



FILED

MAR 18 2019

AGENCY CLERK
FLORIDA STATE UNIVERSITY

To: Thomas Driscoll
Amplify Movement FSU 2019-007

From: Angela Lauer Chong, *ALC*
Interim Vice President for Student Affairs

Date: March 15, 2019

Re: Appeal Related to Spring 2019 Student Government Association Election

This matter has come before me as a result of an appeal filed seeking review of a recent decision of the Florida State University Supreme Court ("Supreme Court") related to the Spring 2019 Student Government Association ("SGA") election. Review has been requested by Thomas Driscoll following the decision of the Supreme Court¹ related to various provisions of Chapter 700 fo the Student Body Statutes ("SBS"), commonly referred to as the Student Body Election Code ("Election Code"):

The Legacy Party v. The Amplify Movement, Case No. 2019-AP-01

On March 6, 2019 appellant Thomas Driscoll for the Amplify Movement ("Amplify") submitted a timely appeal to the Office of the Vice President for Student Affairs for final action. The Vice President for Student Affairs has appellate jurisdiction over decisions of the Supreme Court pursuant to Rule 3.8, Supreme Court Rules of Procedure.

In The Legacy Party v. The Amplify Movement, the petitioner alleged a violation of the Election Code related to alleged early campaigning by a dues paying member of Amplify. The Elections Commission ("Commission") dismissed the alleged violation. The Legacy Party ("Legacy") filed an appeal to the Supreme Court alleging that the Commission erred when failing to find Amplify in violation of section 711.6(C)4, SBS (2019).

In response to Legacy's appeal, the Supreme Court engaged in an analysis of whether the Election Code violates Amplify's or its member's First Amendment right to freedom of speech. In this case, the Supreme Court found that deference should be given to the "school officials who seek to regulate free speech and campus activities, within reasonable limitations, to further the school's academic mission." Further, the Supreme Court engaged in analysis of whether Amplify should be held liable for the actions of a dues-paying member of the party, and held that a Registered Student Organization

¹ The decisions of the Supreme Court are listed herein as they are identified in the Supreme Court Reporter found at <http://sga/fsu.edu/reporter.shtml>.

("RSO") at Florida State University is responsible for the actions of its members.² The Supreme Court reversed the Commission's decision and ordered the Commission to levy the appropriate fine under §711 of the Election Code.

I find it unnecessary to decide the ultimate constitutionality of the Election Code³ because it is express in its language and the plain meaning of the statutes cannot be ignored. The Election Code on its face defines Campaigning as "publishing the name or likeness of any candidate or political party to expressly advocate the election or of defeat of a candidate; that cannot be interpreted as something other than an appeal to vote, through publishing, for or against a specific candidate" and that "[c]ampaigning shall gin the Wednesday at 12 a.m., on week prior to the Election Day."⁴

In light of the foregoing, and with the understanding that in previous elections the constitutionality of the Election Code has been questioned, I reiterate the recommendation of previous final agency actors to urge the SGA to undertake a review of Chapter 700 of the SBS to address any issues or deficiencies.

In regards to whether Amplify is responsible for the actions of a dues-paying member of the party, I agree with the Supreme Court's reliance on previous decisions and holding that a RSO is responsible for the actions of its dues-paying members.

Therefore, I uphold the Supreme Court's decision to reverse the decision of the Commission and their order to the Commission to levy the appropriate fine under §711 of the Election Code.

Notice of Appellate Rights: You may seek judicial review of this final University decision pursuant to Florida Rules of Appellate Procedure 9.190(b)(3), applicable to review of quasi-judicial decisions of an administrative body not subject to the Administrative Procedures Act, by filing a petition for certiorari review with the appropriate circuit court within thirty days of this final University decision. If you seek review with the court, you must also provide a copy of the petition to the following university office or official: Ms. Angela Jackson, Office of the General Counsel, 424 Westcott Building, 222 S. Copeland Street, Tallahassee, Florida 32306-1400.

Cc: Danielle Acosta, Director, Student Affairs
Carolyn Egan, University General Counsel
Angela Jackson, Agency Clerk

² The Florida State University Supreme Court cited Ney v. Unite (Flyer handouts), FLA. ST. Univ. Rep. (2018); see FSU Student Organization Handbook, at 11 ("RSOs at FSU are responsible for their events and activities, as well as the actions or negligence of the organization membership").

³ The Florida State University Supreme Court is generally charged with administration of the Student Body Constitution, Statutes, and other SGA matters. It is unclear whether the Supreme Court has jurisdiction to entertain challenges brought under the United States Constitution. Regardless, it is not necessary to the resolution of The Legacy Party v. The Amplify Movement to decide the constitutionality of the Election Code.

⁴ SGA §701.1

Filed with the Agency Clerk this 18th day of March 2019 at Tallahassee, Leon County, Florida.



Angela D. Jackson
Agency Clerk
Florida State University
Office of the General Counsel