

**FLORIDA STATE UNIVERSITY  
STUDENT ELECTIONS COMMISSION**

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No: SPR-2022-4            “GroupMe”            6-0

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JASON PUWALSKI, Petitioner v.  
SURGE FSU, Respondent.

[March 7, 2022]

*Argued 1 March 2022 and Decided on 1 March 2022. Jason Puwalski for the Petitioner. Gabrielle Little and Renee Wang for the Respondent. Opinions delivered electronically on 7 March 2022.*

*Chair: Supervisor of Elections Spencer Greenwood. Commissioners in attendance included Nicholas Concilla, Vice Chair; Corey Adamyk, Kelvin Ready, Mackie Taranto, Khamisi Thorpe, and Hank Thompson. Commissioner Carter Pope was in attendance but did not vote.*

*At the time of the hearing and decision, Commissioner Khamisi Thorpe was a voting member of the Elections Commission. Between that time and the publishing of this opinion, Mr. Thorpe has been confirmed as the Student Attorney General, and as such has stepped down from his position. Mr. Thorpe does not join in these opinions in any capacity except for his vote at the time of deliberation.*

## SUMMARY OF ALLEGATIONS

This action was brought before this commission by Jason Puwalski on behalf of Forward FSU, an on-campus political party (“Petitioners”). Mr. Puwalski filed this complaint with the Supervisor of Elections (“Supervisor”)—who forwarded it to this Commission—alleging that Surge, an on-campus political party (“Respondent”), is responsible for the action of Union Board candidate Victoria Pagan violated Student Body Statute (“SBS”) § 709.1(E) by campaigning and soliciting support in a GroupMe for Sally Hall West Floor 2.

## JURISDICTION

The Elections Commission has the power to investigate and make findings of fact regarding alleged violations of the Elections Code pursuant to SBS § 703.2(F) and § 703.2(G). Chapter 700 of the SBS states, “Once the date of an election has been determined, according to 705.4 and 706.5, the election code used for that election cannot be changed. The Election Code will be enforced in a time period beginning three (3) weeks prior to an election and ending upon the certification of that election. This does not preclude the reporting of violations later enumerated in Chapter 711.”

## RIGHT TO APPEAL

According to SBS § 703.2(I), “Any decision made by the Elections Commission may be appealed by a party to the hearing to the Student Supreme Court no later than thirty-six (36) hours after said decision and all accompanying opinions have posted to the SGA website pursuant to Chapter § 703.2(F)(1) of the Student Body Statutes. No appeals of decisions made by the Elections Commission shall be accepted after this thirty-six (36) hour period.”

## OPINION

TARANTO, C., delivers the majority opinion on behalf of the Commission, with whom ADAMYK, READY, THOMPSON, and THORPE, CC., join. CONCILLA, V.C., filed a concurring opinion.

## FACTUAL BACKGROUND

The relevant facts are as follows. On or about February 23, 2022 Victoria Pagan sent a message into a GroupMe titled “#DALE” that included several of her hallmates and her RA. The message read: “Hi everyone! This week is SGA Election Week! My name is Victoria Pagan and I’m Union Board with @SurgeFSU! You can vote on Wednesday, February 23<sup>rd</sup> (TODAY) through the link that will be sent to your FSU email and it takes less than one minute. Vote for me to see real change on campus! #TogetherWeSurge”.

The parties do not dispute that Victoria, a member of the Respondent’s party, sent the message to the GroupMe. Nor do they dispute the presence of the Sally Hall West 2 hallmates or the RA in the GroupMe.

## ISSUE

Does the GroupMe titled “#DALE” that includes the RA for the FSU residence hall considered a “campus owned residence hall” for the purposes of statute SBS § 709.1(E)?

## HOLDING

No. Under SBS § 709.1(E), the plain meaning of the phrase “campus owned residence hall” does not include the GroupMe at issue. This Commission unanimously dismisses the complaint.

## ANALYSIS

SBS § 709.1(E) reads: “There shall be no campaign materials posted within campus owned residence halls.” The key parts of this statute are “campus owned” and “residence halls”. There is no ambiguity in these phrases. The GroupMe was freely created by the residents of Sally Hall West 2 and is not campus owned or mandated. The Petitioners showed no evidence that participation in and the creation of this GroupMe was mandated by FSU

residence halls. Petitioners were also not able to offer any evidence other than the RA's presence that this was an official GroupMe in any capacity. The RA herself was never called as a witness. Additionally, the GroupMe is an electronic space, not a physical residence hall. The plain meaning of the statute prohibits students from putting up physical campaign materials inside the residence hall buildings.

This Commission is not willing to extend "campus owned residence halls" to an informal GroupMe chat, even if that chat happens to include a student who operates in an RA capacity.

### CONCLUSION

In conclusion, we hold that the GroupMe titled "#DALE" that includes the RA for the FSU residence hall is not considered a "campus owned residence hall" for the purposes of statute SBS § 709.1(E). We hereby DISMISS this complaint.

DONE and ORDERED, this 7<sup>th</sup> day of March 2022.

VICE CHAIR CONCILLA, concurring.

I agree entirely with the Commission's analysis regarding the application of the relevant statutes.

For the same reasons as Commissioner Ready's majority opinion filed in SPR-2022-17, any attempt to regulate off-campus activities, such as, but not limited to, social media or private party transactions, or activities held in public or limited public forums, is unconstitutional, when no compelling state interest has been shown. Any attempt at enforcing such a complaint would be unconstitutional. I ask that on appeal, the Student Supreme Court make the same determination.