

Advisory Opinion 2019-AO-
PROVIDING A MEANS TO
DISCIPLINE A STUDENT SENATOR
WITHOUT HAVING TO
NECESSARILY RESORT TO
IMPEACHMENT THROUGH
CENSURE

Drake, J. for the Court

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

This Court received the following request for advisory opinion from a Senator:

The Purpose of this amendment is to strengthen the Student Senate's ability to deal with the conduct of its members, and to provide a means to discipline a Student Senator without having to necessarily resort to impeachment through Censure.

ANALYSIS

“Any student that feels a violation of the Code of Ethics has occurred, has the right to file a complaint with the Student Supreme Court.” SGA Stat. 205.2(A). While the term “disorderly conduct” fails to be defined in the proposed Amendment and it also fails to appear in either the FSU Student Body Constitution nor the FSU SGA Statutes, it can still be reasonably believed that at least some of the behavior sought to be subject to discipline can be remedied by the Court under the above statute.

While this Court is a strong proponent for self-governance within the University, there are certain checks and balances in place in

order to provide fair and impartial rulings to prevent abuse of the system. By strengthening the Senate's ability to discipline its fellow Senators, this Court could foresee an increase in appeals of proposed disciplines that struggle to collect evidence to prove the violations.

By keeping the discipline powers separate from the Senate, Senators are protected in multiple ways. As mentioned earlier, checks and balances is an essential element to the way our government functions. Even this Court's decisions are subject to appeal to the Vice President of Student Affairs, adding a further layer of protection to Senators to avoid unfair judgments.

Despite these recommendations, this Court respects the legislative process. Should the Senate elect to push this bill to a vote and it subsequently receives 2/3 of the vote in favor of passing the bill, it would become part of the FSU Constitution. However, it should be forewarned that, as written, there are a number of challenges available to the Amendment. It is in this Court's recommendation that, when dealing with a subject as sensitive as discipline of a fellow Senator, to be overly detailed as to the process of discipline, potential penalties, and defining important terms. What is the Senate considering to be “disorderly conduct?” Is it the legal definition given to the crime of disorderly conduct? Or is it a lower standard, simply referring to an act that causes disorder? Under the latter definition, could not a coughing fit or an ill-timed sneeze be enough to move for discipline? While it may seem a ridiculous comparison, this Court is instructed to follow the law, and the foggier the law that the Senate chooses to adapt, the more room for interpretation this Court has in evaluating the evidence.

CONCLUSION

The Senate has the right to vote on this bill and enact it as they see fit. However, this Court would strongly recommend against self-governing discipline issues, and instead allow an impartial Court to evaluate claims and discipline as it deems fair. Should the Senate insist on dealing with discipline issues in-house, the Court would insist that the Senate reconsider the Amendment as written and take advantage of their various legal resources that are available to put forth a clearer Amendment.