

**FLORIDA STATE UNIVERSITY
STUDENT ELECTIONS COMMISSION**

Consolidated No.'s:

SPR-2022-8	“A-Frames”	4-2
SPR-2022-11	“A-Frames 2”	6-0

RAWAN ABHARI, Petitioner v. FORWARD FSU,
Respondent.

[March 7, 2022]

Argued 1 March 2022 and Decided on 1 March 2022. Gabrielle Little and Renee Wang for the Petitioner. Trevor Murray and Hannah Carter for the Respondent. Opinions delivered electronically on 7 March 2022.

Supervisor of Elections and Chair Spencer Greenwood was in attendance. Commissioners in attendance included Nicholas Concilla, 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 stepped down from his position, and 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 Rawan Abhari on behalf of Surge FSU, an on-campus political party (“Petitioners”). Petitioner Abhari filed these complaints with the Supervisor of Elections (“Supervisor”)—who forwarded them to this Commission—alleging that Forward FSU, an on-campus political party (“Respondent”), is responsible for the actions of its members who violated Student Body Statute (“SBS”) § 709.1(C) on two counts for not following the rules and regulations of the Oglesby Union Policy for Posting, Promotions, Advertising and Distribution of Materials on FSU Campuses.

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

COMMISSIONER TARANTO, with whom READY, THOMPSON, and THORPE, CC., join. CONCILLA, V.C., and ADAMYK, C., join with regard to SPR-2022-8, however ADAMYK, C., filed a dissent with regard to SPR-2022-11, with whom CONCILLA, V.C., joins.

FACTUAL BACKGROUND

The relevant facts are as follows. On or about February 25, 2022 Forward FSU had placed 5 A-frames with 2 QR codes campaigning for Forward FSU. One side of the A-frames said “Vote Today”, “#Forward Together”, “Our Website”, and “FWD” with the QR codes to the ballot and the Forward FSU website. The other side said “Vote for ForwardFSU!”, “Wednesday, February 23rd”, “Executive Ticket Nimna Gabadage Kenley Adams Brandan Louis”, and “FWD”.

Parties do not dispute that the QR codes lead to the ballot and the Forward FSU website. The website contains a link to the executive board, which in turn links to each board member’s Instagram.

All 5 A-frames were placed around Landis Green at FSU.

ISSUE

I: Does the QR code that leads to the Forward FSU website, containing links to the Executive Board of Forward FSU and their Instagram pages count as sufficient contact information for the A frames as required in Oglesby Union Policy FSU-2.0131(3)(b)?

II: Is the placement of the A-frames within the designated areas located on the Oglesby Union free-standing signs map as required by FSU-2.0131(7)(c)?

HOLDING

I: No. Under SBS § 709.1(C), the plain meaning of contact information does not include a QR code that only links to candidates Instagram pages. The majority of this Commission dismisses the complaint.

II. No. Four out of the five signs were clearly and convincingly placed outside of the areas designated by the Oglesby Union. The fifth sign was not clearly or convincingly outside of the designated location.

ANALYSIS

I

SBS § 709.1(C) reads: “All material and activity in the Union and on FSU campuses shall be in accordance with rules and regulations of Oglesby Union policy.” The Oglesby Union Policy for Posting, Promotions, Advertising and Distribution of Materials on FSU Campuses states in FSU-2.0131(3)(b): “All materials advertising events, or which invite any transaction involving a fee or other monetary charge, must be clear and legible, bear the name of the sponsoring FSU entity and provide event and current contact information”

The plain meaning of contact information in this statute includes an email or phone number at which the members of Forward FSU can be contacted. The QR code requires several steps to get to the Instagram pages of each executive board member. The majority of the Commission is willing to allow QR Codes as contact information if the QR code led to a phone number or email address, rather than an Instagram page.

While this Commission is sympathetic to the development of technology and the advancement of communication methods, not everyone today has an Instagram, including some members of this Commission. That means that the contact information is not accessible to people without an Instagram. However, every FSU student has an email address that they can access on library computers.

The majority of this Commission is not yet willing to extend a QR code to an Instagram account to count as the sole contact information provided by a political party on their campaign materials.

II

SBS § 709.1(C) reads: “All material and activity in the Union and on FSU campuses shall be in accordance with rules and regulations of Oglesby Union policy.” The Oglesby Union Policy for Posting, Promotions, Advertising and Distribution of Materials on FSU Campuses states in FSU-2.0131(7)(c): “The placement of free-standing signs must be in accordance with terms in the Americans with Disabilities Act (ADA) and are not to block sidewalks or walkways per the maps located at www.posting.fsu.edu.”

Based on the map and photographs provided by the petitioners, four of the Respondent’s A-frames were clearly and convincingly outside of the designated areas. There are only two small triangles at the top of the Oglesby Union Posting Map that permit the placement of free standing signs. Four of the A-frames were located much farther south on Landis Green and were nowhere near the two permitted areas.

Based on the evidence presented, one of the A-frames was not clearly or convincingly placed outside of the top right triangle of permitted space in the Oglesby Union Posting Map.

