SUPREME COURT OF THE STUDENT BODY

THE STUDENTS PARTY, APPELLENT VS. THE SWAMP PARTY, APELLEE

Heard and Decided: February 6, 2013

HACKER, J., delivered the opinion of the court, in which MICHEL, C.J., and ANDRADE, DIMATTEO, HALPERIN, AND SULLIVAN, J.J., joined. MASON, J. filed a special concurrence.

This matter is properly before the court based on power derived from the University of Florida Study Body Constitution (*hereinafter* the "Constitution") to hear appeals from "tribunals established by law." *Student Body Const. Art. V Sec. 3(b)(3).*

The instant case stems from two separate fact patterns. In the Spring Semester of 2012 this Court ruled on the interpretation of the 700 codes specifically relating to temporal limits on the election cycle. ***See In Re: Election Cycle, 2 U.F.S. Ct. 9 (2012).*** During the summer legislative session, the legislatures sought to articulate a system congruous with that decision. The resulting amendments form the 700 codes relevant to this case.

The Election Cycle for the Spring 2013 semester began on January 22, 2013. On January 24, 2013, the Swamp Party and Christina Bonarrigo held an event in Turlington Plaza to announce Ms. Bonarrigo's candidacy for Student Body President. On January 25, 2013, the Student's Party filed a complaint against Ms. Bonarrigo and the Swamp Party for violating § 761.2 prohibiting "Campaigning" as defined in § 700.4(d). The Swamp Party argued that argued that their event did not fall under the definition of "Campaigning" but rather the definition of "Campaign Activity" as defined in § 700.4(e). Campaign Activity is prohibited only before the start of the Election Cycle while Campaigning is prohibited before seven days prior to the first day of elections. ***See § 761.1.*** The Election Commission found for the Swamp Party. The Student's Party appealed the decision but instead of seeking the relief sought from the Election Commission, the Student's Party sought a declaration by this Court that §§ 700.4(d), 700.4(e), 761.1, and 761.2 are unconstitutionally vague.

Looking at the plain language as the statutes, it is impossible for this Court to determine the difference between Campaigning and Campaign Activity. We believe this was an oversight in the legislative process and will interpret the set of statutes as such. Campaigning and Campaign Activity, as used throughout the 700 codes, will be interpreted as interchangeable

and will be interpreted as having the full meaning ascribed in § 700.4(d). We hold that § 761.1 and § 761.2 are interpreted as if the legislature had struck § 761.2 during the amendment process to make way for the less restrictive § 761.1. This interpretation has the effect of allowing Campaigning and Campaign Activity during the term specified in § 761.2. Furthermore, this interpretation will prevent the statutes being used a sword or shield by either party and will allow the statute to remain in effect to serve its intent of allowing Campaigning and Campaign Activity while maintaining the academic integrity and educational mission of the University. Under this interpretation, we further hold that Ms. Bonarrigo and the Swamp Party did not commit the violations alleged by the Student's Party.

Ancillary to this holding are two matters of dicta. First, the announcement of an individual candidacy by an individual or a political party or the announcement by a political party of their support for an individual candidate falls within the meaning of Campaigning / Campaign Activity. Furthermore, the approximately four week temporal limitation of Campaigning / Campaign Activity would not violate the students' "right to vote in a fair Student Government election." ***1 U.F.S. Ct. 86 (2011).*** Finally, this Court urges the Legislature to make updates to the 700 codes consistent with this decision and the spirit of fair elections.

The appellants claim is hereby DISMISSED. It is so ordered.

SUPREME COURT OF THE STUDENT BODY

BILLY VRANISH, APPELLANT VS. TJ VILLAMIL, IN HIS OFFICIAL CAPACITY AS STUDENT BODY PRESIDENT, APPELLEE

Heard and Decided: March 21, 2013

HACKER, J., delivered the opinion of the court, in which MASON A.C.J., and ANDRADE, DIMATTEO AND SULLIVAN, J.J., joined. HALPRIN, J. concurred in part and dissented in part. MICHEL C.J., took no part in the consideration of the case.

This matter is properly before the court based on power derived from the University of Florida Study Body Constitution (*hereinafter* the "Constitution") to "interpret any provision of the Constitution" *Student Body Const. Art. V Sec. 3(b)(1) and (2).*

I. Facts and Procedural History

On January 27, 2013, the Student Body President, TJ Villamil, assembled the executive committee to, *intera alia*, remove the current External Affairs Director, Billy Vranish from his cabinet position under its authority granted in § 566.11 of the Student Body Statutes. The executive committee reached the required majority vote and Vranish was removed from his position. The meeting of the Executive Committee was properly noticed.

Vranish filed a petition with this Court to review his dismissal based on two grounds. Chief Justice Michel recused himself from the proceedings due to a prior relationship with Vranish. The court held a hearing on February 24, 2013. The Court, without all justices present could not reach a majority. Vranish petitioned the court for a rehearing *en banc* and this Court granted his petition.

Vranish first contended that he was not properly removed from his position because the Executive Committee did not report a finding of "malfeasance, misfeasance, or nonfeasance" as required by § 566.11.[1] Next Vranish contended that his removal was improper because the alleged reason for removal violated the

[1] In the time between the first hearing and the rehearing *en banc*, the Executive Committee reconvened and found malfeasance in Vranish's performance of his cabinet duties.

anti-discrimination clause in Art. I § 4 of the Student Body Constitution.

Villamil asserted several defenses to the removal of Vranish. First Villamil contends that § 566.11 is an unconstitutional limitation of his removal power granted in Art. IV § 5 of the Student Body Constitution. Additionally Villamil contends the removal was proper based on the subsequent finding of malfeasance. Finally Villamil argued that there is a lack of evidence for this Court to find the Executive Committee violated the anti-discrimination clause in the Student Body Constitution.

II. The President's and Executive Committee's Removal Power

We first address the issue of the presidents removal power. According to Art. IV § 5 of the Student Body Constitution, "Officers of the executive departments . . . shall be subject to removal by the Student Body President." Essentially, this provision gives the president unilateral authority to remove a cabinet director. At first glance, it may seem that § 566.11 is in conflict with Art IV § 5; however, upon closer inspection, the statute is operable within the confines of the constitution. While the legislative branch may not place limits or restrictions on the executive branch's authority, it may create procedures for the implementation of its own authority. In the case of § 566.11 the legislature has delegated additional removal authority to the Executive Committee. It is important to note that § 566.11 requires a simple majority of the executive committee, which can be reached without the vote of the Student Body President. We also caution that both removal procedures must comply with the anti-discrimination clause in Art. I § 4 of the Student Body Constitution.

During oral arguments, this Court was also asked to modify the language granting the President's removal authority in Art. IV § 5 of the Student Body Constitution. While this Court is charged with the interpretation of the Student Body Constitution, we are not in a position to modify the rights and privileges of the Constitution itself. It would undermine the government as a whole for this Court to modify the very document from which it derives authority.

This Court also acknowledges Vranish's argument that it may not be in the best interest of the Student Body for the President to have unilateral removal authority for Executive Officer positions. We note that the Student Body does have

remedies such as amending the Student Body Constitution or holding a recall election should they feel the President is improperly exercising his or her authority.

III. Vranish's Claim of Anti-Discrimination

Vranish also claimed that the Executive Committee violated the anti-discrimination clause in Art. I § 4 of the Student Body Constitution by removing Vranish for his political beliefs. The only evidence presented in regards to this claim was inadmissible hearsay. Due to a lack of evidence, the Court cannot evaluate this claim. We do note, however, that there is a fine line between removal for political beliefs or support and removal based on a disagreement over policy. While the former is in clear violation of the anti-discrimination policy, the latter is an example of a legitimate removal.

IV. Finding of Malfeasance, Misfeasance, or Nonfeasance

As a final argument, Vranish contends the Executive Committee did not meet its burden under § 556.11 of finding malfeasance, misfeasance, or nonfeasance as a grounds for removal. At the second Executive Committee meeting on March 20, 2013, the committee found malfeasance. This finding of fact by the Executive Committee can only be reviewed for clear error. This Court has a practice of not intervening into executive branch authority and does not find clear error in this instance.

V. CONCLUSION

We therefore hold the following:

1. the removal of Vranish by the Executive Committee was proper;
2. the Executive Committee did not violate the anti-discrimination clause in Art. I § 4 of the Student Body Constitution;
3. the finding of malfeasance by the Executive Committee was not clearly erroneous; and
4. under the current Student Body Constitution, the President has the unilateral authority to remove Executive Officers from their positions.

IT IS SO ORDERED.

SUPREME COURT OF THE STUDENT BODY

In re: Proposed Referendum Addressing Investing by the University of Florida Heard and Decided September 12, 2014
Opinion Published September 26, 2014

MCDONALD, C.J.

This action comes before the Court as a petition to propose a referendum question in accordance with Section 790.2, Student Body Statutes. Section 790.2 requires that all such petitions must be accompanied by the "signatures of not less than 1% of the Student Body enrolled at the time of the submission." Under Section 790.4, the role of the Court is to "review and amend the initiative or referendum to ensure that it effectively conveys its legislative intent and fulfills all of the requirements of 773.1." "Failure to meet the requirements of Student Body Statutes 773.1 may result in particular signatures or the entire petition being disqualified by the Supreme Court. " § 790.5, Student Body Stat. (2014). We begin our review by ensuring that the signatures accompanying the referendum meet the requirements of 773.1 and that the total number of signatures meeting these requirements is not less than 1% of the Student Body enrolled at the time of the submission.

At the time the petition was submitted to this Court, the total number of students enrolled at the University of Florida was 49,555; therefore, the petition must be accompanied by not less than 496 signatures. The petition in this case included 24 pages of signatures containing a total of 579 signatures. These signatures were submitted to the University of Florida Student Government administrative staff for review based on the following criteria:

1. The student ID# listed corresponds to the student name listed.
2. The student ID# listed is valid.
3. The student ID# listed is for a current University of Florida student (enrolled in at least 1 credit hour).
4. The student signed the petition.

After eliminating any signatures that did not comply with these criteria, the Student Government administrative staff found that 510 signatures met the criteria listed above. When the Court met on September 12, 2014 to review the petition, we accepted the findings of the Student Government administrative staff and further reviewed the signatures based on the additional criteria listed in Section 773.1.

Section 773.1(e) requires that "[e]ach page containing signatures shall have the proposed initiative statement of intent or referendum question stated in full at the top of the page." During the Court's review of the signatures, it was discovered that the referendum question listed at the top of one of the pages of signatures was materially different from the proposed referendum question.[1] This page contained a total of 21 valid signatures that had not been eliminated by the Student Government administrative staff's review. Eliminating these signatures would drop the total number of valid signatures below the required 496 signatures—from 510 to 489.

At oral argument, the petitioner asked this Court to apply a "flexible and permissive" standard first announced by this Court in Students Party v. Lewis, 1 U.F.S.C. 85, 90 (Nov. 6, 2011). The petitioner argued that in light of this standard the Court should either accept the petition and signatures as is or grant an extension to allow additional signatures to be collected. However, the situation in Lewis to which this Court applied a "flexible and permissive" standard is distinguishable from the present case. In Lewis, the Court was reviewing whether the language of an initiative properly conveyed the drafter's intent. 1 U.F.S.C. at 90. The Student Body Statutes give limited guidance to the Court in this area and merely provide that the Court "shall review and amend the initiative or referendum to ensure that it effectively conveys its legislative intent." § 790.4, Student Body Stat. (2014). Therefore, a "flexible and permissive" standard is appropriate in this area because the Statute contemplates such flexibility in the Court's review. When the Court is reviewing signatures, however, the Statutes (specifically, sections 790.4, 790.5, and 773.1) are less permissive, providing a clear set of guidelines that must be followed. In re: "Certification of the proposed referendum addressing President Machen's stance on alcohol at UF", 1 U.F.S.C. 7, 8 (Feb. 2, 2006). Therefore, the appropriate standard in this area is one of strict adherence to the Statutes.

Because this Court must strictly adhere to the Student Body Statutes when reviewing signatures accompanying a referendum or initiative, the page of signatures where the

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[1] The proposed referendum question read as follows: "Should the University of Florida stop investing in companies that are involved in human rights abuses and that support occupations illegal under international law?" However, the referendum question was listed at the top of one of the pages of signatures as: "Do you support the University of Florida divesting from companies involved in human rights violation?"

referendum question listed materially differs from the proposed referendum question must be eliminated as not complying with Section 773.1. With these signatures eliminated, the petitioners have failed to obtain the required number of signatures under Section 790.2. Accordingly, their petition is hereby **DENIED**.

It is so ordered.

GRIFFIN, J., LANCOS, J., MALLOY, J., PULIGNANO, J., and THACKER, J. concur.

SCHEIN, J., dissents.

END OF DOCUMENT

IN RE PADRON-RASINES

JUSTICE MALLOY delivered the opinion of the Court.

This case involves the role of the Student Government Executive Committee ("SGEC") in appointing executive positions of the University of Florida's Student Government. The SGEC is comprised of six students from multiple branches of Student Government and has had, until this decision, a binding vote to appoint principally executive officers. The Court finds that this practice is unconstitutional.

The Separation of Powers doctrine ensures that no branch oversteps its power, encroaches upon another branch, or blurs the voters' ability to delineate which actor is responsible for certain decisions within government. The three branches exist to provide balance and check the power of one another. The SGEC is currently comprised of members of both the legislative and executive branches of Student Government. The composition of the SGEC, in and of itself, is not a violation of Constitution.

However, the SGEC may not have a binding vote to appoint officers that are principally executive in nature. That role belongs solely to the executive branch which is headed by the Student Body President. The Student Body President may collaborate with any individual or branch he or she chooses, but the President retains final decision making power. Upon appointment, the legislature has the right to confirm the executive's candidate. The current practice places the legislature on both sides of the appointment process and is a clear violation of the Constitution and the framers' intent.

Nothing in this opinion requires that any prior SGEC appointee be removed, but it is also within the executive's sole discretion to remove any principally executive officer in accordance with the Constitution. Removal then triggers the President's unfettered right to begin the appointment process anew.

LANCOS, J., PULIGNANO, J., SCHEIN, C.J., SCURRY, J., AND SIRAGUSA, J. concur.

Interpretation of The University of Florida Constitution: Section 4 of Article VIII Decided June 25, 2016

The Chief Justice delivers the opinion of the Court:

At issue is whether Section 4 of Article VIII of the University of Florida Constitution (the "Constitution") permits the ratification of proposed amendments which receive three-fifths approval of the total ballots cast, or three-fifths approval of ballots cast for or against a particular ballot line item. In relevant part, Section 4 of Article VIII provides "[a] three-fifths approval vote of those voting in the spring general election is necessary to ratify all constitutional amendments." UF CONST. art. VIII, § 4.

It is a fundamental rule of Constitutional interpretation that the plain meaning of a term is given effect in the absence of any indication to the contrary.

Here, § 4 clearly and unambiguously states a proposed amendment must receive three-fifths approval of "those voting in the spring general election" to be ratified. UF CONST. art. VIII, § 4. Given its plain meaning, we hold § 4 permits ratification of an amendment where the amendment is ratified by three-fifths approval vote of the total ballots cast "in the spring general election." *Id.*

The Court recognizes this interpretation, in its retroactive capacity, necessarily voids a number of amendments mistakenly considered ratified in the past. These amendments include:

In 2008, the following amendment was passed:

> Should the composition of the Student Senate be redefined in Article III, Section 2 of the Student Body Constitution as follows? FALL CLASS-Forty to fifty members elected in the fall general election as apportioned by law from on-campus area governments as defined by law and from off-campus areas as defined by law. SPRING CLASS-Forty to fifty members elected from the colleges and independent schools recognized by the Student Senate as defined by law.

UF SG Election Results, http://www.sg.ufl.edu/LinkClick.aspx?fileticket=OMvZsxI5Xs4%3d&tabid=511&portalid=0&mid=1538&forcedownload=true, p. 42 (last visited June 25, 2016).

This amendment received 4,630 yea votes. *Id.* However, there were 8,129 total ballots cast in the Spring 2008 General Election. *Id.* at 40. Therefore, this amendment received a 56.95% approval vote. This approval vote does not amount to a three-fifths approval by "those voting in the spring general election." UF CONST. art. VIII, § 4.

In 2010 the following amendment was passed:

> Should the Student Body Constitution be amended to: change the time for appointment of Summer Replacement Senators from May 1 to the last meeting of spring term; remove verbiage that purports to allow the Student Senate to contract on behalf of the student body; permit the Student Senate to amend election laws within four weeks, rather than five weeks, of an election; comply with Florida Board of Governors Resolution 08-23 by preserving the role of the Honor Code Chancellor, now referred to "Honor Code Executive Director," and allowing this executive director to be appointed by the Student Body President; amend Article III to read "Funding Fee Increase Restrictions", instead of "Budget Restrictions"; ensure that terms of executive department heads expire concurrently with the terms of the elected executive officials; remove any reference to the "Student Honor Court" and "Student Honor Court Bar Association;" direct the submission of proposals by initiative to the Chief Justice of the Student Body; amend the proposal initiative process to provide that a petition carrying the signatures of 5% of the student body shall be placed on the ballot; authorize the Elections Commission to determine if initiative ballot titles and summaries are accurate and lawful and amend ballot titles and summary if they determine that they are not accurate, subject to appeal to the Student Body Supreme Court; require 2/3 of the trial body of the Student Senate for conviction of impeachment, instead of 3/4; make grammatical and other minor corrections and replacements.

