

ADVISORY OPINION 2019-AO-03

**CONFLICT BETWEEN FSU-2.0131
AND FLORIDA STATUTE 1004.097**

Lagos, J. for the Court

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This Court has jurisdiction over Advisory Opinions requested by any Senator, pursuant to the Constitution of the Student Body Art. IV § 3(C)(5).

On February 25, 2019, this Court received the following request for Advisory Opinion from Senator Jack Denton:

- I. Does FSU-2.0131 conflict with Fla. Stat. § 1004.097?
- II. Specifically, are the restrictions on speech as outlined in FSU-2.0131 “narrowly tailored to a significant institutional interest”?
- III. Also, are those restrictions “clear and published”?

This Court addresses these questions, cumulatively, as follows.

ANALYSIS

In coming to its advisory opinion, this Court looks primarily to its powers pursuant to the Constitution of the Student Body Art. IV § 3(C)(5), “[t]o issue advisory opinions concerning student rights under the Student Body Constitution upon request of the Student Body President or any Senator.” This Court interprets Art. IV § 3(C)(5) as granting jurisdiction to this Court to answer certified questions of law. In other words, the questions for advisory opinions should be “how should I interpret this law?”

The questions before this Court are whether the statutes at issue conflict. In order for the Court to provide a coherent interpretation of the statutes, this question needs to come with more specificity. Because the questions beg this Court to issue an opinion on whether there is conflict, the Court would require arguments alike with a case and controversy. In order to avoid a hearing on the arguments, this Court has jurisdiction to issue an interpretation on specific provisions of each statute.

CONCLUSION

If Senator Denton seeks guidance on this matter, the proper question for this Court would be a request for interpretation of a specific provision of each statute, respectfully. The question of whether the statutes conflict, is not a permissible question for an advisory opinion before this Court.

Moorhead, C.J., dissenting.

The Constitution of the Student Body does not give this Court the jurisdiction to issue advisory opinions on matters outside the Constitution of the Student Body, and I agree with Justice Lagos that is the case here, that “[t]he question of whether the statutes conflict, is not a permissible question for an advisory opinion before this Court.” *Supra*; Art. IV, § 3(C)(5), Const. of the Student Body. However, it does not give this Court jurisdiction over what Justice Lagos has called “certified questions of law.” *Supra*.

This request relates to the interaction between university promulgated regulations and Florida law, not the Constitution of the Student Body. Therefore, unlike what is stated in the second paragraph under “ANALYSIS,” the Court does *not* have the “jurisdiction to issue an interpretation [of the] specific provisions of each” regulation or

statute mentioned in the request. Even if the Senator did as Justice Lagos suggests and made the request highly specific, going line by line, enumerating every instance in which the Senator thought the regulations did or did not conflict with Florida law, they still are questions which are inappropriate for an Advisory Opinion and should not be answered by one. Art. IV, § 3(C)(5), Const. of the Student Body. Accordingly, the request should have been denied for want of subject matter jurisdiction, since the request does not deal with the rights of students under the Constitution of the Student Body. Compare *id.* with *Lamancusa v. Dept. of Rev. o/b/o Lamanusca*, 250 So. 3d 812, 814 (Fla. 5th DCA 2018).

For these reasons, I respectfully dissent.