

**FLORIDA STATE UNIVERSITY  
STUDENT ELECTIONS COMMISSION**

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No: FALL-2023-2

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FORWARD FSU, Petitioner v.  
SURGE FSU, Respondent.

[November 5, 2023]

*Argued 2 November 2023 and Decided on 2 November 2023.  
Petitioner for Forward FSU. Megan Bettley for the  
Respondent. Opinions delivered electronically on 5  
November 2023.*

*Supervisor of Elections and Chair Spencer Greenwood was  
in attendance. Commissioners in attendance included  
Mason Bennett, Alexa Kays, Andrew Barrineau, and  
Jonathan Carden.*

## SUMMARY OF ALLEGATIONS

This action was brought before this Commission by Marshall Widmann on behalf of Forward FSU, an on-campus political party (“Petitioners”). Petitioner Widmann 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”) §§ 711.6(C)(8), one count for not following the rules and regulations of the Student Body Statutes.

## 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

Did the utilization of the Mental Health Council GroupMe constitute the restricted use of SGA-owned equipment for campaigning purposes?

## HOLDING

No. Under SBS § 706.8(C), SGA-owned equipment does not include GroupMe or any other social messaging platforms. Students are not prohibited from campaigning on social messaging applications that are operated by SGA officials.

## FACTUAL BACKGROUND

The relevant facts are as follows. On or about, October 25, 2023, at 11:25 a.m., Forward FSU alleges that a member of the Surge FSU party posted a campaign advertisement on the official GroupMe of the Mental Health Council (MHC), in violation of § 711.6(C)(8). This statute prohibits, “[u]tilizing any Student Government owned equipment for express endorsement or support for or against any candidate, platform, political party, or ballot item.” As evidence, the Petitioners proffered a photographic image of the MHC GroupMe. The image showed that a candidate of Surge FSU had posted an advertisement for their campaign. There was no evidence that an administrator or any SGA representative attempted to intervene and prevent the use of GroupMe for campaigning. Furthermore, the Respondent submitted an earlier image, showing that a member of Forward FSU, along with another member of Surge FSU, had also posted campaign advertisements on the same GroupMe.

The Petitioner claimed that the MHC GroupMe is classified as “Student Government owned equipment” under § 711.6(C)(8). The Petitioner further argued that the Respondent violated § 711.6(C)(8) by posting a campaign advertisement on this platform.

The Respondent contended that GroupMe is not classified “Student Government Owned Equipment.” Rather, it is a social messaging platform that is owned and operated by a public company. The Respondent further argued that the Student Body Statutes do not

restrict the use of SGA group messaging applications for campaigning purposes.

## OPINION

VICE-CHAIR BENNETT, delivers the opinion on behalf of the Commission, with whom COMMISSIONERS CARDEN, BARRINEAU, and KAYS join.

## ANALYSIS

A key part of § 711.6(C)(8) is the phrase “Student Government owned.” We interpret this phrase to encompass property in which SGA has the legal title of ownership. SGA holds no such title over GroupMe. GroupMe is a social messaging application that is held by the Microsoft Corporation. The application allows clubs and organizations to distribute mass communications to their members. Various SGA councils and committees utilize GroupMe for this purpose. However, SGA did not design the application. Each SGA member must download GroupMe on their mobile device. Since the application was launched in 2010, Microsoft has profited from the number of downloads by users worldwide. Microsoft possesses all legal rights of ownership over the application, including group chats that are used by SGA members.

The Petitioner argued that the MHC GroupMe chat is owned by the SGA because it was operated by an SGA council. The GroupMe chat was sanctioned by the committee to be its primary tool for mass communication. We reject this argument. *Use* is not synonymous with *ownership*. Users who download the GroupMe application are granted the rights to utilize it for communication. Nevertheless, Microsoft still possesses the title of ownership over the application. The company may suspend any user who violates its terms and conditions. Although the MHC group chat is operated SGA members, these members retain no property rights beyond the right of use.

Moreover, another key part of § 711.6(C)(8) is the term “equipment.” This term is defined by the Merriam-Webster Dictionary as “the implements used in an operation or activity ....” We apply this definition in our

analysis of the statute. Equipment consists of tangible materials that can be held or touched. It includes physical objects, such as computers and hardware tools. A social messaging application is not a tangible object. It is a virtual platform that distributes mass communication via the Internet. This platform cannot be held or touched.

The Petitioner argued that even virtual platforms can be considered equipment. If the authors of the statute had used the word “property,” a virtual application might fall under the statute’s classification. Intellectual property (IP) is intangible. However, the authors did not use the word “property.” Instead, they chose the word “equipment.” Equipment, as opposed to property, requires an element of tangibility. We find that the diction was both intentional and deliberate. § 711.6(C)(8) was not intended to bar the use of GroupMe for campaigning purposes.

Our conclusion aligns with previous cases that were decided by the Elections Commission. In *Puwalski v. Surge FSU*, the Respondent was accused of violating § 709.1(E) by posting a campaign announcement on her resident hall’s GroupMe. A Residence Assistant (RA) was the chat administrator. § 709.1(E) prohibits the posting of campaign materials in a “campus owned residence hall.” The court found for the Respondent, holding that a “campus owned residence hall” does not include a GroupMe chat that is used by residents. In this case, the Commission distinguished between physical materials that are owned by the university and virtual platforms that are merely used by students. Likewise, the Commission reached a similar conclusion in *Turkomer v. Surge FSU*. In this case, a student used a GroupMe chat that was operated by an RA to post a campaign advertisement. The Commission held that GroupMe is not classified as a “campus owned residence hall” or a “classroom” under the Student Body Statutes. The opinion noted that, “At this time, there is no compelling reason to limit the free speech of an individual student in a group chat based on the nominal ownership of a group chat by an RA.” We agree with the Commission’s reasoning in both *Turkomer* and *Puwalski*.

Although these cases do not function as binding precedent, we find that there is a pressing interest in remaining consistent on the topic of virtual campaigning.

Every SGA candidate possesses the sacred right to publicize their campaigns. This right is essential to the growth and continuance of a healthy democracy. The Student Body Statutes place reasonable limitations on campaign advertisements to ensure the fairness of our elections. All restrictions are explicitly stated in Title VII of the Student Body Statutes. We believe that placing an additional limitation, which is not clearly mentioned in the Election Code, would constitute judicial overreach. Our task is to interpret the law, not to impose additional burdens that will constrain a student's campaigning activities.

### CONCLUSION

In conclusion, we hold that the MHC GroupMe is not considered "Student Government owned equipment" under § 711.6(C)(8). Students are not in violation of this statute by posting campaign advertisements on SGA GroupMe chats, or any other virtual messaging platforms. This Commission enters judgment 0-4 in favor of the Respondent, dismissing all charges.