e. Information initially omitted from reports concerning funding for special events for compliance with neutrality requirements as permitted under the Assembly's Standing Rules, Art. 18 §7 (RUSA Bill F17-3, as may be amended and supplemented), shall no longer be excluded from public record after such allocations are approved; this section of this Act shall not be misconstrued to prevent the public release of general metrics and internal procedures as described in Section 5 of this Act which are used in the special event funding process.

- f. The custodians of record may adopt standard forms for the the requests of public records; or the custodians of record may make documents considered as public record under this Act readily available online as a measure to avoid copious amounts of proper public records requests.

9. Stipend for Request Processing and Performing Duties under this Act

- a. For the purposes of this section all persons who serve as custodians of record under Section 3, Section 4, Section 5, or Section 7 of this Act shall be defined as stipend eligible persons.
- b. Each stipend eligible person shall receive a yearly stipend of \$500, with half the amount payable in the Fall Semester and the other half in the Spring Semester.
- c. No person shall receive more than a yearly stipend of \$500 under this Act.
- d. The Internal Affairs Committee may, by majority of the membership of the committee, vote to suspend the payment of the stipend to a particular stipend eligible person for failure to perform their duties under this Act.
- e. The funding for the aforesaid stipend shall be allocated to the budget for the Internal Affairs Committee by the Rutgers University Student Assembly and dispersed from this budget, except where the stipends are not paid in accordance with 9(d).
- f. If, as a result of changes in the custodian of record, a previously stipend eligible person is no longer eligible, but nonetheless the previously eligible person received a stipend for the current semester, the newly eligible person shall not be paid a stipend for the current semester. However, this person may receive the stipend the next semester.