



THE FLORIDA STATE UNIVERSITY  
OFFICE OF THE VICE PRESIDENT FOR STUDENT AFFAIRS

March 7, 2012

TO: Members of the Ignite Party  
Members of the Progress Coalition  
Ms. Vicki Dobiyski  
Student Government Association

FROM: Mary B. Coburn *MBC*  
Vice President for Student Affairs

RE: Response to March 5, 2012 Appeals of Student Supreme Court Decisions

This matter comes to me as a review of the decision of the Florida State University Supreme Court ("Supreme Court"), published March 2, 2012. The decision did not include a notice of appellate rights, nor is a timeline for such an appeal provided in the Student Body Statutes; therefore, a deadline of 5:00 PM on March 5, 2012, was imposed and the parties notified of same. The Ignite Party filed a timely appeal of the second portion of the Supreme Court's decision. At 5:08 PM on March 5, 2012, Progress Coalition filed appeals of both portions of the decision of the Supreme Court. Despite the untimeliness of Progress Coalition's appeal, I have considered it as part of my full review of the record and decision.

The decision of the Supreme Court as to the violation of Student Body Statutes §205.3(B) and the decision that the violation should not be sustained are affirmed.

The decision of the Supreme Court as to the violation of Student Body Statutes §715.9 is affirmed. The decisions of the Supreme Court to impose a Schedule 2 penalty and order a special election are also affirmed. A review of the record evidences that the Ignite Party won all seats for which it ran candidates, and that those candidates won the contested seats by significant margins, ranging from 60% (Social Sciences Seat 4) to 75% (Student Body President and Vice President). Although not discussed by the Supreme Court, inherent in my decision is the unavoidable consideration that without a special election, the statute, as applied, would effectively disenfranchise the majority (in some cases, the overwhelming majority) of students who voted in the election. I have serious concerns about the constitutionality of such a statute. Furthermore, read together with other sections of the Student Body Statutes, it appears that the penalty for filing a fraudulent final expense report is substantially less serious than the penalty for failing to file a report (or, as decided by the Supreme Court here, filing an incomplete report). Arguably, this discrepancy would encourage candidates and parties to submit false filings rather than incomplete, accurate ones. I would urge the Student Senate to consider a revision of the relevant statutes in light of the issues with which the Elections Commission and Supreme Court grappled over the past three weeks. In fact, a comprehensive review of the Elections Code contained in Student Body Statutes Chapter 700 would be advisable.

The Supreme Court's decision does not include a specific Schedule 2 violation penalty. In accordance with Student Body Statutes §716.3(A)1., the penalty shall be a \$250.00 fee, levied against the Ignite

Party.<sup>1</sup> Student Body Statutes §716.1(B), directs that the penalty shall be paid within two (2) business days of the decision. However, given that my decision is rendered during Spring Break, the penalty shall be paid within two (2) class days of the decision.

The record evidences two violations by the Ignite Party, both of which were corrected. As to the first violation involving non-payment of sales tax, the Ignite Party paid the taxes as soon as the violation was brought to the attention of party leadership. As to the second violation, the Ignite Party filed additional documentation within 20 hours of the 4:00 PM deadline. Consistent with Student Body Statutes §718.2, I have looked to the Florida Elections Code for guidance. Section 106.07, Florida Statutes, governing campaign finance reports, provides for notification and a “cure” period of seven days when an incomplete report is filed. Considering this statutory provision and the absence of any evidence that Ignite Party acted with intent to defraud or conceal, I find the Supreme Court’s decision strikes a fair balance.

Other than certification, which would be improper, the Student Body Statutes do not provide a mechanism by which the prior election can be closed. However, without a closure of some kind of the previous election, arguably the special election cannot go forward. I therefore order the prior election, held on February 8, 2012, a nullity in light of the decision to hold a special election with the same candidates.

The special election shall be governed by Student Body Statutes §§701.1(L), 703(O), 707.1, 712.1(E), and 714.2(G). The Supervisor of Elections shall notify all candidates within 24 hours of the decision to hold a special election.<sup>2</sup> The special election will follow the traditional two-week process, with campaigning beginning at 12:00 AM on March 14, 2012, and the election held from 9:00 AM to 8:00 PM on March 21, 2012. Candidates will be re-evaluated for eligibility. For matters that may arise during the election for which these statutes do not provide meaningful guidance, I authorize the Director of Student Affairs for SGA, in consultation with my office, to make any decisions necessary to effect a fair and proper election.

Except as provided herein, the special election ballot shall be identical to the ballot of the election held on February 8, 2012. Dates, times, and other ministerial changes may be made. The special election online voting system shall contain the following as a click-through message that must be acknowledged prior to viewing the ballot, in a font at least as large as the smallest font used on the remainder of the ballot: “This special election was ordered by the Florida State University Student Supreme Court, after a finding that the Ignite Party violated Student Body Statutes §715.9 by failing to file a full and complete final expense statement at the closure of the election held on February 8, 2012.” This notification shall also appear on the SGA website, and in the *FSView* newspaper.

In reaching this decision, I have considered the academic and economic consequences of a special election. I find that these consequences, though important to contemplate, do not outweigh the

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<sup>1</sup> While the Supreme Court’s decision references a \$500.00 penalty, the correct penalty is a \$250.00 fee. The Supreme Court did not provide any reasoning for a departure from the statutory penalty for a first offense.

<sup>2</sup> For efficiency purposes due to the Spring Break holiday, this requirement shall be satisfied by the Director of Student Affairs for SGA’s act of providing a copy of this decision to party representatives and the posting of this decision on the SGA website.

reasons for a special election in these circumstances, nor are they so dissimilar to the academic and economic issues present in any regular election as to warrant some other outcome.

Notice of Appellate Rights: You may seek judicial review of this final University decision pursuant to Florida Rule of Appellate Procedure 9.190(b)(3), applicable to review of quasi-judicial decisions of an administrative body not subject to the Administrative Procedure Act, by filing a petition for certiorari review with the appropriate circuit court within thirty (30) 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. Theodora Carey, Office of the General Counsel, 424 Westcott Building, Tallahassee, Florida 32306.