UF SG Election Results, http://www.sg.ufl.edu/LinkClick.aspx?fileticket=KPkhyEf5pvY%3d&tabid=511&portalid=0&mid=1538&forcedownload=true, p. 4 (last visited June 25, 2016).

This amendment received 5,525 yea votes. *Id.* However, there were 9,775 total ballots cast in the Spring 2010 General Election. *Id.* at 1. Therefore, this amendment received a 56.5% approval vote. This approval vote does not amount to a three-fifths approval by "those voting in the spring general election." UF CONST. art. VIII, § 4.

Likewise, in 2014, the following amendment was passed:

> Should the anti-discrimination policy of Student Government be updated to include genetic information, in compliance with the University of Florida's anti-discrimination policy, and read as follows: Student Government nor any organization that receives funds shall not discriminate with respect to race, creed, color, religion, age, disability, sex, sexual orientation, gender identity and expression, marital status, national origin, political opinions or affiliations, genetic information, and veteran status as protected under the Vietnam Era Veterans' Readjustment Assistance Act, or any other classification as provided by law?

UF SG Election Results, http://www.sg.ufl.edu/LinkClick.aspx?fileticket=KPkhyEf5pvY%3d&tabid=511&portalid=0&mid=1538&forcedownload=true, p. 82 (last visited June 25, 2016).

This amendment received 4,516 yea votes. *Id.* However, there were 7,919 total ballots cast in the Spring 2010 General Election. *Id.* at 28. Therefore, this amendment received a 57% approval vote. This approval vote does not amount to a three-fifths approval by "those voting in the spring general election." UF CONST. art. VIII, § 4.

Last, in 2016, the following amendment was passed:

> Section 9: The Executive Branch should guarantee verified real-time online remote access to voting on election day in Student Government elections to all members of the electorate beginning in Fall 2016 elections, where 'Online Remote Access' to voting is defined as the ability to cast a ballot from any location with a device connected to the internet and equipped with an Internet Browser. 'Verified' refers to the ability of the student Government to ensure no ballots are fraudulent. 'Real-time' is defined as the condition that votes must be registered by the voting system as they are cast without the involvement of a proxy.

UF SG Election Results, http://www.sg.ufl.edu/LinkClick.aspx?fileticket=KPkhyEf5pvY%3d&tabid=511&portalid=0&mid=1538&forcedownload=true, p. 159 (last visited June 25, 2016).

This amendment received 6,047 yea votes. *Id.* However, there were 10,694 total ballots cast in the Spring 2010 General Election. *Id.* at 124. Therefore, this amendment received a 56.5% approval vote. This approval vote does not amount to a three-fifths approval by "those voting in the spring general election." UF CONST. art. VIII, § 4.

To avoid any confusion in the interpretation of future election results, and to ensure all voters understand the meaning of abstaining to vote on a proposed amendment to the

Constitution, it is recommended each ballot clearly and unambiguously states that three-fifths approval of the total ballots cast in the spring general election are required to ratify such a proposed amendment.

In reaching this decision, this Court did not consider the issue of whether abstentions are to be given the effect of a "nay" vote.

Pursuant to our holding here, the foregoing amendments are stricken.

It is so ordered.

ANGSTADT, J., ROBINSON, J., SCURRY, J., MCCARTHY, J., ALLEN, J. concur.

SIRAGUSA, J., took no part in the consideration of this matter.

SUPREME COURT OF THE STUDENT BODY

In re: *Procedure for Hearing Petitions Filed*
August 30, 2016

PER CURIAM

The Supreme Court of the Student Body of the University of Florida (the "Court") met on the 30th day of August in the year 2016 to establish rules of procedure for the hearing of those petitions filed with the Court by members of the student body that are taken up for consideration by the Court. These rules of procedure are as follows:

Oral Argument

Speaker: Those students whose signatures are on the petition being argued may elect one (1) current University of Florida student to present an argument on behalf of the petition being heard. The name of the elected speaker must be submitted to the Chief Justice via email prior to the scheduled start time of the hearing regarding the petition being argued. *To avoid potential confusion stemming from the submission of multiple speaker names, the speaker name submitted by the student whose signature appears earliest on the petition will represent the petition in oral argument.*

Opposition: Opposing arguments may be heard. For members of the general student body to establish standing to argue in opposition to a petition being heard by the Court, those members of the general student body shall file a petition with the Court articulating that position. Notwithstanding the aforementioned filing requirement, the Student Body Solicitor General will always have standing to present opposing arguments to any petition heard by the Court at any time.

Order of Presentation: In the event opposing arguments are to be presented to the Court, the speaker representing the petition first filed with the Court will present oral argument before his or her opposition.

Time Constraints: Any speaker presenting oral argument to the Court will be provided twenty (20) minutes to present his or her argument. In the event his or her time expires, a speaker may ask the Court for leave to briefly conclude his or her argument.

Reservation for Rebuttal: In the event opposing argument are to be presented to the Court, the speaker first presenting oral argument may reserve up to five (5) minutes of his or her time for rebuttal.

Hearing of Multiple Related Petitions: In the event multiple petitions are being heard during one hearing, related petitions may be heard in succession prior to the beginning of deliberation.

Deliberation

Commencement and Duration: At the close of oral arguments, the Court will begin deliberation. No time constraints are imposed on deliberations. Deliberations will take place until a member of the Court moves to vote on a matter, if such a motion is seconded by another member of the Court, the Court will vote on the matter moved upon.

Assignment of Opinion and Adjournment: After a matter has been voted on, the Chief Justice will assign a member of the Court to write and circulate an opinion to all other members of the Court for comment, and adjourn the hearing.

Filing of Opinion: Upon reaching a consensus on the language of an opinion, the Court will file said opinion with the Senate Secretary for publication in the court reporter.

The Court hereby adopts the foregoing rules of procedure.

SUPREME COURT OF THE STUDENT BODY

Reconsideration pursuant to petition by Student Body:
UF Student Tribunals' & UF Student Committees' Application of State and Federal Law.

ANGSTADT, J. delivers the opinion of the Court:

On November 15, 2016, the Supreme Court of the Student Body of the University of Florida, pursuant to two petitions correctly and timely filed and oral argument by the student body, reconsiders the decision issued by the Court on December 21, 2006[1] (the "2006 Decision"). Ultimately, petitioners ask whether the Court erred in reaching the 2006 Decision, holding that remote location online voting is unconstitutional.

Affirmed.

I

Petitioners ask whether and to what extent bodies within the University of Florida Student Government may rely on the United States Constitution, the Florida Constitution, federal statutes, and Florida statutes in reaching their decisions.

The University of Florida Student Government is not bound by the United States Constitution, the Florida Constitution, federal statutes, and Florida statutes, but may consider such sources persuasive. Accordingly, we affirm the 2006 Decision and address the series of questions before the Court in turn.

A

The University of Florida Student Government derives its power from the University of Florida Student Body Constitution ("Constitution").[2] Relevant here, the judicial branch is gifted authority via Article V of the Constitution, whereby all judicial power is vested in the University of Florida Supreme Court.[3] The Court's primary purpose is to interpret provisions of the Constitution or any law pursuant to written request by twenty members of the student body or request of the Student Body President. [4] The Constitution also grants the Court the right to adopt its own internal rules of practice and procedure.[5] In making decisions, we hold the Constitution and precedent set by this Court are the foremost binding authorities.

B

Petitioners now ask whether and to what extent the United States Constitution, Florida Constitution, federal statutes or Florida statutes may be considered persuasive.

Commensurate with logic, where the Court is unable to find guidance within the foremost authorities, the Court may look to outside sources for guidance. In other words,

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[1] December 21, 2006, 1 S.C.R. 11 (2006).
[2] UF Const. Art. II (2016).
[3] UF Const. Art. V (2016).
[4] UF Const. Art. V, §3(b) (2016).
[5] UF Const. Art. V, §2(b) (2016).

the Court may rely on outside sources including, but not limited to, the United States Constitution, the Florida Constitution, federal statutes, or Florida statutes as persuasive authority. These are documents, many of which have withstood the test of time and are the product of well-reasoned debate, which have facilitated successful and fair governance. Though not binding without express adoption, there is no reason such sources should not influence us here.

Where a persuasive authority is adopted by one of this Court's holdings, the source law still remains persuasive. It does not become a primary source. Rather, it is the holdings of this Court, regardless of where the language comes from, that this or any future University of Florida Supreme Court is considered bound. This is to provide consistency and adequate notice to the student body, and ensure University of Florida laws are derived from a representative political process.

C

Finally, petitioners ask whether the 2006 Decision was correctly decided and is still valid student law. We affirm the 2006 Decision as correctly decided and valid student law.

The cogent 2006 Decision is premised on a concern for voters.[6] The 2006 Court outlined a very real and likely scenario in which members of an organization are forced to vote under supervision of their organization's superiors. This coercion could, of course, ensure that solely the interests of large organizations are represented in Student Government.[7]

In short, petitioners suggest the 2006 Decision deferred, improperly and without adequate notice, to Florida law.[8] We disagree. The Court relied on the Constitution as a primary authority,[9] and bolstered its reasoning with Florida law.[10] For some time, the Constitution has given notice that students are to be provided a secret vote.[11] Since 2006, the Florida laws cited in the 2006 decision have been expressly adopted into the University of Florida's jurisprudence.[12]

The 2006 Decision is affirmed.

II

Petitioners ask the same questions of the Court in regard to the University of Florida Student Government's legislative branch, particularly the Senate Judiciary Committee. We address petitioners' questions in turn.

A

First, petitioners ask whether the Senate Judiciary Committee may rely on the United States Constitution, Florida Constitution, federal Statutes, or Florida statutes to fail proposed student legislation. We answer this question in the affirmative.

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6 *Id.* at 14-15. Particularly, voter coercion. *Id.*

7 *Id.*

8 Specifically, Fla. Stat. § 101.041, and Fla. Const. Art. VI, § 1.

9 December 21, 2006, 1 S.C.R. 11, 12 (2006).

10 *Id.* at 12-13.

11 UF Const. Art. III, § 7(d) (2016).

12 December 21, 2006, 1 S.C.R. at 11.

The University of Florida Student Government derives its power from the Constitution.[13] The legislative branch is gifted authority by Article III of the Constitution, whereby all legislative powers are vested in the University of Florida Student Senate.[14] The Constitution likewise grants the Student Senate the right to adopt its own rules of procedure.[15]

The Senate has done so, adopting the University of Florida Senate Rules and Procedures. The judiciary committee, at the heart of this petition, is governed by Senate Rule 11(4)(c).[16] In particular, the Judiciary Committee has been given the responsibility of reviewing legislation for its constitutionality.[17]

As addressed above, the University of Florida Student Government may be persuaded by alternative sources.

B

Petitioners invite us to expand the power of the Court, enabling review of proposed legislation which fails in committee. We decline their invitation.

The University of Florida Student Government derives its power from the Constitution.[18] This is not a power which can be found or logically derived from the authority granted to the judicial branch by the Constitution.[19]

The Court's power is limited to reviewing laws and the Constitution. In order to be law, proposed legislation must first make it through committee, then be approved by the full Student Senate, then be signed into law by the Student Body President. It is only then this Court may have jurisdiction for review.

III

Because failed legislative proposals are not subject to review by the Court, we lack jurisdiction over and do not reach the remainder of petitioner's questions.

Request for reversal denied.

It is so ordered.

TRIBBEY, C.J., SIRAGUSA, J., SCURRY, J., ROBINSON, J., MCCARTHY, J., ALLEN, J. concur.

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[13] UF Const. Art. II (2016).
[14] UF Const. Art. III, § 6(a) (2016).
[15] UF Const. Art. III (2016).
[16] UF Senate Rules and Procedures §11(4)(c) (2016).
[17] UF Senate Rules and Procedures §11(4)(c)(ii) (2016).
[18] UF Const. Art. II (2016).
[19] UF Const. Art. V (2016).

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided January 11, 2018

In re: "PETITION REGARDING WHETHER THE UF SUPREME COURT CAN INTERPRET SENATE RULES AND PROCEDURES"

Boyett, J.,

Petitioner asks whether this Court can interpret the senate rules and procedures enumerated in Article III § 6 of the University of Florida Student Body Constitution. We rule it can.

I.

At its core, Petitioner wishes us to determine the scope of our judicial power under Article V of the Constitution. Petitioner argues the doctrine of "separation of powers" vests in the Senate discretion to decide its own rules and procedures without judicial interference. He argues these rules and procedures are checked only by the politics of the Senate itself (and by the democratic process). While we agree certain political and discretionary zones exist outside this Court's province, Petitioner's arguments are unpersuasive.

While there is no enumerated "separation of powers clause" in the UF Constitution, it is a doctrine built into the very spirit of our Federal, State, and School government. The idea is simple—each branch is vested with certain key powers and responsibilities. The Senate can pass legislation—the president is the arm of diplomacy, and so on.

"It is emphatically the province and duty of the judicial department to say what the law is." *Marbury v. Madison*, 5 U.S. 137, 177 (1803). The Court has a duty to determine whether laws and executive actions are lawful. This is a pillar of our Constitutional democracy.

But, as Petitioner correctly points out, the Legislative and Executive branches are vested with specific spheres of discretionary power. Such spheres are out of the Courts reach, and the branch itself must determine the lawfulness of its own decisions within such spheres. If this discretion is abused, it is up to the vote to check the branch. Thus, the term "discretionary powers" is often equated with the term "political powers." *Marbury*, 5 U.S. 137 at 165–166 ("By the constitution of the United States, the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience.").

These spheres of discretion are enigmatic. Typically, they guard pockets of political discretion—areas of non-law. But, the Court need not presently locate and count every specific sphere of discretion. The Senate Rules and Procedure are not among them.

II.

This Court alone is given the province to determine what the law is—thus we are given the duty to determine whether something *is* law. Additionally, because rules and procedures are an enumerated power under the UF Constitution, the Court has the duty to review whether the Senate is lawfully executing this Constitutional grant of power. We have the province of determining the meaning of the rules and procedure clause. What constitutes a "rule or procedure" is therefore certainly subject to judicial review.

Senate rules and procedures are enumerated as an Article III power of the senate in the UF Constitution. But, our Constitution goes no further in defining where procedure ends and legislation begins. Where do we draw the line? And *who* draws the line?

If the Senate were to create unconstitutional rules or procedures, it cannot be said the rules are immune to judicial rule due to "separation of powers." There very well may be specific senate procedures that are best interpreted solely within the discretion of the legislature. But, it would be anathema to doctrine of separation of powers to say that the stamp "rules and procedures" allows the Senate to act unilaterally on a matter—immune from the review of the Court. After all, it is the Senate that labels one thing legislation and another a procedure.

This would be a dangerous game to play. Any decision the Senate wishes to be protected from the Court could simply be labeled and passed as rules or procedures. Thus, rules and procedures must be subject to judicial review. There must be an arbiter to decide whether the Senate has abused its authority to determine its own rules and procedures under Article III § 6 of the UF Constitution. The rules and procedures in their entirety are not discretionary. It would be unconscionable to rule otherwise.

Thus, the Court has the authority to determine the legality and constitutionality of the Senate's rules and procedures.

IT IS SO ORDERED.

MCCARTHY, C.J., ALLEN, J., BECKER, J., WALLACE, J. concur.

Validity of Referendum Expanding the UF Supreme Court from Five to Seven Members Decided on February 20, 2018

Associate Justice Wallace delivers the opinion of the Court:

At issue is whether the referendum expanding the number of UF Supreme Court justices in the UF Constitution from five to seven justices (the "2012 Referendum") was constitutionally passed. Section 4 of Article VIII of the University of Florida Constitution (the "Constitution") permits the ratification of proposed amendments which receive three-fifth's approval of the total ballots cast, or three fifth's approval of ballots cast for or against a particular ballot line item. In relevant part, Section 4 of Article VIII provides "a three- fifths approval vote of those voting in the spring general election is necessary to ratify all constitutional amendments." The UF Supreme Court, in its decision in Interpretation of The University of Florida Constitution: Section 4 of Article VIII decided on June 25, 2016, held that Section 4 permits ratification of an amendment where the amendment is ratified by a three-fifths approval vote of the total ballots cast in the spring general election.

Article I, Section 2, subsection (b) of the Constitution grants students the right to submit referendums for ratification by the electorate. UF Student Body Statute 790.21 states that "referendum questions approved by a majority of students voting on the question shall be considered enacted and shall be treated in the same manner as resolutions adopted by the Student Senate."

