THE FLORIDA STATE UNIVERSITY  
STUDENT SUPREME COURT  
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Memorandum  

TO: Jarrett R. Eady, Senate President  
Joseph Kimok, Senator  
Aakash Patel, Senator  
55th Student Senate  

FROM: Jennifer Sullivan, Supreme Court Chief Justice  

DATE: January 23, 2003  

RE: Request for Advisory Opinion Re: Bill 11  

Thank you for your request for an advisory opinion regarding the legality of Bill 11 requiring all candidates to complete a Voter Education Form. This court has jurisdiction to review the legislative bill pursuant to the "Legislative Bills Review Act," § 507, Fla. St. U. Stat. (2002). The proposed legislation requires certain information be disclosed by candidates to be provided along with the candidate’s name on the official ballot to be paid for by the Activity & Service (A&S) fees. The Florida Statutes provide that "student activity and service fees shall be expended for lawful purposes to benefit the student body in general." § 240.235, Fla. Stat. (2002). Furthermore, the Florida Administrative Code provides that "[t]he allocation and expenditure of the student activity fund shall be determined by the Student Senate provided that it shall act in accord with the applicable provisions of the Florida State University rules and the laws of the State of Florida." Rule 6C2-3.035, F.A.C.  

The proposed legislation raises various vagueness issues, as well as ambiguities. Section 710.6 (E) provides "[t]he truthful content submitted by each candidate on the Voter Education Form shall not be a factor in determining the eligibility of each candidate to be placed on the ballot. Any candidate who makes false or obscene statements as deemed by the Supervisor of Elections shall be disqualified." This provision is not only vague and ambiguous, but leads itself to contradiction. The first sentence contradicts the second sentence. Additionally, if "truthful content shall not be a factor in determining eligibility to be put on the ballot," then the second sentence contradicts the first in that it provides that a candidate that makes a "false or obscene statement" will be disqualified, thus removed from the ballot. The falsity of a statement is
the "truthful content" of a statement — in essence, this is a play on semantics. So although the "truthful content" does not become a factor in whether a candidate gets his name on the ballot, the candidate will be removed immediately if the Supervisor of Elections determines the statement is false or obscene, which alone is a highly subjective and discretionary duty to be placing on an Elections Supervisor.

In addition to the vagueness of section 710.6 (E), section 710.6 (J) appears vague as well. This section provides that "[t]he location of the published Voter Education Forms shall be published in a paper of general campus circulation at least four school days prior to the election, or at the earliest opportunity if no such newspaper is available at that time." The second part of this provision — "at the earliest opportunity if no such newspaper is available at the time" — leaves a gaping vague hole for abuse.

Section 710.6 (C) combined with the content of the mandatory questions raises possible issues of equal protection. First, the proposed legislation provides different "rules" for Senate candidates and non-Senate candidates, providing that "Senate candidates may omit one question . . .." (emphasis added), while "non-Senate candidates must answer every question except No. 4" (emphasis added). The justification for the distinction here is not obvious, nor is it wise. In addition to the distinction made in this section, the content of the questions could be slightly prejudicial. For instance, a candidate's non-school related experience may not be relevant to the candidate's future representation of the student populace. Furthermore, it is risky business to be asking questions of non-school relation. Specifically, question #5 requiring a candidate to answer whether that candidate plans to leave "the University for any semester (including summer)" during that candidate's term in office could be prejudicial based on monetary situations. Furthermore, this question may discourage or intimidate a student from running for office.

Section 710.6 (B), requiring all candidates to complete each question on the form within five-hundred (500) words, appears to be a length that could lead to grandstanding and a waste of A&S fees. Each candidate's complete Form could result in twenty-five hundred (2500) word essays on why they want to be elected. This is the purpose of campaigning. "Funds may not be expended to support in whole or in part a candidate for political office." § 803.8, Fla. St. U. Stat. (2002). Although it is not clear if this section of the Finance Code is to be made applicable to student political candidates or local, state, and national political candidates, A&S fees are not to be expended to support candidates. However, this Court does not believe that a Voter Education Form on its face violates this section, in that it would be applicable to all candidates, thus raising no equal protection on its face; the Court believes that as applied, this legislation could lead A&S fees to be
expended in part to support a political office and may present a problem further down the road.

Finally, it is the political responsibility of the people to be informed of the candidates running for office. This legislation misplaces our political responsibility as voters to inform ourselves and to make the appropriate, personal choice for who we want representing us. It is the opinion of this Court that Bill 11, proposing a Voter Education Form, works against the political responsibility of the people and makes for bad public policy.

CC: Michelle Petch, SGA President
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