

## ADVISORY OPINION 2019-9

### LINE-ITEM VETO POWER OF THE STUDENT BODY PRESIDENT

*Lagos, J. for the Court*

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

On October 16, 2019, this Court received the following request for Advisory Opinion from Senator Kelvin Ready:

Does the Student Body President have line-item veto power?

#### ANALYSIS

In coming to its advisory opinion, this court looks first to the Student Body Constitution Art. III § 3(C) and the enumerated power of the President that it contains. Specifically, the President shall:

Have the power to veto or sign acts of the Senate, provided that he/she exercise such power within five (5) school days of presentation to the Student Body President. A veto may be overridden by a two-thirds vote of not less than a quorum of the Senate.

Art. III § 3(C).

Notably, there is no line-item veto power enumerated within Art. III § 3(C). In his request for an advisory opinion from this Court, the Senator pointed the Court's attention to § 412.2(A) of the Student Body

Statutes addressing the Sweeping Regulations Act of 1995.

The Student Body President Shall not have a line item veto on such allocation. However, the Student Body President and Student Body Vice President shall be members of this committee.

§ 412.2(A).

The Senator brought a valid question as to whether the Student Body President has line-item veto power, given that § 412.2(A) explicitly revokes that power with regard to the Sweeping Regulation Act of 1995. This Court answers this question in the negative, the Student Body President does not have line-item veto power.

For an understanding of this decision, this Court refers the Senator to the elephant-in-mousehole doctrine outlined in *Whitman v. American Trucking Association*, 531 U.S. 457, 468 (2001). "Congress ... does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions – it does not, one might say, *hide elephants in mouseholes*." *Id.* (emphasis added). The significance of line-item veto power embodied in one member of the executive is an elephant, and would require explicit acknowledgement from the FSU Student Legislature. See *Clinton v. City of New York*, 524 U.S. 417 (1998) (holding that line-item veto power would authorize the President to create a different law – one whose text was not voted on by either House of Congress or presented to the President for signature, violating the Presentment Clause).

Moreover, "[the] Court has no authority to interject itself in the [legislative] process, unless the laws governing the

process have been ‘clearly and conclusively’ violated.” *In re Advisory Op. to the Att’y Gen. re Fla. Minimum Wage Amend.*, 880 So. 2d 636, 639 (Fla. 2004). Without clear authority on this issue, this Court must tread lightly in muddy waters.

### **CONCLUSION**

Therefore, this Court advises that the Student Body President does not have the power of line-item veto pursuant to Art. III § 3(C) of the Student Body Constitution.