Here, the following question was listed as a referendum on the Spring 2012 ballot:

> Should the Study Body Article V, Section 3 be amended so that "The Supreme Court consists of the Chief Justice and six justices," (as opposed to the current number of four justices)? Changing this Amendment (as described in the brackets above) would mean that 5 members, as opposed to the current number of 4 would constitute a quorum. Additionally, the concurrence of judgment, which is necessary for any decision, would then consist of 4 members, as opposed to the current amount of 3.

The 2012 Referendum received 4688 yes votes out of 10644 total ballots cast in that Spring 2012 election. Even assuming arguendo that this referendum was actually an "amendment," the question still received only 44% of the vote, and thus did not receive the three-fifth's approval from the student body that is necessary to ratify constitutional amendments. In addition, students may not change the Constitution through referendums, rather the student body can only exercise that power by submitting an amendment under Section 4 of Article VIII of the Constitution. Referendums, in contrast, are treated as resolutions adopted by the Student Senate, if approved according to UF Student Body Statute 790.21. They are not to be treated as amendments.

The Court holds today that the 2012 Referendum expanding the number of justices on the UF Supreme Court was not constitutionally enacted, and therefore the referendum is retroactively voided. As a result, the UF Supreme Court hereby returns to

having five justices, with four justices necessary for quorum, and three justices necessary for a concurrence. Furthermore, the Court holds that a referendum is not a constitutional means for the student body to amend the Constitution.

It is so ordered.

MCCARTHY, C.J., ALLEN, J., BECKER, J., BOYETTE, J. concur.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided November 7, 2018

In re: "GREEN"

C.J. Baker, E. delivers the opinion of the Court:

The Supreme Court of the Student Body of the University of Florida (the "Court") met on the 7th day of November in the year 2018, to discuss a question that was presented by Ian Green, the Student Body President.

This court has jurisdiction under Article V, Section (b)(1)(B) of the Student Body Constitution which reads: "The Supreme Court: shall interpret any provision of the constitution or any law upon written: request of the Student Body President." Univ. of Fla. Student Body Const. art. V, § (b)(1)(B).

Background

On November 4, 2018, this court was contacted by Mr. Ian Green, the Student Body President, via e-mail. The content of the e-mail read as follows:

> Article VIII, Section 3(a)(5) & (6) of the Constitution reference the Director of Student Activities & Involvement as both a member and appointing authority for the Constitutional Review Commission. This position/title no longer exists within the institution; however, it previously served as the primary advisor for Student Government. With the creation of the Department of Student Government Advising & Operations, would Article IX, Section 1(a) of the Constitution of the Student Body indicate that the Senior Director of Student Government Advising & Operations will now serve in this role?

The Law: University of Florida Student Body Constitution

"Unless otherwise qualified in the text, the following rules of construction shall apply to the constitution: references to a specific university department or position shall also include the successor department or position." Univ. of Fla. Student Body Const. art. IX, § 2.

"During January of 2019, and each tenth year thereafter, there shall be established a constitution revision commission composed of the following twenty members: (5) the Director of Student Activities and Involvement; and (6) one student and two

members of the faculty or staff selected by the Director of Student Activities and Involvement." *Id.* at art. VIII, §§ 3(a)(5)–(6).

Discussion

When the Constitution was last revised, there was no full-time direct Student Government Advisor. The Director of Student Activities and Involvement served as the primary advisor for Student Government at this time, as Student Government was under the masthead of Student Activities and Involvement. Since then, some changes have been made to the organization of Student Government. First, the position and title of Director of Student Activities and Involvement no longer exists. Second, a position was made for a full-time direct Student Government Advisor. This position is the Senior Director for Student Government Advising and Operations. Lastly, Student Government separated from Student Activities and Involvement to become its own department.

Because the position of Director of Student Activities and Involvement no longer exists, it becomes necessary to look to the successor clause as found in Article IX, Section 1(a). The Court feels it is important to address this issue at this time as the Constitution Revision Committee will be meeting in the Spring and it is important to have a full committee for the revision process. Keeping this in mind, this Court reads "the successor department or position" to include the new position of Senior Director for Student Government Advising and Operations for the upcoming revision of the University of Florida Student Body Constitution. The revision committee may make permanent changes to the University of Florida Student Body Constitution that reflect these organizational changes if they so please.

It is so ordered.

BOYETTE, J., WALSH, D., WATSON, A. concur.
SAMEI, A. took no part in this decision.

SUPREME COURT OF THE STUDENT BODY

In re: *Procedure for Hearing Petitions Filed*
October 2, 2018

PER CURIAM

The Supreme Court of the Student Body of the University of Florida (the "Court") met on the 2nd day of October in the year 2018, to establish rules of procedure for the hearing of those petitions filed with the Court by members of the student body and are taken up for consideration by the Court. These rules of procedure are as follows:

Preliminary Matters

Submitting petitions to the Court: Petitions must be presented with a memorandum and must be submitted to the Chief Justice via email.

Memorandum requirements: The memorandum submitted with the petition must include the following: (1) Brief description of the facts of the case; (2) Reference to University of Florida rules, statutes, or codes applicable to the case; (3) Request for relief and the relief to which the parties assert that they are entitled; (4) The names and signatures of the students who are presenting the petition to the Court.

Preliminary Hearing: The Court reserves the right to grant or deny writ of certiorari in any case. The Court shall have a public hearing when deciding whether to grant or deny writ of certiorari. During such public hearings, only members of the Court shall speak and discuss whether to grant or deny writ of certiorari. The Court shall base its final decision on a majority vote.

Oral Argument

Speaker: Those students whose signatures are on the petition being argued may elect one (1) current University of Florida student to present an argument on behalf of the petition being heard. The name of the elected speaker must be submitted to the Chief Justice via email prior to the scheduled start time of the hearing regarding the petition being argued. *To avoid potential confusion stemming from the submission of multiple speaker names, the speaker name submitted by the student whose signature appears earliest on the petition will represent the petition in oral argument.*

Opposition: Opposing arguments may be heard. In order for members of the general student body to argue in opposition to a petition taken before the Court those members must first establish standing by filing a memorandum and a petition with the Court prior to the hearing articulating their position. Notwithstanding the aforementioned filing requirement, the Student Body Solicitor General will always have standing to present opposing arguments to any petition heard by the Court at any time. The Court reserves the right to consolidate opposing petitions in order to facilitate expediency and efficiency.

Order of Presentation: In the event opposing arguments are to be presented to the Court, the speaker representing the petition first filed with the Court will present oral argument before their opposition. Any speaker presenting oral argument to the Court will be provided twenty (20) minutes to present their argument. In the event their time expires, a speaker may ask the Court for leave to briefly conclude their argument. During initial oral presentation, the petition's oral representative must reserve time for rebuttal if desired. Rebuttal time will be subtracted from the twenty 20 minutes provided up to five (5) minutes.

Reservation for Rebuttal: In the event opposing arguments are to be presented to the Court, the petitioner may reserve up to five (5) minutes of their time for rebuttal. The request to reserve must be made during the petitioner's initial oral presentation.

Hearing of Multiple Related Petitions: In the event that multiple petitions are being heard during one hearing, related petitions may be heard in succession prior to the beginning of deliberation.

Deliberation

Commencement and Duration: At the close of oral arguments, the Court will begin deliberation. No time constraints are imposed on deliberations. Deliberations will take place until a member of the Court moves to vote on a matter, if such a motion is seconded by another member of the Court, the Court will vote on the matter moved upon. During deliberation, only members of the Court may speak unless a non-member is explicitly given permission by the Court. The Court reserves the right to ask anyone who disrupts deliberations to leave.

Assignment of Opinion and Adjournment: After a matter has been voted on, the Chief Justice will assign a member of the Court to write and circulate an opinion to all other members of the Court for comment and adjourn the hearing.

Filing of Opinion: Upon reaching a consensus on the language of an opinion, the Court will file said opinion with the Senate Secretary for publication in the court reporter.

The Court hereby adopts the foregoing rules of procedure.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided April 11, 2019

In re: "RUSSEL"

WALSH, J., delivers the opinion of the court:

Petitioner requests this court overturn our 2016 decision, *Interpretation of The University of Florida Constitution: Section 4 of Article VIII* and restore any amendments that failed on the grounds of that decision. Petitioner argues that purportedly conflicting Florida statutes mandate the prohibition of the Art. VIII § 4 requirement to include abstention votes in calculating amendment thresholds in student government elections due to conflicting laws of the State of Florida. Further Petitioner argues that because of the hierarchy of laws conflict, student government policy must be changed to reflect the Florida Statutes, and that abstention votes should not be considered as "votes" in our student government constitutional amendment process. Petitioner's arguments and requests for relief rely on a fundamental misunderstanding of the law and past precedent and are therefore denied.

I. Jurisdiction

Petitioner alleges jurisdiction under Article V § 3(b)(1)(a) ("The Supreme Court shall interpret any provision of the constitution or any law upon written petition of twenty members of the Student Body . . ."). Petitioner is requesting interpretation of our constitutional amendment process outlined in UF Const. Art. VIII § 4. The signature threshold is met, and this court has jurisdiction.

II. Hierarchy of Laws

"The provisions of the student body constitution are governed by and subordinate to the constitution and laws of the State of Florida as well as the policies of the Board of Regents and the University rules as set forth in the Florida Administrative Code." Univ. of Fla. Const. Art. IX § 4. Accordingly, if a conflict arises between Florida and Student Body law, Florida law must prevail. The crux of this case relies on whether or not a conflict exists. A conflict for the purposes of constitutional analysis may be found where there is a statute meant to apply to the university, which the university fails to comply with. Determining whether a statute is meant to apply to the university is a matter of statutory interpretation.

Petitioner cites various sections within Title IX of the Florida Statutes to support his claim. Title IX of the Florida Statutes consists of Chapters 97 through 106[1] and is generally referred to as The Florida Election Code. *See* § 97.011 Fla. Stat. (2018). However, individual analysis of

[1] Title IX also consists of Chapter 107, but this is not part of The Florida Election Code as defined in section 97.011.

petitioner's cited statutes is unnecessary, as these statutes aren't applicable to student government elections. When viewed in context of the preceding and subsequent sections, it is clear that these sections specifically apply to elections for the State of Florida. For example, § 97.021(12) defines election as, "any primary election, special primary election, special election, general election, or presidential preference primary election." § 97.021(12) Fla. Stat. (2018). Also, general election is further defined as, "an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law." § 97.021(16) Fla. Stat. (2018). When taken in the context of the other sections within Title IX of the Florida Statutes, alongside the section's defined terms, it is irrefutably clear that the sections Petitioner cited apply specifically to elections that the State of Florida must oversee.

Petitioner's argument continues to unravel when viewed in light of other sections of the Florida Statutes. Chapter 1004, titled Public Postsecondary Education, has a section concerning university student governments. *See* § 1004.26 Fla. Stat. (2018). This section directs student governments to adopt internal procedures to govern the operation and administration of the student government and the execution of all other duties prescribed to the student government by law. *See* § 1004.26(3)(a)–(b) Fla. Stat. (2018). In addition, this section provides that "[t]he qualifications, elections, and returns, the appointments, and the suspension, removal, and discipline of officers of the student government shall be determined by the student government as prescribed by its internal procedures." § 1004.26(4)(a) Fla. Stat. (2018).

"[I]t is a commonplace of statutory construction that the specific governs the general." *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384–385 (1992) (citing *Crawford Fitting Co. v. J.T. Gibbons, Inc.*, 482 U.S. 437, 445 (1987). Here, the specific provisions regarding university student government elections must be read to supersede any general sections regarding State of Florida elections.

The State directed university student governments to develop their own internal policies regarding elections. If the State wanted university student governments to follow its own procedures for elections, it would have directed student governments to do so instead of allowing for the creation of internal policies. Therefore, since the State intended for student government election procedures to be determined by the university student government, there is no conflict between the State of Florida's laws and the policies raised for review in this case. This Court finds no hierarchy of laws conflict.

III. Review of the 2016 Decision

Because there is no hierarchy of laws conflict between the University of Florida Student Government's electoral process and the State of Florida's laws, the Court finds no reason to reverse our 2016 decision regarding abstention votes and the decision stands.

IV. Conclusion

THEREFORE, Petitioner's argument fails to persuade this Court that the 2016 case *Interpretation of The University of Florida Constitution: Section 4 of Article VIII* violates the State of Florida's laws. Petitioner's request for relief is denied.

It is so ordered.

BAKER, C.J., BOYETT, WATSON, J.J. concur.

SAMEI, J. took no part in this decisio

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided August 8, 2019

In re: “Murphy”

REDDIN, J., delivers the opinion of the court:

Student Body President, Michael Murphy, asked the Court to interpret numerous sections of the 200 codes regarding timelines for executive appointments by the Student Body President. Specifically, the Court reviewed codes: 215.4, 215.61, 216.4, 217.4, 218.4, 219.4, 220.4, 221.4, 222.4, 223.4, 224.4, 227.4, and 228.4. Upon examination of the relevant codes the Court concluded that these specific codes violate the separation of powers doctrine that is followed by both the United States of America and the University of Florida. The Court found that the violation unjustly limited the power given to the Student Body President while allocating too much power to the Student Senate.

After careful deliberation and examination the Court has determined that these code provisions violate the separation of powers doctrine and unfairly restrict the power of the Student Body President to make executive appointments.

Therefore, the Court finds these statutes unconstitutional, and they must be struck down.

It is so ordered.

WALSH, C.J., MALIK, CLEMENTE, WERK, J.J. concur

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided August 9, 2019

In re: "SHAW"

WERK, J., delivers the opinion of the court:

Petitioner, Senate President Libby Shaw, requests a ruling on the constitutionality of the constructive absences and subsequent resignation by non-attendance of Senator Ashley Grabowski and Senator Ben Lima. Petitioner's request requires the interpretation of Rule I(4)(b)(ii) of the Student Senate Rules and Procedures, which allows for the Senate President to order the removal of a Senator for disruptive behavior, following two warnings, at his or her discretion. Petitioner's decision to rule two Senators constructively absent pursuant to Rule I(4)(b)(ii) follows the intent of the Rules and Procedures and is constitutional.

I. Jurisdiction

Petitioner seeks jurisdiction under Article V § 3(b)(1)(a) which states that "The Supreme Court shall interpret any provision of the constitution or law upon written petition of twenty members of the Student Body." Petitioner is requesting interpretation of the Student Senate Rules and Procedures. It was decided in *In re: "Petition Regarding Whether the UF Supreme Court Can Interpret Senate Rules and Procedures"* that the Supreme Court can interpret the Senate Rules and Procedures. Additionally, the signature threshold is met. Thus, this Court has jurisdiction.

II. Facts

On May 28, 2019, Senator Ashley Grabowski and Senator Ben Lima walked out of the meeting of the Student Senate and missed multiple roll call votes, resulting in one full absence for the May 28th meeting. At the meeting of the Student Senate on June 18, 2019, Senator Ashley Grabowski and Senator Ben Lima were deemed to be constructively absent by Senate President Libby Shaw after being issued three warnings for disruptive conduct. Senate President Shaw cited Rule I(4)(b)(ii) for her decision.

After being deemed constructively absent, Senator Grabowski and Senator Lima missed over two roll call votes and final roll call, which resulted in one full absence for each Senator. This caused each Senator to reach the established limit for absences under Student Body Statute 323.33, which states that a Student Senator will resign by non-attendance if he or she "accumulates two (2) unexcused or three (3) combined absences (excused or unexcused) from the Student Senate."

III. Constructive Absence

The issue presented to the Court is whether the Student Senate Rules and Procedures allow for a Senator to be ruled constructively absent for disruptive behavior at the discretion of the Senate President. To determine this, the Court must look to Rule I(4)(b)(ii), which allows the Senate President to order the removal of a Senator, for disrupting meetings of the Senate, by the

Sergeant-at-Arms following the issuance of at least two warnings. Per the Rules and Procedures, the issuance of a warning or removal for disruptive behavior is left to the discretion of the Senate President.

While it is not the Court's place to determine what is or is not considered disruptive, as this is explicitly left to the discretion of the Senate President, we can decide whether a constructive absence is equivalent to a removal by the Sergeant-at-Arms under Rule I(4)(b)(ii). The Senate's rationale behind a constructive absence is that it would be inappropriate for a student to physically remove another student from a meeting of the Student Senate, and that a constructive absence allows for the record to reflect an absence as if the Senator was removed without any physical contact.

We, the Court, do not advocate for the physical manhandling of any student, and we agree that a constructive absence allows for the removal policy to be followed while respecting each student's personal boundaries. If a Senator was physically removed from a meeting, he or she would miss roll call votes just like a constructively absent ruling reflects. Thus, the policy of a constructive absence allows the intent of the Rules and Procedures to be followed without any mistreatment of a student.

IV. Resignation by Non-Attendance

With the constructive absence policy upheld, Senators Grabowski and Lima should receive a half-absence for each roll call vote missed, for a total of one absence per meeting pursuant to Rule IV(1)(c) of the Senate Rules and Procedures. This one absence, combined with one absence from the meeting on May 28, 2019, gives Senator Grabowski and Senator Lima, each, two unexcused absences. Under Student Body Statute 323.33 and Rule IV(1)(c), the Court agrees that the resignation by non-attendance of Senators Grabowski and Lima stands.