CONCLUSION

In accordance with this Commission’s holding in SPR-2022-17 (a/k/a “Connexion”), this Commission has found that the entirety of “TITLE VII, The Student Body Election Code” is unconstitutional. As such, any finding of a violation would be contradictory. As such, we would have no authority to find or enforce any violations. If, however, on appeal, the Student Supreme Court finds that Commissioner Ready’s holding in SPR-2022-17, or any other holding by a Commission, Court, or other body that supersedes our holding, this Commission finds the following:

This Commission enters judgment 4-2 in SPR-2022-8 and 6-0 in SPR-2022-11 in favor of the Petitioner. Forward FSU is in violation of the Elections Code as they did not have sufficient contact information on all 5 A-frames and clearly placed 4 of 5 A-frames outside of the areas permitted by the Oglesby Student Union Policy. Therefore, the Commission finds that Forward FSU

committed nine (9) instances of Schedule 1 violations under SBS § 711.6(B)(9). The first constitutes Forward FSU's first violation, and the rest are considered additional violations. Penalties under SBS § 711.9 are as follows:

One first instance violation: 1 point, \$25.00.

Eight additional violations: 16 total points, \$400.00.

The total penalty is 17 points and a fine of four hundred and twenty-five (\$425.00) dollars. According to SBS § 711.7(B), the fine must be paid within two (2) business days, that is, by the end of the business day on Thursday, 10 March 2022. In the case of an affirmed appeal, the same penalty would be due within two (2) business days of that holding.

COMMISSIONER ADAMYK, with whom CONCILLA, V.C., joins, dissenting with regard to SPR-2022-8.

While the court has found Forward Party's actions in regard to A-frames to be in violation of university posting policy, we believe that their efforts are satisfactory enough to meet the plain meaning definition of "contact information" as described in university guidelines.

University posting guidelines state that "Free-Standing signs must contain the name and contact information of the FSU sponsoring organization, department, or entity."¹ However, since the university fails to define what constitutes contact information, the determination on what meets those guidelines is left to the parties involved—in this case, the Forward and Surge parties. The Supreme Court of Florida State University has upheld time and time again that plain meaning of ambiguous textual guidelines is the only viable option when no specific definition is provided in accompaniment. *See Ney v. Unite*. Therefore, it is right in this instance to do the same. The reasonable interpretation of contact information is the expectation that by accessing said information, it will provide a medium to get in touch with

¹ See the seventh bullet point in the "Free Standing Signs" section of Helpful Hints found at: <https://posting.fsu.edu/hints#collapseFour>

someone who represents the party posting the sign. Through their inclusion of QR codes on their A-Frame signs, Forward party was providing exactly that information and access. A student must simply scan the QR code, which then takes them to Forward's campaign website. The student may then seek out individual members of Forward's executive Board (a vast majority of whose pictures and social media accounts are available for anybody to see) and reach out via social media to contact any board member of the party.

Although students may be required to take multiple steps, it is University posting policy which fails to outline how immediate that information must be presented in order to meet the standard. In a hypothetical situation where a QR code leads to a website which has a defined "Contact" page, or which provides an email link for someone to access, one could reasonably suggest that contact information has been provided. So why would a website which provides links to the social media pages of individual members of the executive board be any different? Either way, searchers are able to get in contact with the party and ensure their questions or concerns are heard.

It should *also* be noted that the home page of Forward's website provides a link to access the Party's GroupMe group chat, and one could presume that anyone in the GroupMe would have plenty of options to contact the defendants in this case. So *even if* contact information for board members is not enough to meet the assumed standard of "contact information" proposed by this commission, then one could suggest that standard is met through access to a public group chat run by the organization.

In their trial, the defense made the argument that in a rapidly modernizing world, contact information could include more modern forms of communication and information grabbing – such as through the medium of a QR code. This dissent agrees, and further postulates that the term contact information, if left to the individual to determine, can be strewn to include anything from the most rudimentary forms of communication, like a telephone number, to more modern forms of

communication, such as social media messaging or QR codes. The very nature of this dissent identifies how the broad meaning of contact information required can reasonably be interpreted by individuals to encompass QR codes on posted signs. By finding against the defense in this instance, the commission runs the risk of punishing a party for not conforming to a narrowly tailored and expected opinion of an opposing party.

Contrarily, the Surge party suggested that inclusion of QR codes disenfranchises students who may not have a phone or who may not have social media. To the former, one might suggest that someone without a phone would be hard fought to find use of a phone number either. To the latter, one could simply choose to access the group's GroupMe instead of going through social media in order to access a board member or party member to redress their concerns. However, in today's world, the plausibility of either of these arguments pertaining to a portion of the student body is very low, as phone ownership amongst the student body, if not universal, is very nearly there. So much of daily life for students today is dependent on phones that the likelihood students do not possess one seems facially very small.

While the actions taken by the defense in this case might not have been the preferred method of the opposition, it cannot be said that the Forward party did not act in good faith to ensure contact was available to passers-by. In the future, we would encourage all parties to make it as easy as possibly for students to access the necessary information, but as it stands, the inclusion of a QR code which leads to the party's website where students can then contact individual members of the Forward Executive Board is, in our opinions, a clear-cut availability of contact information as mandated by university policy. Therefore, we believe that the Forward party should be charged with four Schedule 1 violations due to improper posting in spots on campus but should be absolved of charges for improper inclusion of contact information on posted material on campus.