

**FLORIDA STATE UNIVERSITY
STUDENT ELECTIONS COMMISSION**

No: SPR-2023- 22

OMER TURKOMER, Petitioner v.
SURGE FSU, Respondent.

[March 8, 2023]

*Argued 6 March 2023 and Decided on 7 March 2023.
Petitioner for Forward FSU. Rawan Abhari for the
Respondent. Opinions delivered electronically on 13 March
2023.*

*Supervisor of Elections and Chair Spencer Greenwood was
in attendance. Commissioners in attendance included
Mackie Taranto, Sam Brodigan, Kole Kolasa, Taylor
Kendall, and Katie Kennamer.*

SUMMARY OF ALLEGATIONS

This action was brought before this commission by Omer Turkomer on behalf of Forward FSU, an on-campus political party (“Petitioners”). Petitioner Turkomer filed these complaints with the Supervisor of Elections (“Supervisor”)—who forwarded them to this Commission—alleging that Surge FSU, an on-campus political party (“Respondent”), is responsible for the actions of its members who violated Student Body Statute (“SBS”) §§ 709.1(C) and 713.1(B) for not following the rules and regulations of the Oglesby Union Policy and the University Policy for Posting, Chalking, Advertising and Active Distribution of Materials on FSU Campuses, with these complaints focusing on the Rovetta Building. Petitioner also included on each of these three complaints, a violation of 713.1(B), which prohibits political parties and individuals from campaigning within the designated “no campaign zone” at each polling site as Rovetta has publicly accessible computers and as such is considered a voting terminal.

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.”

ISSUE

I: Does the Oglesby Union Policy apply to other buildings on campus?

III: Did Surge FSU members actively distribute literature within 30 feet of any entryway or exit way of a university facility?

IV. Can the Commission enforce 713.1(B)?

HOLDING

I: Yes. Under SBS § 709.1(C), the plain meaning of “in the Union and on FSU campuses” includes all FSU buildings and therefore applies to all buildings. The posting policy applies to all FSU Campuses as explained on the FSU Posting website as well as plainly stated in the name FSU-2.0131 University Policy for Posting, Chalking, Advertising, and Active Distribution of Materials on FSU Campuses

II. Yes. It was clear to the Commission that Surge members were indeed actively distributing their campaign literature within 30 feet of the Rovetta building.

III. No. It is too vague and outdated to the point of unenforceability.

FACTUAL BACKGROUND

The relevant facts are as follows. On or about March 1st, 2023 at 10:06AM, Surge members can be seen closer than the required 30 feet campaigning outside the Rovetta Business Building. Petitioner believed this to be in violation of 709.1(C), which incorporates the Oglesby Union Policy into the elections code, applying it to the Union and on FSU Campuses.

The evidence presented is a picture of a Surge member physically handing a light blue campaign card to a student walking nearby. The location that the Surge member was standing in was close, within 30 feet, to an entrance of the Rovetta Business Building. Respondent argued that the sidewalk is not an entryway of the building, but the Commission disagrees as it is still within 30 feet of an entryway to the building.

OPINION

VICE CHAIR TARANTO, with whom COMMISSIONERS KENNAMER, KENDALL, BRODIGAN, and KOLASA join

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 plain and clear meaning of this statute extends the Oglesby Union Policy to FSU Campuses. The term FSU Campuses is specifically separate and distinct from the Union within the text, which means the inclusion of non-Union locations to be included in the areas regulated by Oglesby Union Policy. Therefore, the University Policy for Posting, Promotions, Advertising and Distribution of Materials on FSU Campuses applies to the Rovetta Building. It states in FSU-2.0131(4)(b): “Active distribution of literature outside a university facility, including athletic and recreational venues and fields, shall not occur within 30 feet of any entrance or exit way of the facility. Active distribution of literature that is consistent with the educational mission of the university may occur inside a university facility with approval from the director or manager of the facility.”

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.” It states in FSU-2.0131(4)(b): “Active distribution of literature outside a university facility, including athletic and recreational venues and fields, shall not occur within 30 feet of any entrance or exit way of the facility. Active distribution of literature that is consistent with the educational mission of the university may occur inside a university facility with approval from the director or manager of the facility.”

Based on the photograph provided by the petitioners, a member of Surge FSU was actively handing out campaign literature to students, as we can see in the photo. Based on the location in the photo, it was also within 30 feet of an entryway to the Rovetta Building.

III.

Regarding SBS § 713.1(B), the Commission declines to enforce this provision. It reads, “Political parties and individuals shall be prohibited from campaigning within the designated “no campaign zone” at each polling site.” Petitioner included the reasoning for this violation being “ as Rovetta has publicly accessible computers and as such is considered a voting terminal.” In the SBS, there are two definitions for “Voting Terminal” in §§ 713.1(A) and (H). 713.1(A) reads “Voting terminal” shall be any computer terminal on the FSU Campus Intranet - ICP network, where the Supervisor of Elections can ensure and enforce voter privacy and identify verification, excluding any Fraternity or Sorority houses or private establishments. There shall be a minimum of one (1) said poll designated at the discretion of the Supervisor of Elections. In the case that there are more candidates than there are seats for election to the Campus Recreation Board or Oglesby Union Board the total number of seats up for election shall be considered as contested.” 713.1(H) reads “Voting terminal” shall be defined as any immediate area on campus in which there are publicly use of computers.” The SBS makes no indication which definition is correct. Petitioner would have us use (H). We decline to pick which definition applies.

Additionally, SBS § 713.1(c), “No Campaign Zone” shall be defined as the area twenty-five (25) feet away from any voting terminal, or as otherwise reasonably specified by the Supervisor of Elections. This shall include University owned computer lab or library and the area within twenty-five (25) feet of its doors, as well as any dedicated computer laboratory used for elections. The Supervisor of Elections shall mark with RED duct tape or with chalk the words, “No Campaign Zone” in front of voting terminals.” According to the Supervisor of Elections, this practice is no longer standard and has not been done by Supervisors of Elections in years, therefore the Commission considers violations based on it unenforceable.

CONCLUSION

This Commission enters judgment 5-0 in favor of the Petitioner. Surge FSU is in violation of the Elections Code as they actively distributed their campaign literature

within 30 feet of an FSU building. Therefore, the Commission finds that Surge FSU committed one Schedule 1 violation under SBS § 711.6(B). As this is Surge FSU's second violation, the penalty is 2 points and a fine of fifty (\$50.00) dollars or four (4) approved work hours. According to SBS § 711.7(B), the fine must be paid within two (2) business days, that is, by the end of the day on Wednesday, 15 March 2022.

The Commission urges the Senate to add a statute that clarifies the incorporation of general FSU-wide policies, like the posting policy, more clearly into the elections code. Reliance on § 709.1(C), while it very clearly incorporates Oglesby Union policy and makes it applicable to all FSU Campus locations, it would require less steps to reach that conclusion if a statute was added to §709 that clearly incorporates all FSU Campus Wide Policies.