V. Conclusion

THEREFORE, the ruling of a Senator as constructively absent, due to disruptive behavior, by the Senate President is constitutional pursuant to Rule I(4)(b)(ii) of the Student Senate Rules and Procedures. The subsequent resignation by non-attendance pursuant to this policy is upheld.

It is so ordered.

WALSH, C.J., REDDIN, MALIK, CLEMENTE, J.J. concur.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided August 9, 2019

In re: "GANT"

MALIK, J., delivers the opinion of the court:

Petitioner, Student Senator Jonathan Gant, asked the Court to provide relief by ordering the Student Senate Rules and Ethics Committee to desist from filling his vacant seat and to reinstate his seat in the Student Senate. Petitioner was removed pursuant to Student Body Statute 323.33 for exceeding the number of allowed absences from Student Senate meetings. Petitioner attributes his unfavorable outcome at the hearing before the Rules and Ethics Committee to a prejudicial misreading of Statute 323.45(3) which provides guidelines for unacceptable reasons for absences from regular Student Senate meetings. We, the Court, hold this to be harmless error.

Petitioner's exceeds his number of allowable absences from Student Senate because he had to unexpectedly drive to Orlando to pick up his family dog and cites this as a "non-avoidable personal emergency." It is the opinion of this Court, by the reading of Statute 323.46, that this is not an acceptable reason for absence in accordance with those examples provided in the statute. Further, even if this was an acceptable personal emergency, 323.45(3) merely indicates those instances *may* be approved. Statutes 323.47 and 323.5 further reinforce the Student Senate's role in determining the validity of all excuses. Senator Zlatanoff's misreading of the statute at issue was harmless error – a proper reading would have included all the language of 323.45, 323.46, 323.47, and 323.5, and the result would have been the same by statutory interpretation.

THEREFORE, the Court defers to the decision of the Student Senate Rules and Ethics Committee, and the petition is denied. The subsequent resignation by non-attendance is upheld.

It is so ordered.

WALSH, C.J., WERK, CLEMENTE, REDDIN, J.J. concur.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided January 16, 2020

In re: "MERWITZER I"

WALSH, C.J., delivers the opinion of the court:

I. Jurisdiction

Petitioner alleges jurisdiction under Article V § 3(b)(1)(a) ("The Supreme Court shall interpret any provision of the constitution or any law upon written petition of twenty members of the Student Body . . ."). Petitioner is requesting interpretation of the following Election Code sections to determine constitutionality: §§ 723.4, 761.1, 761.3, 762.0, 762.11, 762.12, 762.51, 765.0, and 765.1. The signature threshold is met, and this court has jurisdiction.

II. Analysis

Petitioner asks the Court to determine whether nine separate sections of the Election Code are constitutional. The Court has found the following sections unconstitutional: §§ 762.11, 762.12, 762.51, 765.0, and 765.1. As such, they must be struck down. However, the other requested sections are found to be constitutional and are therefore upheld.

A. Upheld Sections

Section 723.4 is constitutionally sound. Petitioner requests that the section be stricken because the phrase "irreparable harm" is unconstitutionally vague. However, this is not accurate. Irreparable harm is a legal term found in case law. One example of irreparable harm analysis is when a court must determine whether to grant a preliminary injunction. Because of this, the Court finds Petitioner's complaint as to section 723.4 without merit.

Sections 761.1 and 761.3 are also upheld. Petitioner claims that both place restrictions on free speech by limiting the time when campaign activity may occur and when there may be campaign websites. Although free speech is a guaranteed right by the First Amendment of the United States Constitution, certain exceptions to free speech have been found to be constitutional by courts. One such exception is the time, place, and manner doctrine. The Supreme Court of the United States has allowed such restrictions so long as they serve a legitimate governmental purpose. Here, the election code restrictions on campaign times do serve a legitimate governmental purpose. The Court has to take into account the educational mission of the University of Florida. Also, elections are time consuming and take away from educational pursuits of students. Elections can take away from the educational experience. Elections can be a substantial disruption. Because of these considerations, the Court finds that the restrictions that sections 761.1 and 761.3 put in place are constitutional.

Finally, the Court has found section 762.0 constitutional. Petitioner contends that requiring registering of campaign material with the Supervisor of Elections prevents conducting

spontaneous expressive activity. However, students have a right to know which individuals or political parties are supporting an election advertisement. In addition, "registering" in the context of section 762.0 merely means submitting or turning in an advertisement. Therefore, the Court finds that section 762.0 is also constitutional.

B. Stricken Sections

While the aforementioned sections are constitutionally sound, Petitioner's other complaints have merit. Sections 762.11 and 762.12 have good intent—their purpose is to prevent political parties from lying or stretching the truth. However, the language "misrepresenting a material fact" is too broad, and, as Petitioner correctly stated in his complaint, satire is free speech. The language of sections 762.11 and 762.12 prevent political satire, which is recognized as free speech, and therefore must be struck down as unconstitutional.

Sections 762.51, 765.0, and 765.1 are also all unconstitutional. Sections 762.51 and 765.1 place restrictions on campaign banners. However, UF Regulation 6C1-2.0161 has specific guidelines for student banners. Because these sections are more restrictive than the UF Rule on Banners, they must be struck down. In addition, UF Regulation 2.005 creates regulations for the use of outdoor areas on campus. Because section 765.0 conflicts with this UF Regulation, it also must be struck down as unconstitutional.

III. Conclusion

THEREFORE, the Court has found the following sections unconstitutional: §§ 762.11, 762.12, 762.51, 765.0, and 765.1. They must be struck down. Sections 723.4, 761.1, 761.3, 762.0 are all constitutional and shall be upheld. Petitioner's request for relief is granted in part and denied in part.

It is so ordered.

CLEMENTE, MALIK, REDDIN, J.J. CONCUR

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided February 17, 2020

In re: "700 Codes"

Jurisdiction

Petitioner alleges jurisdiction under Article V § 3(b)(2) of the University of Florida Student Body Constitution ("Constitution"). Whereas, the Supreme Court shall have jurisdiction "upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act." Petitioner is a member of the student body who seeks to enjoin the Supervisor of Elections from enforcing Student Government election codes. Petitioner further asks this Court to declare Student Government Codes 713.7, 719.0, 732.12, 732.13 and 736.0 unconstitutional.

Analysis

Petitioner argues that the Student Government Election Codes are in direct conflict with the Student Government Constitution. Petitioner asserts that the Constitution exclusively regulates the requirements for a student to take office within student government. Furthermore, Petitioner correctly notes that Article VI Section 8 of the Student Body Constitution explicitly excludes all other restrictive standards for taking office. Given these premises Petitioner concludes that all requirements within the Election Codes are unconstitutional.

Given the plain text of the Constitution, the Petitioner's argument fails. Article VI Section 8 of the Student Body Constitution dictates a student's ability to *take* office and excludes all other requirements to *take* office not listed within the Constitution. The Election Codes regulate a student's ability to *run* for office.

A student's ability to *run* for office is separate and distinct from a student's ability to *take* office. By its plain meaning "taking office" is a student, duly elected, assuming the privileges and duties of an office within Student Government. Running for office, campaigning, seeking to be elected, is a necessary step to taking office, however, it is a distint act and therefore subject to a distinct set of regulations that the Constitution does not prescribe.

The Constitution is silent as to the requirements for running for a position within Student Government. Since the Constitution does not address a student's ability to run for officer nor keep the issue from the purview of the legislature, the Student Body Senate is free to regulate a student's ability to run for office by constitutional means. The Senate has done so.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided February 25, 2020

In re: "ABSTENTIONS"

SOCH, J., delivers the opinion of the court:

I. Jurisdiction

Petitioner alleges jurisdiction under Article V § 3(b)(2) of the University of Florida Student Body Constitution ("Constitution"). Whereas, the Supreme Court shall have jurisdiction "upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act." Petitioner is a member of the student body who challenges the legality of actions by the Supervisor of Elections. Therefore, this Court has jurisdiction.

II. Analysis

Petitioner requests declaration that abstentions from voting on Constitutional amendments do not count against the requirement to pass an amendment and that the spring 2020 amendments be duly ratified. The Court finds both textual evidence in the Constitution and binding Court precedent to deny the requested relief.

A. Text of Constitution

The Constitution states "A three-fifths approval vote *of those voting in the spring general election is necessary to ratify all constitutional amendments.*" UF CONST. art. VIII, § 4 (emphasis added). It is undisputed by petitioner that 11,128 students voted in the spring 2020 election. Votes for the amendment broke down in the following manner: 4,993 in favor, 579 against, and 5,556 electing to abstain. The Spring 2020 Constitutional amendment failed to ratify.

Narrowly construing the text of the Constitution, and without looking beyond the four corners of the document, this Court finds no reason to change the outcome of the vote. The plain language of the Constitution reads that three-fifths of those voting in the spring election are necessary to ratify any amendments. It is clear that 4,993 votes in favor of the amendment—44% of those voting in the election—does not amount to three-fifths of those voting in the election (11,128). While Petitioner argued that abstentions counted as "nay" votes, this Court does not find it necessary to make this distinction. Strictly construing the plain language of the Constitution, there is no legal or factual basis to make this determination. Per the text of the Constitution, three-fifths "of those voting in the spring general election" did not vote in favor of ratifying the spring 2020 constitutional amendment. *Id.*

B. Previous Court Opinions

This Court adheres to and reaffirms the decision in "Interpretation of The University of Florida Constitution: Section 4 of Article VIII" decided on June 25, 2016.

III. Conclusion

THEREFORE, the Court has found the spring 2020 Constitutional amendment did not ratify in accordance with § 4 of Article VIII of the Constitution. Petitioner is not entitled to the relief sought.

It is so ordered.

WALSH, C.J., CLEMENTE, REDDIN, J.J. CONCUR.

MALIK, J., not in attendance.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided February 25, 2020

In re: "MERWITZER"

WALSH, C.J., delivers the opinion of the court

CLEMENTE, REDDIN, SOCH, J.J., concurring. MALIK, J., not in attendance.

I. Jurisdiction

Petitioner alleges jurisdiction under Article V § 3(b)(2) of the University of Florida Student Body Constitution ("Constitution"). Whereas, the Supreme Court shall have jurisdiction "upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act." Petitioner is a member of the student body who requests an injunction on Student Government Electronic Voting. Therefore, this Court has jurisdiction.

II. Analysis

Petitioner asks that this Court issue an injunction preventing Student Government from using the current electronic voting system in future elections. The basis of this claim is Petitioner's allegation that when he was voting in the most recent election, he was able to see the usernames of voters who had voted on that computer before him on the Gatorlink log-in. Also, Petitioner claims that the actual website used to vote was not secured or private and could be subject to hacking or other interference.

To Petitioner's first point, none of the students whose names were seen are petitioning the Court to remove their names from being seen on the Gatorlink log-in website. Further, checking "save username" after logging in allows your username to show up after logging off the website. None of the usernames that Petitioner viewed would have been there unless they had explicitly selected "save username." While some Gatorlink usernames show a student's first and last name (i.e. "John.Doe"), there is not necessarily a problem with knowing that a student had exercised their right to vote, especially when their choices are not visible, and the student selected "save username." Therefore, Petitioner's first point is without merit.

To Petitioner's second point on the lack of security present on the Student Government voting platform—this could present a problem in the future. However, because no issue has occurred yet, the issue is not ripe and Court is not the proper governmental body to address this concern. This is a matter of policy and should be addressed to the Senate. Petitioner is encouraged to address his concerns to the Senate, where they will hopefully take action to ensure the safety of future elections. However, Petitioner's complaint is not yet ripe for this Court to hear.

III. Conclusion

Therefore, Petitioner's complaint is dismissed.

IT IS SO ORDERED.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided February 25, 2020

In re: "ORTIZ"

REDDIN, J., delivers the opinion of the Court.

Walsh, C.J., Soch and Clemente, J.J. concurring, Malik, J. not in attendance.

I. Jurisdiction

Petitioner alleges jurisdiction under Section 3b(2) of Article V of the University of Florida Student Body Constitution, the Supreme Court shall have jurisdiction to "upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act".

II. Analysis

Petitioner has requested the Supreme Court to declare Codes 713.7, 719.0, 732.12, 732.13 and 736.0 unconstitutional. Petitioner has also requested Supreme Court to order the Supervisor of Elections to comply with Section 3b(2) of Article V of the University of Florida Student Body Constitution and place the names of all candidates that have qualified thereunder on the ballot for the Spring 2020 General Election. In Petitioner's final request, Petitioner has asked the Court to delay or schedule another Student Government Debate so that all executive candidates who have qualified under Section 3b(2) of Article V of the University of Florida Student Body Constitution may participate in accordance with the portions of Codes 713.7 and 719.0 not in violation of the Constitution.

After reviewing the evidence presented and listening to oral arguments presented by Petitioner, the Court has found that Codes 713.7, 719.0, 732.12, 732.13 and 736.0 are constitutional. The Court does not find these Codes to be in conflict with the University of Florida Student Body Constitution or unduly restrictive. The Court would also like to note that Petitioner has raised similar claims to this in previous hearings where the Court explained its reasoning and finds this claim to be borderline frivolous.

The Court also believes that the Supervisor of Elections did properly comply with Section 3b(2) of Article V of the University of Florida Student Body Constitution. The Petitioner, in this instance, did not exhaust all of the proper remedies at his disposal when this alleged issue arose. The Court also does not believe it would be right or just to order another Student Government Debate as the Supervisor of Elections followed the procedures they were required to adhere to.

III. Conclusion

THEREFORE, the Court has found the following Codes to be constitutional: 713.7, 719.0, 732.12, 732.13 and 736.0. The Court will also, deny with prejudice, Petitioner's second and third prayers for relief.

It is so ordered.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided March 23, 2020

In re: “BROWN”

MALIK, J., delivers the opinion of the court

WALSH, C.J., CLEMENTE, REDDIN, SOCH, J.J., concurring.

Petitioner, Senate President Pro-Tempore Cooper Brown, asked the Court to review Article III, Section 4 related to Student Senate during the summer term and grant relief by holding the edit unconstitutional. Petitioner asks the Court to acknowledge and correct the misstated language with relation to the May 1st deadline for summer replacement appointments.

In 2016, the Court found unconstitutional and struck down certain amendments to the Student Body Constitution. The Chief Justice then removed those amendments from the Constitution. The Constitution was then directly revised, resulting in errors of particular language. The Court agrees with Petitioner’s request to correct the error indicating the May 1st deadline for summer replacement appointments to be read as “on or before” May 1st. The striking of the amendments in 2016 should not have resulted in a deletion and rewriting of those sections of the Constitution, but rather a keeping of the records as stricken with newly formed additions. The Court acknowledges that the error was inadvertent on the part of then Chief Justice and Associate Justices.

THEREFORE, the Court grants the petition. Article III, Section 4 of the Constitution will be revised to reflect its original intent regarding the May 1st deadline for summer senate replacement appointments.

It is so ordered.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided April 15, 2020

In re: "SENATE MEETINGS"

WALSH, C.J., delivers the opinion of the Court

MALIK, REDDIN, SOCH, J.J., concurring. CLEMENTE, J., not in attendance.

I. Jurisdiction

Petitioner alleges jurisdiction under Article V § 3(b)(2) of the University of Florida Student Body Constitution ("Constitution"). Whereas, the Supreme Court shall have jurisdiction "upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act." Petitioner is a member of the student body who challenges the legality of actions by the Senate. Therefore, this Court has jurisdiction.

II. Analysis

Petitioner requests an injunction on Senate meetings taking place over the Zoom platform. Senate meetings have been taking place over Zoom due to social distancing protocols and COVID-19. The University of Florida has cancelled all events and meetings and is encouraging virtual modes of participation. Alachua County has issued a mandatory "stay at home" order. The University of Florida also encouraged students to travel home due to precautions associated with COVID-19. Furthermore, the Student Body Constitution does not explicitly require Senate meetings to occur in-person.

To back up his petition, Petitioner cites Black's Law Dictionary's definition of quorum and an advisory opinion from Florida Attorney General Ashley Moody. Both can be seen as persuasive, and not binding. The Florida Attorney General's advisory opinion listed entities that were being considered for the opinion, and Florida universities were not included. Further, the opinion only cautiously recommended that the Governor issue an executive order suspending rules requiring meetings held in public places. These materials were not enough to overcome the fact that the Constitution does not explicitly require Senate meetings to be held in person—especially given the trying times we find ourselves in.

III. Conclusion

THEREFORE, Petitioner's request for an injunction has been denied. It is important to note that this ruling is limited to this specific request and should not be viewed broadly.

IT IS SO ORDERED.

Conclusion

Therefore, Student Government Codes 713.7, 719.0, 732.12, 732.13, and 736.0 are constitutional.

IT IS SO ORDERED.

Concurring: Chief Justice Walsh, Justice Reddin, Justice Malik, Justice Clemente

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided July 2, 2020

In re: "UTT"

NICKAS, J., delivers the opinion of this court.

Petitioner, Engineering Senator Zachery Utt, requests this Court to compel Respondent, Student Body President Trevor Pope, to convene the Executive Committee to review Petitioner's Transfer from Reserve Request.

Jurisdiction

Petitioner alleges jurisdiction under Article V Section 3(b)(2) stating that "[t]he Supreme Court shall, upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act."

However, in Petitioner's brief, he asks this Court to interpret two pieces of legislation: Student Government Code 820.1 and Student Government Code 533.4. This Court lacks jurisdiction to "interpret any provision of the constitution or any law," as Petitioner has failed to submit a "petition of twenty members of the Student Body." Amendment V Subsection 3(b)(1).

Accordingly, because this Court lacks jurisdiction to hear the petition, this Court dismisses the petition without reaching its merits.

It is so ordered.

SOCH, C.J., MATYK, J., JONES, J., REVAZ, J. concur.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided June 23, 2020

In re: "Murphy II"

SOCH, C.J., delivers the opinion of the Court:

I. Jurisdiction

Per Article V, Section 3(b)(1)(B) of the Constitution of the Student Body, this Court shall interpret any provision of the Constitution or law written upon at the request of the Student Body President. This Court has obliged the Student Body President's request to review various provisions contained within the 200 codes.

II. Background and Short Answer

During the Summer of 2019 then Student Body President Michael Murphy asked the Court to interpret the constitutionality of various sections of the 200 codes regarding timelines for executive appointments. Today, current Student Body President Trevor Pope has asked the Court to review the same 200 codes and decide whether this Court's previous ruling contained an error in the citation of codes.

We find in the affirmative only as to the interpretation of the separation of powers doctrine.

III. Analysis

a. Err in the Courts Citations

It is clear that at the time President Murphy asked the Court to review the specific statutes cited in *In re: Murphy*, President Murphy was asking the Court to review the constitutionality of timelines for executive appointments. This is evident through President Murphy's Article V, Section 3 request to the Court[1] and in the Court's ensuing opinion.[2] However, in both the request for review and the opinion, the codes cited did not concern timelines for executive appointments.

The following codes are cited as unconstitutional based on the separation of powers doctrine in *In re: Murphy*: 215.4, 215.61, 216.4, 217.4, 218.4, 219.4, 220.4, 221.4, 222.4, 223.4, 224.4, 227.4, and 228.4. Some of these codes are based substantively on the United States structure of government. For example, code 216.4 states "The Chairperson shall be confirmed by

[1] *See* email to Chief Justice dated June 14, 2019.
[2] *See* In re: Murphy, Rptr. Vol. 3, at 30 (2019).

a two-thirds (2/3) vote of the members present and voting of the Student Senate." This provision has nothing to do with the timeline for executive appointments. However, the provision directly after this code, 216.41, states—in pertinent part—"…the Student Body President shall appoint another candidate within an immediately renewed thirty (30) day window…"

It is clear, in this example, that if the Court was to review the timelines for executive appointments, 216.41 and not 216.4 is the applicable provision for review.

b. Purview of Review

President Pope has posed the following question to the Court: "Whether In re: Murphy determined that the 30-day window in the 200 codes was unconstitutional? If so, please acknowledge what specific codes the court struck."[3] In large part this opinion follows with President Pope's request. However, Article V, Section 3(b)(1)(B) of the Constitution of the Student Body allows this court to "interpret any provision of the constitution or any law upon written…" Thus, under the jurisdiction by which President Pope has used to gather this Court, we cannot only review whether the Court in *In re: Murphy* cited the wrong provisions—as obvious as it may seem. Rather, this Court will interpret whether the provisions written in *In re: Murphy* were unconstitutional.

c. Struck Provisions

In short, we affirm in only the reasoning in *In re: Murphy*. Timelines for executive appointments violate the separation of powers. Any restriction on the executive branch for the timeline of an executive appointment is deemed unconstitutional in the 200 codes. Accordingly, the Court orders the Secretary of the Senate to update the 200 codes per this ruling.

IV. Conclusion

The verbiage of *In re: Murphy*, including the provisions struck, is hereby quashed and replaced with the language in section III subsection c of this opinion.

It is so ordered.

JONES, MATYK, NICKAS, and REVAZ, JJ., concur.
JONES, J., concurs specially with an opinion.

JONES, J. concurring and concurring specially.

I fully agree with the Court's opinion and write separately to explain the underlying constitutional principal I would have reached that I believe compelled this result.

[3] *See* email to Chief Justice dated June 16, 2020.

Although the procedural posture of this case is atypical, the core question in this case is one of the constitutionality of a statute. To recap, in a summary order our predecessor Court mistakenly struck the wrong codes. Chapters 215 through 231 of the Student Body Statutes refer to agencies and are largely duplicative, with the majority of agencies having similar or identical numbering for similar or identical boilerplate provisions. *In re: Murphy I* struck all of the codes for agencies that raised the confirmation threshold for agency heads to two-thirds, instead of the codes that required the Student Body President to make another nomination of a student to be an agency head within 30 days should the Student Senate reject their previous choice.

So, despite the atypical procedural posture, this case asks this Court to determine whether the Student Senate has the constitutional authority to require the Student Body President nominate an agency head within 30 days of the Student Senate rejecting of their previous nomination.

The Constitution of the Student Body expressly states that "[e]xecutive departments may be established by Student Body law, with the head of each department to be appointed by the Student Body President and confirmed with at least a concurrence of a majority of the Student Senate." Constitution of the Student Body, Art. IV, §5. Although it calls them "executive departments" and not agencies, longstanding practice of Student Government and the absence of anything else resembling an executive department make it clear that the agencies of Title II of the Student Body Statutes are the executive departments from Article IV, Section 5 of the Constitution of the Student Body.

The idea that the power to make appointments of agency heads rests with the Student Body President is not a new one to this Court. In *In re: Padron-Rasines*, this Court determined the Student Government Executive Committee cannot make a binding decision "to appoint officers that are principally executive in nature." The Student Body President always retains the "final decision making power," when deciding who to appoint. *In re: Padron-Rasines*.

Much like how *In re: Padron-Rasines* answered whether the Student Senate can determine *who* appoints agency heads, here this Court is asked to answer whether the Student Senate can determine *when* the Student Body President appoints agency heads.

Today we unanimously hold that "timelines for executive appointments" are unconstitutional. I would go further to hold that the Student Senate lacks the constitutional authority to require the Student Body President make an appointment of an agency head. Because Constitution gives the power to appoint agency heads exclusively to the Student Body President, to permit the Student Senate to require the Student Body President to make the appointment would be a violation of the separation of powers clause. Constitution of the Student Body, Art. II, § 4(a). However, I emphasize that the scope of my concurring opinion does not reach beyond the Student Body President's power to appoint agency heads under Article IV, Section 5 of the Constitution of the Student Body.

This idea is in line with how the United States Constitution is interpreted. "The power of nominating to the senate, and the power of appointing the person nominated, are political powers, to be exercised by the president according to his own discretion." *Marbury v. Madison*, 5 U.S. 137, 177–67 (1803). And as such, "Congress does not have the authority to require the President to exercise his appointment power; such authority would be akin to an exercise by Congress of the appointment power itself, which is prohibited." *Dysart v. United States*, 369

F.3d 1303, 1317 (Fed. Cir. 2004). The court in *Dysart* goes further to hold that "[t]he President's decision not to appoint is a discretionary act that cannot be reviewed by a court." *Id.*

Put simply, the language of Article IV, Section 5 of the Constitution of the Student Body is a direct grant of discretionary authority to the Student Body President to appoint agency heads. *In re: Padron-Rasines* held that the power to appoint "officers that are principally executive in nature" is exclusive to the Student Body President, and today this Court holds the Student Senate is prohibited from imposing timelines on executive appointments. I would extend this holding to prohibit the Student Senate from requiring the Student Body President exercise their power to appoint agency heads. If the Student Senate is displeased that the Student Body President failed or refused to appoint an agency head for an agency it created and allocated money to, the Student Senate has multiple constitutional ways to hold the Student Body President accountable.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided September 3, 2020

In re: "O'Brien-Murillo"

SOCH, C.J., delivers the opinion of this court.

Petitioner Jeremy O'Brien-Murillo has launched a constructive appeal of a decision rendered by the Elections Commission from spring 2020.

Jurisdiction and Background

This appeal occurs under Article V § 3(b)(3), wherefore the Court "shall hear appeals from tribunal established by law." More precisely, the Supreme Court has jurisdiction per Student Body Statute § 729.0: "All final determinations of the Elections Commission may be appealed to the Supreme Court." Mr. O'Brien-Murillo launched his appeal through contacting an outside organization which then contacted university officials. In a communication with university officials, the outside organization expressed concerns over Mr. O'Brien-Murillo's adverse Elections Commission decision.

Thus, in light of this Court's jurisdiction over the Elections Commission, the Court hereby acts as an avenue of recourse for Mr. O'Brien-Murillo's grievance over the Election Commission's adverse ruling.

Overruling of Elections Commission Decision

This Court unanimously finds that the action taken by the Elections Commission was overly broad. Indeed, this Court recognizes that a punishment which bars a candidate from running for all future public offices is truly an extraordinary punishment. While this Court declines to determine the constitutionality of such a punishment, the circumstances by which the punishment ought to be dutifully granted must be extreme.

The Court believes that both determinations by the Elections Commission are erroneous and should not be maintained. Accordingly, this Court finds that the Elections Commission's ruling in Mr. O'Brien-Murillo's spring 2020 case is **OVERRULED IN ITS ENTIRETY** and hereby **VACATED**.

IT IS SO ORDERED.

MATYK, NICKAS, and REVAZ, JJ., concur.
JONES, J. took no part in this decision.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided September 11, 2020

In re: "Ortiz Standing"

NICKAS, J., delivers the opinion of this court.

Petitioner, Alfredo Ortiz, requests that this court overturn its December 21, 2006 decision and restore the Online Voting Initiative to the Student Body Statutes.

1. JURISDICTION

This court has jurisdiction to hear the instant matter under Article V Section 3(b)(1)(a) stating that the Supreme Court shall have jurisdiction to "interpret any provision of the constitution or any law upon written" upon petition of twenty members of the Student Body.

2. DISCUSSION

a. Validity of this court's December 21, 2006 decision.

Relying on in *In re: MERWITZER*, 3 S.C. 39, 39 (February 25, 2020), Petitioner maintains that this court's December 21, 2006 decision was a speculative ruling and is, therefore, void. Petitioner argues that just like in *MERWITZER*, where this court held that the matter was not ripe for ruling when the petitioner himself had not suffered an injury, *id.*, the December 21, 2006 also lacked ripeness because no injury had occurred since online voting had yet to be implemented.

However, Petitioner's argument ignores the distinction between this court's Article V Section 3(b)(1) jurisdiction and its Article V Section 3(b)(2) jurisdiction, the latter of which was at issue in *MERWITZER*. 3 S.C. at 39. Article V Section 3(b)(2) provides that the Supreme Court shall have jurisdiction "upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act." While the *MERWITZER* court stated that its decision was based on the lack of "ripeness", the issue can more accurately be characterized as one of standing. 3 S.C. at 39. For a petitioner to have standing under Article V Section 3(b)(2), there must be (1) a concrete injury, (2) traceable to the petitioner, and (3) redressable by this court. Applying this rule to *MERWITZER*, though a concrete, redressable injury had occurred, that injury was not traceable to the petitioner.

The Article V Section 3(b)(2) standing requirements are not applicable to cases heard under Article V Section 3(b)(1), as the interpretation of a provision of the University of Florida Student Government Constitution does not require an injury to have occurred. Holding otherwise would upend decades of this Court's precedent—a less than desirable result. Accordingly, because this Court's December 21, 2006 decision did not require that an injury had already occurred, the December 21, 2006 decision is valid.

b. Consideration of whether to overturn the December 21, 2006 decision.

Having concluded that the December 21, 2006 decision is valid, this court need only consider whether that decision must be overturned. In making this determination, this court applies the five factors for overturning stare decisis enumerated in *Planned Parenthood v. Casey*: (1) legal developments which undermine the decision, (2) reliance on the ruling, (3) factual changes, (4), ongoing societal controversy and (5) the whether the holding is still workable. 505 U.S. 833 (1992).

First, this court's decisions since the December 21, 2006 decision have not undermined or negatively treated the December 21, 2006 decision in any way. In fact, the constitutionality of online voting has remained untouched by this court since its previous ruling on the subject. Thus, the December 21, 2006 opinion remains intact.

Second, there has been unquestionable reliance on the December 21, 2006 decision. The legislature has yet to pass any pieces of legislation in contradiction. Moreover, the University of Florida has devoted considerable resources to the intranet voting system as a result of the December 21, 2006 decision.

Third, no factual changes have occurred since the December 21, 2006 decision. Internet (or "online") voting is still largely considered to be an unsafe voting method by University of Florida students. On the other hand, the intranet voting system currently in place has adequately protected the security and integrity of Student Government Elections for the last fifteen years.

Lastly, while this court recognizes that some students believe the University of Florida should switch to "online" voting, the December 21, 2006 decision has proven workable. The Supervisor of Elections has provided ample alternatives to traditional voting methods—including absentee voting, a full business week of early voting, and multiple locations for in-person voting.

3. CONCLUSION

In sum, because the December 21, 2006 decision was not subject to the same standing requirements applicable to *In re: MERWITZER*, 3 S.C. 39, 39 (February 25, 2020), the December 21, 2006 decision remains a valid decision. Furthermore, after applying the factors enumerated in Planned Parenthood v. Casey for determining whether a case should be overturned, this Court finds no reason to depart from its prior December 21, 2006 ruling. 505 U.S. 833.

IT IS SO ORDERED.

SOCH, C.J., MATYK, J., JONES, J., REVAZ, J. concur.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided October 2, 2020

In re: "Ortiz Elections Commission Appeals"

REVAZ, J. delivers the opinion of the court:

Petitioner Alfredo Ortiz has launched a constructive appeal for decisions rendered by the Elections Commission on September 21, 2020 for the Spring 2020 Election.

Jurisdiction and Background

This appeal occurs under Article V § 3(b)(3), wherefore the Court "shall hear appeals from tribunal established by law." More precisely, the Supreme Court has jurisdiction per Student Body Statute § 729.0: "All final determinations of the Elections Commission may be appealed to the Supreme Court."

On September 21, 2020, the Elections Commission met to hear several complaints filed for the Spring 2020 campaign. Mr. Ortiz appeals to this Court the following complaints: F20-008, F20-007, F20-002, F20-003, F20-001 and F20-005. The decision of this Court on the following appeals is as follows:

F20-008:

OVERTURNED.

F20-007:

REVERSED and **REMANDED** to the Elections Commission. This Court encourages the Elections Commission to conduct more finding of fact before a violation is found. No subpoena is necessary. If a clear and convincing violation has occurred, then the Elections Commission should rule in favor of the Plaintiff.

F20-002, F20-003, F20-001, and F20-005.

SUSTAINED.

IT IS SO ORDERED.

SOCH, C.J., MATYK, J., JONES, J., NICKAS, J. concur.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided October 2, 2020

In re: “UTT, Emergency Quarantine Voting”

MATYK, J. delivers the opinion of this court.

Petitioner requests this court to order the Supervisor of Elections and the Elections Commission to publicly submit a voting plan for students in quarantine.

Jurisdiction and Background

The Supreme Court has jurisdiction to hear this case under Article 5, Section 3, Subsection B, item 1 states “The Supreme Court shall interpret any provision of the constitution or any law upon written petition of twenty members of the Student Body”. As well as Article 5, Section 3, Subsection B, item 2 , which states “The Supreme Court shall, upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act.”

Petitioner now asks that we issue an emergency injunction ordering the Supervisor of Elections to produce a plan that outlines how students in quarantine will vote.

Order

This Court unanimously orders the Supervisor of Elections to publish the procedure and safeguards in place for students requesting voting accommodation as soon as reasonably possible. Accordingly, petitioners request is hereby approved.

IT IS SO ORDERED.

SOCH, C.J., NICKAS, J., JONES, J., REVAZ, J. concur.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided February 16, 2021

In re: “Ortiz - Political Discrimination Case”

MATYK, J. delivers the opinion of this court.

Petitioner Alfredo Ortiz petitions the court to order the senate Replacement and Agenda Committee to review the applications of all applicants for the open District D Permanent Replacement seat in an unbiased and objective manner.

Jurisdiction and Background

This Court has jurisdiction under Article V Section 3(b)(2) to, “upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act.” Therefore, the Court has jurisdiction to hear this petition in which Mr. Ortiz claims that he was subject to political discrimination in violation of Section 4 of Article I of the Constitution and in violation of Section 1(c) of Rule XII of the Senate Rules and Procedures.

Mr. Ortiz claims that the Senate Replacement and Agenda Committee was not objective and unbiased in their nomination of a replacement senator for District D. On September 11, 2020, our Court decided, “For a petitioner to have standing under Article V Section 2(b)(2), there must be (1) a concrete injury, (2) traceable to the petitioner, and (3) redressable by this court.”

Analysis

In the instant case, Mr. Ortiz presented allegations of political affiliation discrimination, however the court does not see an explicit showing of discrimination, or evidence of discrimination, directed at Mr. Ortiz. Because the Court does not find that Mr. Ortiz has a concrete injury traceable to him, we do not find that he has standing in this case.

Order

Petitioner does not have an adequate claim to request the relief mentioned in his petition. Accordingly, the Court will not grant relief to the petitioner.

IT IS SO ORDERED.

SOCH, C.J., NICKAS, J., JONES, J., REVAZ, J. concur.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided February 16, 2021

In re: “Merwitzer- Representation in Validation Results”

NICKAS, J., delivers the opinion of this court.

Mr. Mark Merwitzer (Petitioner) applied for a Permanent Replacement Seat representing the College of Liberal Arts and Sciences (CLAS). The Chair of the Senate Replacement and Agenda Committee (Chair) informed Petitioner that a stay had been placed on interviews, given that the Spring Election was imminent. Petitioner requests that this Court order the Chair to host interviews for the vacant CLAS seat. This Court has jurisdiction under Article V Section 3(b)(2).

Senate Rule 12(1)(c) provides that “[t]he Replacement and Agenda Committee will interview all applicants for replacement Senate seats, and will recommend to the Senate the applicant the committee deems best suited for the seat in an objective, unbiased manner.” This Court finds that the Chair’s choosing to not hold interviews violated Senate Rule 12(1)(c). Accordingly, this Court orders the Chair to comply with Senate Rule 12(1)(c).

IT IS SO ORDERED.

SOCH, C.J., NICKAS, J., JONES, J., REVAZ, J. concur.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided October 3, 2021

In re: "Use" of Party Name

WIELE, J. delivers the opinion of the Court.

Petitioner Alfredo Ortiz appeals the Elections Commission's September 19, 2021 ruling that a party announcement of a rebrand does not constitute "use" pursuant to 741.1. The Court agrees with the Elections Commission's interpretation that "use" refers to the "first complete registration" form submitted by a group intending to use the name in connection with a campaign.

I. Jurisdiction

This Court has jurisdiction under Article V § 3(b)(3), providing that the Court "shall hear appeals from tribunals established by law." More precisely, the Supreme Court has jurisdiction under Student Body Statute § 729.0 ("All final determinations of the Elections Commission may be appealed to the Supreme Court.").

II. Background

On January 29, 2021, Petitioner, then serving as the Progressive Party President, announced that the party would rebrand as the Socialist Party for future elections. In August, when Petitioner attempted to register the Socialist Party name with the Supervisor of Elections, he found the name had already been registered for the election cycle. As a result, Mr. Ortiz had to forego his plans and register his party under a different name—the Communist Party.

III. Analysis

Petitioner contends that "use" lacks any sort of context within the codes—this is not the case. The "right of first refusal" relates back to a party that "ran one campaign." The verbiage indicates the legislature's intent to protect party names that had been previously used—not party names intended to be used in future election cycles. Furthermore, code 741.1 states that "[i]f the president does not want to use the name again, the name may be used by the group that submits the first complete registration." Inclusion of the word "again" in reference to the usage of a party name implies that the legislature only intended to offer the "right of first refusal" to individuals that registered the name in one of the previous three elections.

Since a party initiates the political cycle with the registration of the party name with the Supervisor of Elections, first use is most logically read to relate to this occurrence. In the face clarity, the court cannot usurp the legislature's intent.

IV. Conclusion

The determination of the Elections Commission is hereby upheld. The word "use" within the context of 741.1 relates to the first official registration of the party name with the Supervisor of Elections such that it may be used in the election cycle.

IT IS SO ORDERED.

NICKAS, C.J., NEERANJAN, J., KLEIN, J., WILLIAMS, J. concur.

In re: "Chilling Effect"

NICKAS, C.J., delivers the opinion of this court.

Petitioner alleges that the conflation of the terms "campaigning" and "campaign activity" by this Court's decision in The Students Party v. The Swamp Party (February 6, 2013) results in a chilling effect on Petitioner's participation in Student Government. Petitioner requests that this Court order the Elections Commission to invoke Code 724.21(b) to "dismiss with prejudice any complaint that is . . . without a scintilla of evidentiary support" where the complaint does not show a substantial disruption of the educational mission of the University of Florida. Because this Court's decision in In re: "MERWITZER I" encompasses the inquiry, this Court dismisses Petitioner's request.

Jurisdiction

This Court has jurisdiction under Article V Section 3(b)(2) of the University of Florida Student Body Constitution, providing that "[t]he Supreme Court shall, upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act." The term "Student Government official" has been interpreted to include not only single officials, but also Student Government bodies. See In re: "SENATE MEETINGS" (asserting jurisdiction over the Student Government Senate). As such, this Court has jurisdiction to issue orders to the Elections Commission when deemed appropriate to do so.

Moreover, as this court stated in its In re: "Ortiz Standing" decision, "[f]or a petitioner to have standing under Article V Section 3(b)(2), there must be (1) a concrete injury, (2) traceable to the petitioner, and (3) redressable by this court." Here, Petitioner has indeed shown a concrete injury traceable to himself—the chilling effect on his right to participate in Student Government. Moreover, that right is redressable by this Court because an order requiring a showing of substantial disruption in complaints would allow Petitioner to partake in the activities he wishes.

In re: "MERWITZER I"

This Court dismisses Petitioner's request based on this Court's holding in In re: "MERWITZER I," which encompasses the inquiry. There, this Court considered a challenge to 761.1's and 761.3's constitutionality. The petition argued that 761.1 and 761.3 are unconstitutional because they place restrictions on free speech by limiting the time when campaign activity may occur and when there may be campaign websites. Chief Justice Walsh waxed eloquently on the balancing of interests that must occur in this context. The Chief Justice explained that:

> Although free speech is a guaranteed right by the First Amendment of the United States Constitution, certain exceptions to free speech have been found to be constitutional by courts. One such exception is the time, place, and manner doctrine. The Supreme Court of the United States has allowed such restrictions so long as they serve a legitimate

> governmental purpose. Here, the election code restrictions on campaign times do serve a legitimate governmental purpose. The Court has to take into account the educational mission of the University of Florida. Also, elections are time consuming and take away from educational pursuits of students. Elections can take away from the educational experience. Elections can be a substantial disruption.

With these considerations in mind, this Court reaffirms its decision in In re: "MERWITZER I" and dismisses Petitioner's request.

IT IS SO ORDERED.

KLEIN, J., NEERANJAN, J., WIELE, J., WILLIAMS, J. concur.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided November 1, 2021

In re: "Disparate Impact Standing II"

KLEIN, J. delivers the opinion of this court.

Petitioner Alfredo Ortiz petitions the court to interpret whether Rule XII Section 1(c) has had a disparate impact on non-majority affiliated candidates.

Jurisdiction and Background

This Court has jurisdiction under Article V § 3(b)(1)(a) ("The Supreme Court shall interpret any provision of the constitution or any law upon written petition of twenty members of the Student Body . . ."). As the signature threshold is met, this court has jurisdiction.

Mr. Ortiz claims that the Senate's treatment of Permanent Replacement seats as they relate to applicants' past affiliation with the Student Government majority party is discriminatory via creation of a disparate impact.

Mr. Ortiz alleges that he has standing to bring such a claim before the court. On September 11, 2020, this court decided, "For a petitioner to have standing under Article V Section 3(b)(2), there must be (1) a concrete injury, (2) traceable to the petitioner, and (3) redressable by this court." Mr. Ortiz argues that discrimination can still exist even when a concrete injury is not explicitly traceable to the petitioner.

Analysis

This court has previously ruled on a standing issue related to a claim of political affiliation discrimination. On February 16, 2021, this court stated:

> Mr. Ortiz presented allegations of political affiliation discrimination, however the court does not see an explicit showing of discrimination, or evidence of discrimination, directed at Mr. Ortiz. Because the Court does not find that Mr. Ortiz has a concrete injury traceable to him, we do not find that he has standing in this case.

The court finds the circumstances of the February 16, 2021, opinion equally applicable to the present case, and the court declines to stray from our previous ruling. Mr. Ortiz must demonstrate a concrete injury traceable to him, yet he has failed to do so.

Order

Petitioner does not have standing to request the relief mentioned in the petition. As such, this dismisses Petitioner's claim.

IT IS SO ORDERED.

NICKAS, C.J., NEERANJAN, J., WIELE, J., WILLIAMS, J. concur.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided November 1, 2021

In re: “Farquhar - Right to Address Case”

NEERANJAN, J. delivers the opinion of this court.

Petitioner Dylan Farquhar petitions this court to issue a writ to the Senate to adjust the Senate rules and procedures governing sign-up for public comment at Senate meetings.

Jurisdiction and Background

The Supreme Court has jurisdiction to hear this case under Article V, Section 3, Subsection B, item 2 of the University of Florida Student Body Constitution which states that “The Supreme Court shall upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act.” With this, the Court has jurisdiction to hear Petitioner Farquhar’s claim that the Senate rules and procedures imposed an “undue burden” on their “right to address Student Government officials” and has a “chilling effect on participation in public comment.”

Petitioner Farquhar claims that on October 26, 2021 they received an email from the Student Body President denying their speaking rights on grounds of a failure to register pursuant to Rule IX, Section 1, Subsection B, which states that “Students may sign-up for public comment by submitting an electronic request that specifies the matter on which the student wishes to speak to the Senate President and Senate Secretary by 11:59 PM ET the day before the meeting of the Senate.” Petitioner submitted an electronic request on October 26, 2021 to speak during public comment later that night.

Analysis

After hearing oral argument from Petitioner, this Court has found that the notice required by Rule IX, Section 1, Subsection B does not impose an undue burden on students wishing to participate in public comment. The Court understands that the Senate has the right to prescribe the system by which public comment is heard on the Senate floor, and finds that the notice serves an important administrative function.

Order

The Court finds that no undue burden is imposed by Rule IX, Section 1, Subsection B. Accordingly, Petitioners claim is dismissed.

IT IS SO ORDERED.

NICKAS, C.J., KLEIN, J., WIELE, J., WILLIAMS, J. concur.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided November 1, 2021

In re: Vacancy Procedures

NICKAS, C.J. delivers the opinion of the court.

Petitioner Ortiz requests that this Court issue a writ to the Student Government Senate to amend its vacancy procedures. For the foregoing reasons, the Court unanimously dismisses the petition.

I. Jurisdiction

This Court has jurisdiction under Article V § 3(b)(1)(A), providing that the Court shall interpret provisions of the constitution or any law upon written petition of twenty Student Body members.

II. Background

Petitioner argues that the current Student Government Senate procedure for filling vacancies is unconstitutional because it results in disparate representation amongst party affiliates in the Senate Chamber. In support of his claim, Petitioner directs this Court's attention to the fact a substantial majority of Replacement Senators go on to affiliate with the Majority Party. The Petitioner would have us instruct the Senate to change its procedures to require that vacancies be filled by a student in the same political party. The Court rejects this request.

III. Analysis

Florida law vests the power to adopt vacancy procedures in the Student Government. The Senate's procedure does not violate federal or state law. Rather, it ensures that all students, whether by area of study or residence, are represented in the Chamber. The fact Petitioner's preferred representatives are not always selected to fill vacancies does not inform the inquiry.

The Court notes that the Student Senate, and all branches of Student Government, are composed of *student*-leaders, emphasizing that *student* comes first. As such, it is understandable that vacancies will arise. The Florida Legislature recognized just that and, accordingly, vested in the Student Government the power to proscribe vacancy procedures, knowing that they are in the best place to balance the interests of students' academic life and the involvement life. This Court's long-standing deference to the Senate's procedure is inspired by our recognition that the Senate, being elected by the students, is most closely in-tune with what adequate representation requires. As such, we decline to subvert their counseled decision on this matter.

IV. Conclusion

The Court dismisses Petitioner's request that the Student Government Senate be required to change its procedure.

IT IS SO ORDERED.

KLEIN, J., NEERANJAN, J., WIELE, J., WILLIAMS, J. concur.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided February 10, 2022
In re: Student Honor Court

Nickas, C.J. delivers the opinion of the court.

Petitioner Student Body President Brown requests that this Court interpret the constitutionality of Article V § (4)(c) creating the office of Student Honor Court Chancellor and providing for the election of the same. For the reasons stated below, this Court holds that Article V § (4)(c) is null and void because it conflicts with Section 4.040 of the University of Florida Regulations.

I. Jurisdiction

This Court has jurisdiction under Article V § (3)(b)(1)(B) of the Student Body Constitution. *See* Article V § (3)(b)(1)(B) (stating that the Court shall have jurisdiction to interpret any provision of the constitution upon request by the Student Body President).

II. Background

Article V § (4)(c) creates the office of the Student Honor Court Chancellor and provides for the Chancellor's election. In 2008, the University of Florida Board of Trustees unanimously adopted the internal operating memo entitled 'Joint Proposal of Student Government and Student Affairs Concerning the Honor Code Chancellor and Vice Chancellors.'[1] Through that proposal and Section 4.040 of the University of Florida Regulations, the University created its own Student Honor Code and related hearing bodies. In doing so, the University effectively removed student government from operating a Student Honor Court. Nonetheless, the language in Article V § (4)(c) remains.

III. Analysis

Article IX § 4 states that "[t]he provisions of the student body constitution are governed by and subordinate to the constitution and laws of the State of Florida as well as the policies of the Board of Regents and the University rules as set forth in the Florida Administrative Code." The Board of Regents is now known as the Board of Trustees. Because the language in Article V § (4)(c) is contra to Section 4.040 of the University of Florida Regulations, the former is null and void.

IV. Conclusion

For the foregoing reasons, this Court holds that Article V § (4)(c) is null and void.

It is so ordered.

WIELE, J., KLEIN, J. NEERANJAN, J. concurring.

WILLIAMS, J. took no part in the consideration of this case.

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[1] https://regulations.ufl.edu/wp-content/uploads/2012/09/Repeal4017.pdf

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided February 27, 2022

In re: "Intentionality" under 700.4(d)

WIELE, J. delivers the opinion of the Court.

Petitioner Alfredo Ortiz (the "Petitioner") appeals the Elections Commission's February 16, 2022 ruling that the defendant did not violate Student Body Statute (hereinafter, "S.B.S.") § 761.1 because their actions were not "intentional[]" pursuant to S.B.S. § 700.4(d). Thus, the Petitioner's appeal presents a mixed question of law and fact and a novel issue for the Court to address: under S.B.S. § 700.4(d), what is the meaning of "intentionality"? This question is to be addressed, *infra*, however ultimately this Court agrees with the Elections Commission's determination that the defendant's actions were not intentional and thus not a violation of S.B.S. § 761.1.

I. Jurisdiction

This Court has jurisdiction under Article V § 3(b)(3), providing that the Court "shall hear appeals from tribunals established by law." More precisely, the Supreme Court has jurisdiction under Student Body Statute § 729.0 ("All final determinations of the Elections Commission may be appealed to the Supreme Court.").

II. Background

On January 18, 2022 the Communist Party organized a watch party and live stream of a debate for members of the party, as well as their friends. Among the invited friends was Matt Ganton (the "Defendant") who indicated his intention to attend the in-person watch party despite testing positive for COVID-19 and the objections of the friend who invited the Defendant to the event. While the Defendant never made it to the event, the news of his intention to attend quickly spread among the attending members of the Communist Party and ultimately the event was ended "prematurely"[1] because of public health concerns. As a result, the Petitioner has alleged a number of injuries including the missed opportunity to collect signatures for the executive ticket.

III. Analysis

The Petitioner's appeal requires that the Court determine what the meaning of "intentionality" is under S.B.S. § 700.4(b). This novel issue presents a mixed question of law and fact; the Supreme Court will uphold the factual findings of the Elections Commission if they are supported by "substantial evidence,"[2] while questions of law will be reviewed *de novo*.[3]

[1] Elections Commission Spring 2022 Complaint 1
[2] S.B.S § 729.1
[3] *Id.*

According to Black's Law Dictionary, an act is "intentional" if it is "done with reason and purpose."[4] This definition requires a two-pronged analysis of the action to determine intentionality, but succinctly this definition requires that *the action be the result of a conscious effort.*

In the case at bar, it cannot be said that the conclusions of fact made by the Elections Commission were not supported by "substantial evidence," so the Court should defer to the determinations of the trier of fact. Based on the facts presented before the Court, it cannot be said that the Defendant intended to disrupt the campaigning activities of the Communist Party. Simply because the Defendant intended to attend the watch party cannot be extended to mean that there was a conscious effort to campaign. Rather, from the evidence presented, it seems far more likely to this Court that the Defendant's conscious "reason" and "purpose" for attending the watch party was to support a friend as they campaigned for a position in student government.

IV. Conclusion

Within S.B.S. § 700.4(d) "intentionality" means "a thing . . . done with reason and purpose." Since the Elections Commission's finding that the Defendant *did not intend* to campaign is supported by "substantial evidence," the Court affirms the findings of the Elections Commission.

It is so ordered.

NICKAS, C.J., KLEIN, J. NEERANJAN, J. concurring.

WILLIAMS, J. took no part in the consideration of this case.

[4] *E.g.*, *Intentionality*, BLACK'S LAW DICTIONARY (11th ed. 2019).

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided October 3, 2022

In re: "Undue Burden"

RUNYAN, J., delivers the opinion of the Court.

Petitioner Alfredo Ortiz ("Petitioner") requests the Court to (1) subpoena the legislature for an explanation of the requirements of Student Body Statute 790.1; (2) order a Writ of Mandamus ordering the Student Government Senate to eliminate the requirements of Student Body Statute 790.1 if the Court finds the legislature's explanation to be insufficient; and (3) order a Writ of Mandamus ordering the Student Government Senate to provide a process by which initiatives can be proposed to the electorate.

Jurisdiction and Background

This Court has jurisdiction under Article V Section 3(b)(2) of the University of Florida Student Body Constitution, providing that "[t]he Supreme Court shall, upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act." As such, the Court has jurisdiction to hear Petitioner Ortiz's claim that Student Body Statute 790.1 imposed an "undue burden" on his "right to collect signatures for the consideration of referenda" and "right to propose initiatives for the consideration of the electorate." Further, the term "Student Government official" in Article V, Section 3(b)(2) has been interpreted to include not only single officials, but also Student Government bodies. *See In re: "SENATE MEETINGS"* (asserting jurisdiction over the Student Government Senate). As such, this Court has jurisdiction to issue orders to the Student Government Senate when deemed appropriate to do so.

Student Body Statute 790.1 provides:

> Referendum questions to be proposed by petition must be submitted to the Elections Commission to be amended and approved prior to signatures being collected. All signatures must be collected within seven (7) school days of the referendum question being approved by the Elections Commission to ensure that it fulfills all the requirements of 773.1.

Further, Student Body Statute 773.1(b) provides, in relevant part, that "[a]ll signatures must be in non-erasable ink" and "[e]ach page containing signatures shall include the identity and signature of the person responsible for securing signatures for that page and that person shall certify all of the following . . . ."

Petitioner claims that he was injured because the alleged undue burden imposed by Student Body Statute 790.1 prevented him from collecting the signatures required for consideration of referenda on the ballot. As such, Petitioner proposed referenda were not included on the Spring 2022 ballot.

At oral argument, Petitioner asked this court to (1) subpoena the legislature for an explanation of the requirements of Student Body Statute 790.1; (2) if the Court finds the legislature's explanation to be insufficient, order a Writ of Mandamus ordering the Student Government Senate to eliminate the requirements of Student Body Statute 790.1; and (3) order a Writ of Mandamus ordering the Student Government Senate to provide a process by which initiatives can be proposed to the electorate.

Analysis

Petitioner first requests the Court subpoena the Student Government Senate to explain *why* it chose to enact the requirements of Student Body Statute 790.1. It is not the duty of the Court to probe into the intentions or motives behind acts of the legislative branch. As such, the Court declines to subpoena the Student Government Senate for such an explanation.

Next, Petitioner requests this court to order the Student Government Senate to eliminate the requirements of Student Body Statute 790.1 and to provide a process by which initiatives can be proposed to the electorate. We decline to do so. It is not the duty of the Court to change or make such procedures for proposing referenda or initiatives; that duty is properly left to the legislative branch. This Court advises Petitioner to seek procedural changes to Student Body Statute 790.1 in the legislative branch.

Instead, it is the duty of this court to determine whether the Student Government Senate has acted unlawfully in setting forth requirements for the submission of ballot referenda in Student Body Statute 790.1. We hold it has not acted unlawfully. This Court finds that the Student Body Statute 790.1 does not impose an undue burden on students seeking to submit ballot referenda. The Student Government Senate is well within its legal authority to prescribe the requirements by which students may propose ballot referenda. The requirements of Student Body Statute 790.1 serve important functions to protect the integrity of elections.

Conclusion

THEREFORE, the Court holds that the Student Government Senate has not performed any unlawful act by setting forth requirements for the submission of ballot referenda in Student Body Statute 790.1. Accordingly, Petitioner's request for relief is DENIED.

IT IS SO ORDERED.

WIELE, C.J., ALLEN, VAN DE BOGART, J.J. concurring.

NEERANJAN, J. took no part in the consideration of this case.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided October 3, 2022

In re: Election Conflict

WIELE, C.J. delivers the opinion of the Court.

Petitioner Alfredo Ortiz (the "Petitioner") submitted this petition to challenge the Supervisor of Election's (the "SOE") power to unilaterally move the election day after the second day of the Fall 2022 election was moved from Wednesday, September 28 to Monday, October 3 because of a University-wide closure due to Hurricane Ian. The Petitioner requested that this Court issue: (i) a Writ of Mandamus ordering the Senate to establish different election days for the Fall 2022 General Election under Article VI, Section 5 of the Constitution and (ii) a Writ of Mandamus ordering the SOE to count the votes cast on the legally-ambiguous Fall 2022 General Election dates of September 27 and October 3 when presenting the results to the Senate for validation. In both instances, the Court declines to order the requested relief because the Court finds that the Senate has implicitly authorized the SOE to unilaterally change the date or dates of an election pursuant to the election contingency plan when the University is unexpectedly confronted with extraordinary circumstances that make holding Student Government Elections during the Article VI election period impossible.

I. Jurisdiction

Article V, Section 3(b)(2) of the University of Florida Student Body Constitution (hereinafter, the "Constitution") states that "[t]he Supreme Court shall, upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act." An individual requesting an order under this provision of the constitution must have (1) a concrete injury, (2) traceable to the petitioner, and (3) redressable by the Court.[1] According to *In re: The Students Party v. Lewis*, the Court has jurisdiction when a violation of a student's Article I Section (2)(a) rights are alleged. Based upon the *Lewis* decision, the Court finds there is standing because the allegation of an infringement on a student's right to vote because of the unique facts and circumstances.[2]

II. Background

On September 25, Governor Ron DeSantis declared a state of emergency for every county in the State of Florida due to the threat posed by Hurricane Ian. The University of Florida subsequently shut down its campus on September 28, which prevented the SOE from holding the second day of elections on Wednesday of the sixth-week of the fall term pursuant to the Constitution.[3] On

[1] In re: "Ortiz Standing", 3 S.C. 52, 52 (September 11, 2020).
[2] The decision today should not be taken as an endorsement of the *Lewis* decision's standing standard. In subsequent Supreme Court decisions it may be appropriate for the Court to review whether an allegation of an infringement upon a student's right to vote, alone, is truly a concrete injury capable of satisfying this Court's standing requirement.
[3] University of Florida Student Body Constitution Article VI, Section 2 (Fall general election).

September 27—the same day the University announced campus would be closed for the remainder of the week—the SOE moved the second day of the Fall 2022 general election to Monday, October 3 pursuant Contingency Plan that was presented to the Senate as is required by 714.9. Petitioner did not vote on the regularly scheduled election date, September 27, and was concerned over the validity of their vote that they casted vote on October 3.

III. Analysis

Article VI, Section 2 of the Constitution establishes that the Fall General Election shall ordinarily take place on the Tuesday and Wednesday of the sixth-week of the Fall semester.[4] The Constitution, however, at least contemplates the possibility that in some situations elections will need to occur outside of the Constitutionally established fall and spring election dates. The Petitioner appears to largely ground their argument upon a mistaken interpretation of one of these provisions—Article VI, Section 5. Article VI, Section 5 of the Constitution says that: "[i]f any hour of any day of a general or run-off election conflicts with a religious or school holiday or if any other conflict exists, the Student Senate shall, by resolution, designate different days for the affected election or elections."[5] Thus, while the Court was not directly petitioned to interpret the meaning of "conflict" in Article VI, Section 5, such an interpretation is necessary to determine whether it was an abuse of power for the SOE to unilaterally move the second day of the election to October 3. The Court concludes that a "conflict" as used in Article VI, Section 5 means an event that can be definitively known to clash with any hour of any day of the Student Government Elections more than nine weeks before the scheduled election—it is not a spontaneous, extraordinary event that makes the ordinary conduct of elections impossible.[6] Such a conclusion is supported by the text of Article VI, Section 5—where a limited list of examples of what is a "conflict" is provided and includes events such as a "religious or school holiday." This opinion is by no means suggesting that this is an exhaustive list, but the cited examples of what would constitute a "conflict" for the purposes of Article VI, Section 5 illuminates the Senate's intent. Also indicative of the Senate's intent is Article III, Section 7(h) which says that the Student Senate shall not "change the dates of Student Body elections in the nine weeks before the scheduled election." In general, when it is possible to read two provisions of law in harmony rather than in conflict, they shall be read as complementing one another. The Court's interpretation of "conflict" in Article VI, Section accomplishes just this.

Although Hurricane Ian did not present a "conflict," the Senate is still tasked with "provid[ing] for the elections of the Student Body."[7] We conclude that they have through the enactment of the Chapter 700 Student Government Election Code. Chapter 710 creates the position of the SOE and their appointment is confirmed by a super majority of the Senate. Section 711.2 says that the SOE "shall conduct and supervise all elections of the Student Body and faithfully execute those duties and responsibilities as designated by the Student Government Election Code and other duties and responsibilities designated by law or that are deemed necessary to the proper conduct of an election." This language suggests that the Senate intended to confer upon the SOE broad latitude to operate in the elections space—in fact the legislature expressly authorized the SOE to use

[4] University of Florida Student Body Constitution Article VI, Section 2 (Fall general election).
[5] University of Florida Student Body Constitution Article VI, Section 5 (Conflicts).
[6] A hurricane that forces the entire campus to close is only one such example of one of these extraordinary events.
[7] University of Florida Student Body Constitution Article III, Section 6(e) (Powers of the Student Senate).

whatever powers were necessary to hold an election. The broad authority of the SOE to act is confirmed by other sections of the code. Notably, Section 714.81 grants the SOE the unilateral discretion to change the location of a polling location "in the event that a polling location becomes unavailable due to an event or circumstance outside the control of the elections staff."[8] It is also important to highlight the absence of the word "conflict" when describing these spur of the moment crises that threaten the normal operations of Student Government elections. Furthermore, Section 714.9 further buttresses the conclusion reached by the Court. This section says that "[i]f Secure Location Electronic Voting is implemented, the Supervisor of Elections shall ensure that a contingency plan with secondary polling locations is in place." This section does not qualify that the SOE's contingency plan may only be used when there are concerns with the electronic voting devices. The SOE's contingency plan clearly spells out that in the event more than half of the polling locations are unavailable for more than 6-hours for "extraordinary reasons" an extra day of elections will be added.

Petitioner argues that the Senate must approve any election dates or change of election dates by referendum of the Senate.[9] The Petitioner offers no textual evidence to support this statement, but the Petitioner's interpretation of the Constitution appears to be misguided. An exhaustive review of the Constitution revealed no language that supports the Petitioner's assertion that a change in an election date, other than in the event of a "conflict," must be supported by a referendum of the Senate.

Petitioner's final argument is that Article III, Section 7(a) renders the Legislature's actions unconstitutional because Article VI, Section 5 expressly reserves to the Senate the power to approve new election days in the event of a "conflict" and the Senate, by approving the SOE's contingency plan, delegated such power. As has been stated throughout this opinion, the extraordinary circumstances resulting from Hurricane Ian do not fit the definition of a "conflict" in Section VI, Section 5.

IV. Conclusion

In the face of exceptional circumstances that result in a total closure of the University of Florida's campus, the SOE may unilaterally change the day(s) of a Student Body Election pursuant to their contingency plan presented to the Senate under Section 714.9. At this juncture, it is important to stress that today's opinion is one of limited applicability and its application should be reserved for situations of severe weather that threaten the ability of the SOE to conduct Student Government elections pursuant to the Constitutionally mandated days contained in Article VI, Sections 2 and 3 because campus will be closed. This decision is necessary to reaffirm a student's fundamental right to vote in a Student Government election and to respect the integrity of the entire election process.[10]

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[8] Under Section 714.8 the SOE is required to submit the list of polling locations to the Elections Commission. This comparison is illustrative because it shows an instance where the SOE has been granted near absolute power to act, without the normal constraints and checks imposed by the Elections Code, when necessary for the proper conduct of an election in the face of extraordinary circumstances.

[9] University of Florida Supreme Court Hearing, October 3, 2022 at 39:40.

[10] Article I, Section 2(a) (Basic Rigts).

It is so ordered.

RUNYAN, ALLEN, VAN DE BOGART J.J. concurring.

NEERANJAN, J. took no part in the consideration of this case.

UNIVERSITY OF FLORIDA
SUPREME COURT
Heard and Decided October 16th, 2022

In re Apportionment

RUNYAN, J. delivers the opinion of the Court

Petitioner Alfredo Ortiz ("Petitioner") requests the Court to determine the constitutionality of Student Body Statute 322.31 and to determine whether the Fall 2022 Class of the Senate was apportioned "on the basis of population as nearly equal as practicable."

Jurisdiction and Standing

First, the Court lacks jurisdiction to review the constitutionality of Student Body Statute 322.31 (2021). Ordinarily, under Article V, Section 3(b)(1) of the University of Florida Student Body Constitution, "[t]he Supreme Court shall interpret any provision of the constitution or any law upon written petition of twenty members of the Student Body; or request of the Student Body President." Petitioner has submitted the requisite written petition signed by twenty members of the Student Body. However, Student Body Statute 322.31 (2021) is no longer in effect. The Court does not have jurisdiction under Article V, Section 3(b)(1) to review a statute no longer in effect.

Second, Petitioner seeks a "determination of whether the Fall 2022 Class of the Senate is apportioned on the basis of population as nearly equal as practicable." In other words, Petitioner requests the Court to subpoena the Judiciary Committee of the Senate for the Fall 2022 population data and determine the lawfulness of the apportionment of the Fall 2022 Class of the Senate. However, Petitioner lacks standing to bring this claim. Under Article V, Section 3(b)(2), "[t]he Supreme Court shall, upon written request of any member of the Student Body and for good cause shown, order any Student Government official . . . to perform any lawful act or desist from an unlawful act." The Court's current case law requires any individual asserting jurisdiction under Article V, Section 3(b)(2) to demonstrate his standing to bring the claim before the Court: (1) a concrete injury, (2) traceable to the petitioner, and (3) redressable by the Court. *In re: "Ortiz Standing"*, 3 S.C. 52, 52 (September 11, 2020). Petitioner failed to assert jurisdiction under Article V, Section 3(b)(2) because the petition is wholly devoid of any mention of standing. Any attempt by Petitioner to demonstrate standing would be futile. Petitioner lacks standing under the doctrine of mootness, whereby the Court will not decide cases in which there is no longer any actual controversy. Here, the issue of apportionment is moot because the governing statute, Student Body Statute 322.31 (2021), is no longer in effect. As such, Petitioner lacks standing to bring this claim.

Conclusion

THEREFORE, the Court lacks jurisdiction to hear determine the constitutionality of Student Body Statute 322.31 (2021) and the Petitioner lacks standing to challenge the lawfulness of the apportionment of the Fall 2022 Class of the Senate. Accordingly, Petitioner's petition is DISMISSED.

WIELE, C.J., NEERANJAN, J., ALLEN, J., VAN DE BOGART, J. concurring.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided October 19, 2022

In re: "Criteria Lawsuit"

ALLEN, J. delivers the opinion of the Court.

Petitioner Oscar Santiago Perez ("Petitioner") petitions this Court to determine whether the Judiciary Committee properly applied the Five Criteria set forth in Rule XI(3)(c)(ii) of the Rules and Procedures of the Student Senate ("Senate Rules") [hereinafter, "Five Criteria"] in failing a proposed constitutional amendment. If the Court agrees with Petitioner, Petitioner petitions the Court to issue a writ of mandamus ordering the Senate Judiciary Committee to refer the proposed constitutional amendment to the full Senate.

I. Jurisdiction

This Court has jurisdiction under Article V Section 3(b)(2) of the University of Florida Student Body Constitution ("Constitution"), providing that "[t]he Supreme Court shall, upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act." The term "Student Government official" has been interpreted to include not only single officials, but also Student Government bodies. *See In re*: "SENATE MEETINGS" (asserting jurisdiction over the Student Government Senate). As such, this Court has jurisdiction to issue orders to the Senate Judiciary Committee when deemed appropriate to do so.

Moreover, as this Court stated in *In re*: "Ortiz Standing" decision, "[f]or a petitioner to have standing under Article V Section 3(b)(2), there must be (1) a concrete injury, (2) traceable to the petitioner, and (3) redressable by this court." Here, Petitioner has indeed shown a concrete injury traceable to himself—preventing Petitioner's legislation from being given a fair review by the Senate Judiciary Committee. Finally, Petitioner's injury is redressable by this Court because the Court may order the Senate Judiciary Committee to review the proposed constitutional amendment and properly apply the Five Criteria.

II. Background

On January 9, 2022, the Senate Judiciary Committee postponed hearing a proposed constitutional amendment pursuant to Article VIII, Section 4 of the Constitution. Subsequently, Petitioner's proposed constitutional amendment failed. The Senate Judiciary Committee provided as explanation that the proposed constitutional amendment failed because it was "unclear how [the proposed constitutional amendment] would meaningfully change the ratification requirements."

III. Analysis

Rule XI(3)(c)(ii) of the Senate Rules provides that in reviewing proposed legislation, the Senate Judiciary Committee will review the legislation as to its "constitutionality, implication, legality,

format, and clarity, and may submit to the Senate amendments to legislation reviewed by the committee." The Senate Judiciary Committee may subsequently pass, postpone, or fail a proposed bill, and if failed, the Chair of the Senate Judiciary Committee will "inform the author of the bill as to why it failed using the aforementioned criteria in the meeting the bill was reviewed." *See* Rule XI(3)(c)(v)(2).

When reviewing proposed legislation, the Senate Judiciary Committee must make a determination that the legislation is indeed constitutional. If the legislation is deemed unconstitutional, the Chair of the Senate Judiciary Committee must explain to the Petitioner why the proposed legislation was deemed unconstitutional. In the case of a proposed constitutional amendment, its constitutionality is largely governed by Article VIII of the Constitution. Article VIII, Section 1 provides that "[e]ach amendment proposed shall embrace only one subject and matter directly connected to that subject." This requirement presents as the only constitutional requirement for a constitutional amendment.

In the present case, the Chair of the Senate Judiciary Committee informed Petitioner that the proposed constitutional amendment was unconstitutional because it was "unclear how [the proposed constitutional amendment] would meaningfully change the ratification requirements." This explanation is violative of the Senate's own rules and incongruent with the standard of constitutionality. As such, this Court holds that the Chair did not properly apply the Five Criteria when deeming Petitioner's proposed constitutional amendment as unconstitutional.

While this Court is of the opinion that the Senate Judiciary Committee misapplied the Five Criteria, the Court is hesitant to grant Petitioner's request for relief. It is not the place of this Court to thwart the legislative process by issuing a writ of mandamus ordering the Senate Judiciary Committee to refer Petitioner's proposed constitutional amendment to the full Senate, setting aside the Senate's own rules for procedure. Rather, this Court respects the separation of powers doctrine set forth in the Constitution, the Florida Constitution, and the United States Constitution. However, this Court is of the opinion that the Five Criteria was misapplied by the Senate Judiciary Committee, and as such, requires some resolution by this Court.

IV. Conclusion

THEREFORE, the Court DENIES Petitioner's requested relief and instead *sua sponte* issues a writ of mandamus ordering the Senate Judiciary Committee to reconsider Petitioner's proposed constitutional amendment and properly apply the Five Criteria in review.

IT IS SO ORDERED.

WIELE, C.J., NEERANJAN, J., RUNYAN, J., VAN DE BOGART, J. concur.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided October 19, 2022

In re: "Dilatory Motions"

NEERANJAN, J. delivers the opinion of the Court.

Petitioner Oscar Santiago Perez ("Petitioner") requests that this Court find the second sentence of Rule V(1)(d)(i) of the Rules and Procedures of the Student Senate ("Senate Rules") unconstitutional for: (1) violating of the due process rights of senators, and (2) unconstitutional vagueness.

I. Jurisdiction

Petitioner alleges jurisdiction under Article V Section 3(b)(1)(A) of the University of Florida Student Body Constitution, providing that "[t]he Supreme Court shall interpret any provision of the constitution or any law upon written petition of twenty members of the Student Body." Petitioner requests interpretation of the dilatory motion provision of the Senate Rules, and presented to the Court a written petition with the required number of signatures from the Student Body. Accordingly, this Court has jurisdiction.

II. Background

Rule V(1)(d)(i) of the Senate Rules reads: "[a] dilatory motion is any motion that seeks to disrupt the business of the Senate, is frivolous or absurd, or contains no rational proposition. The chair does not have to recognize any motion that they hold the independent subjective belief is dilatory." Petitioner turns the Court's attention to the second sentence of the Rule, expressing concern with the exercise of the chair's "independent subjective belief." Petitioner views the chair's "independent subject belief" as an "arbitrary" power.

Petitioner posits that senators have no way of knowing whether their own motions are dilatory without speculation because the chair has "broad" discretion to decide which motions are dilatory, rendering the process of deciding a dilatory motion unconstitutionally vague. Petitioner adds that if a senator were to make multiple motions which the chair finds to be dilatory, the senator risks accumulating "warnings" which may eventually result in being marked "constructively absent." Petitioner also takes issue with the wording of the Rule because, in Petitioner's view, the Senate President has "the sole discretionary ability to rule any perceived dilatory motion as such, without any need to verify it as truly dilatory."

Petitioner additionally makes an argument that a Senate President with racial prejudices may make dilatory rulings that target minority senators.

III. Analysis

Rule V(1)(d) of the Senate Rules provides that "[t]he [senate] chair will deny the hearing of any dilatory motions and will issue a warning for disruptive conduct to any Senator who has made a dilatory motion." The Rule further clarifies which motions are dilatory– "any motion [that] seeks to disrupt the business of the Senate, is frivolous or absurd, or contains no rational proposition."

The Rule's first sentence gives senators notice of which of their own motions might be dilatory– the speculation Petitioner alleges is a non-issue as senators have a clear and concise definition of a dilatory motion. Any reasonable senator can apply the definition provided in the rule to their own motion, before making the motion, to determine whether their motion is disrupting the current business of the Senate, is

frivolous or absurd, or contains no rational proposition. Senators are well-equipped to avoid making disruptive motions, subject to repeat warnings.

Petitioner's concerns with the second part of the Rule are undermined by the first part of the Rule. The two must be read together. The Senate President's "independent subjective belief" that a motion is dilatory is made within the context of applying the definition in the preceding sentence. The Senate President is entrusted to use their independent reasoning to apply the definition of a dilatory motion when deciding whether or not to rule a motion as such. The discretion provided to the Senate President in deciding these matters is no broader than that which is provided for the Florida legislature[1]. *See Fla. H.R. 11.13* (2022) ("Dilatory or delaying motions shall not be in order as determined by the Speaker.").

During oral argument, Petitioner clarified to the Court that he was alleging a substantive due process violation. Petitioner failed to identify *any* constitutionally protected right deprived by the Senate Rule in question. The Court finds no substantive due process violation imposed by the Rule.

Petitioner also expressed concerns about a potential for discrimination in the issuance of dilatory motions by race. However, petitioner has proffered no accompanying equal protection violation on these grounds. Petitioner has only requested a reading of the Rule's constitutionality on the enumerated grounds, and has not alleged any specific set of facts to insinuate the improper application of the dilatory standard.

Accordingly, the Court declines to find Rule V(1)(d)(i) of the Rules and Procedures of the Student Senate unconstitutional on either of the grounds proposed by Petitioner.

IV. Conclusion

THEREFORE, the Court (1) verifies the constitutionality of Rule V(1)(d)(i) of the Rules and Procedures of the Student Senate and (2) DENIES Petitioner's requested relief.

IT IS SO ORDERED.

WIELE, C.J., ALLEN, J., RUNYAN, J., and VAN DE BOGART, J. concurring.

[1] It is worth noting that the dilatory motion rule in the University of Florida Student Senate Rules is arguably clearer in defining a dilatory motion for UF student senators than the rule provided to Representatives of the Florida House.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided October 26, 2022

In re: Code of Ethics

VAN DE BOGART, J. delivers the opinion of the Court.

Petitioner Oscar Santiago Perez ("Petitioner") petitions this Court to: (i) determine whether the Senate Judiciary Committee ("Judiciary Committee") properly applied the Five Criteria set forth in Rule XI(3)(c)(ii) of the Rules and Procedures of the Student Senate ("Senate Rules") [hereinafter, "Five Criteria"] in failing a proposed Student Government Code of Ethics ("Code of Ethics") amendment and (ii) if the Court finds the Five Criteria were properly applied, Petitioner petitions the Court to issue a writ of mandamus ordering the Judiciary Committee to amend the legislation in good faith so that it may be submitted to the full Senate. First, this Court verifies that the Judiciary Committee's application of the Five Criteria, failing Petitioner's legislation on the implication criterion, was proper. And second, this Court declines Petitioner's requested relief to order the Judiciary Committee to amend the legislation in good faith.

I. Jurisdiction

This Court has jurisdiction under Article V Section 3(b)(2) of the University of Florida Student Body Constitution ("Constitution"), providing that "[t]he Supreme Court shall, upon written petition of any member of the Student Body and for good cause shown, order any Student Government official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act." As this Court stated in *In re*: "Ortiz Standing," "[f]or a petitioner to have standing under Article V Section 3(b)(2), there must be (1) a concrete injury, (2) traceable to the petitioner, and [be] (3) redressable by this court."

II. Background

On May 29, 2022, the Judiciary Committee postponed hearing a proposed amendment to the Student Government Code of Ethics. Subsequently, Petitioner's proposed Code of Ethics amendment failed the Judiciary Committee's review. The Judiciary Committee provided an explanation that the proposed amendment would result in inconsistent definitions for harassment between the Student Government Code of Ethics and the Student Conduct Code—that two conflicting definitions would apply to the same individual. The Judiciary Committee decided that based on its application of the Five Criteria, inconsistency between the Code of Ethics and the Student Conduct Code was sufficient reason to fail the legislation on implication.

III. Analysis

Rule XI(3)(c)(ii) of the Senate Rules provides that in reviewing proposed legislation, the Judiciary Committee will review the legislation as to its "constitutionality, implication, legality, format, and clarity, and may submit to the Senate amendments to legislation reviewed by the committee." The Judiciary Committee may subsequently pass, postpone, or fail a proposed bill. If the Judiciary Committee fails a bill, the Chair of the Judiciary Committee will "inform the author of the bill as to why it failed using the aforementioned criteria in the meeting the bill was reviewed." *See* Rule XI(3)(c)(v)(2). In other words, when reviewing proposed legislation, the Judiciary Committee must determine that the legislation does or does not meet the Five Criteria, and if the legislation is deemed to fail its application of the Five Criteria, the Chair of the Judiciary Committee must explain to the Petitioner why the proposed legislation failed.

In the present case, the Chair of the Judiciary Committee informed Petitioner that the proposed Code of Ethics amendment failed after the Judiciary Committee applied the Five Criteria. Specifically, the Chair noted that it failed the implication criterion, because it would "result in inconsistent definitions for harassment between the Student Government Code of Ethics and the Student Conduct Code." Petitioner claims the two different codes (the Student Conduct Code and the Code of Ethics) govern different behavior. But both the Code of Conduct and the Code of Ethics apply to students. As such, the Judiciary Committee's explanation properly lays out how the proposed Code of Ethics amendment failed the implication criterion. By this explanation, this Court holds that the Chair properly applied the Five Criteria when failing Petitioner's proposed Code of Ethics amendment.

Further, it is not the place of this Court to thwart the legislative process by issuing a writ of mandamus ordering the Judiciary Committee to amend the Petitioner's legislation. As a point of clarification, the Judiciary Committee does not, as the Petitioner states, have a "Substantive Due Process responsibility to make a good faith effort to fix legislation it fails."

Accordingly, this Court is of the opinion that the Five Criteria were properly applied by the Judiciary Committee.

IV. Conclusion

THEREFORE, the Court (i) verifies that the Senate Judiciary Committee properly applied the Five Criteria and (ii) DENIES Petitioner's requested relief to order the Senate Judiciary Committee to amend the legislation in good faith so that it may be heard by the full Senate.

It is so ordered.

WIELE, C.J., NEERANJAN, J., RUNYAN, J., ALLEN, J. concurring.

UNIVERSITY OF FLORIDA SUPREME COURT
Heard and Decided October 26, 2022

In re: Application of the Five Criteria to a Proposed Authorization

WIELE, C.J. delivers the opinion of the Court.

Petitioner Oscar Santiago Perez (the "Petitioner") submitted this petition to challenge the Judiciary Committee's application of the "Five Criteria"[1] set forth in Rule XI(3)(c)(ii) of the Rules and Procedures of the Student Senate (the "Senate Rules") to a proposed authorization that would have the Student Body President appoint an officer to handle the reimbursement of funds for a number of pregnancy-related healthcare services. The Petitioner requested that this Court: (i) review whether the Judiciary Committee properly applied the Five Criteria and (ii) if the Court determines that the Judiciary Committee has not, issue a Writ of Mandamus ordering that the proposed authorization be referred to the full Senate. As a preliminary matter—this Court cannot order the Judiciary Committee to refer the proposed authorization to the full body of the Senate because such an action would violate the separation of powers that is an undisputed principle underpinning the University of Florida Student Government ("SG"). Thus, what the Petitioner really asks of the Court is that we issue a Writ of Mandamus ordering the Judiciary Committee to properly apply the Five Criteria. Having found that the Judiciary Committee rationally applied the Five Criteria, this Court refuses to substitute its judgement for that of the Judiciary Committee's when the subjective judgement of the committee was not arbitrary and capricious.

I. Jurisdiction

Article V, Section 3(b)(2) of the University of Florida Student Body Constitution (hereinafter, the "Constitution") states that "[t]he Supreme Court shall, upon written petition of any member of the Student Body and for good cause shown, order any [SG] official or any officer of a student organization that receives Student Body funds to perform any lawful act or refrain or desist from an unlawful act." An individual requesting an order under this provision of the constitution must have (1) a concrete injury, (2) traceable to the petitioner, and (3) redressable by the Court.[2]

II. Background

On July 3, 2022, the Judiciary Committee postponed an authorization proposed by the Petitioner. The proposed authorization would have the Student Body President appoint an officer to handle the reimbursement of funds for a number of pregnancy-related healthcare services.

The Judiciary Committee stated that the authorization was unconstitutional and likely illegal. The Judiciary Committee cited a number of University of Florida Supreme Court cases, including a concurring opinion, to substantiate its claim that the proposed authorization was unconstitutional. Furthermore, the Judiciary Committee cited HIPAA to support its claim that the authorization as written was illegal.

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[1] The Five Criteria are: constitutionality, implication, legality, format, and clarity.
[2] In re: "Ortiz Standing", 3 S.C. 52, 52 (September 11, 2020).

III. Analysis

This Court decided held in the decision of In re: *"PETITION REGARDING WHETHER THE UF SUPREME COURT CAN INTERPRET SENATE RULES AND PROCEDURES"* that there are "certain political and discretionary zones exist outside this Court's province." The Petitioner's request that the Court substitute its own subjective judgement for that of the Judiciary committee is ordinarily one such sphere of discretion because a committee comprised of members of the Senate that is subjected to annual elections is in a better position that evaluate what is best for the student body. Furthermore, such a decision conforms with the separation of powers concept that is so ingrained in the student body's system of governance that I need not cite textual support of the principle. To arrive at a different conclusion would be an egregious overstep of the Court.

The respect for SG's separation of powers must, however, be balanced with the Court's original jurisdiction pursuant to Art. VI, Sec. 3(b)(2) of the Constitution. In these instances, the Court "shall, upon written petition of any member of the Student Body and for *good cause shown*, order any [SG] official or any officer of a student organization . . . to perform any lawful act or refrain or desist from an unlawful act" (emphasis added).[3] At this juncture, the Court will give attempt to articulate to future petitioners what is required to show "good cause" such that the Court will order a SG official "to perform any lawful act or refrain or desist from an unlawful act."[4] In instances where pursuant to a statute or the Constitution the SG official must make a subjective determination on whether to act or not—the Court will review the action or inaction to determine whether this decision was "arbitrary and capricious." A decision is "arbitrary and capricious" when the subjective action or inaction of a SG official has no reasonable basis, or if the official made a decision without reasonable grounds or adequate consideration of the circumstances. This standard of review respects the separation of powers and SG officials' ability to make subjective determinations while still preventing clear abuses of power by these same officials.

With the facts before the Court today, I do not think it can be said the Judiciary's Committee's application of the Five Criteria was arbitrary and capricious. The Judiciary Committee applied a rational analysis for why in their subjective interpretation the authorization was unconstitutional and potentially illegal. The Judiciary Committee cited a number of decision of this Court to support their opinion that the proposed authorization was unconstitutional and cited a valid and likely-applicable law (HIPAA) that questioned the legality of the authorization. In light of this rational application of the Five Criteria, it is not our duty to supplant our own analysis for that of the Judiciary Committee's.

IV. Conclusion

THEREFORE this Court verifies that the Judiciary Committee rationally applied the Five Criteria and DENIES the Petitioner's requested relief.

It is so ordered.

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[3] Art. VI, Sec. 3(b)(2).
[4] *Id.*

NEERANJAN, RUNYAN, ALLEN, VAN DE BOGART J.J. concurring.