

**ADVISORY OPINION 2024-01**

**CONCERNING THE PROPER  
AUTHORITY AND PROCEDURE  
FOR PLACEMENT OF OPINION  
ON THE ELECTION BALLOT**

*Kolasa, CJ. Writing for the Court.*

Pursuant to Article IV, Section 3(C)(5), of the Student Body Constitution, it is within the jurisdiction of this Court to issue advisory opinions and SBS 702.2(h) the Court accepts jurisdiction to deliver this advisory opinion.

We take this opportunity to emphasize that we have not been presented with a case or controversy, and we are not considering a particular set of facts. This advisory opinion is a general interpretation of student rights and is not binding on the Court.

On September 19th, 2024, this Court received a petition by a Florida State University Student Government Association (“SGA”) Supervisor of Elections for an

Advisory Opinion as to the proper constitutional procedures that must be followed for the placement of a proposed Opinion to the Florida State University Student Body election ballot during this year’s election. Petitioner poses, and this Court will address, questions concerning:

- I. Must the Supervisor of Elections validate, and correspondingly publish on the website, those petitions which contain possible misrepresentations of reality or possibly demonstrable falsehoods?;

We emphasize that this Advisory Opinion is a statement of this Court’s interpretation of the law and that the Supreme Court reserves ruling on the issues discussed herein without a case requiring a decision before the Court, should this issue come before us again in subsequent litigation. However, now that the Court has issued an Advisory Opinion on the matter, it should be known that the proper procedures required for a proposed constitutional amendment are laid out in the opinion as follows.

## ANALYSIS

In forming our opinion, this Court looked to the specific language of the FSU Constitution and provisions in the Student Body Statutes (“SBS”) regarding the constitutional amendment process. *See Kisor v. Wilkie*, 139 S. Ct. 2400 (2019) (holding that a court must exhaust all traditional tools of statutory construction). When interpreting a provision, Courts begin with the language of the text at issue, giving the words contained in the provision their ordinary meaning. *See N.Y. v. Travelers Ins. Co.*, 514 U.S. 645, 655; *Moskal v. United States*, 498 U.S. 103, 108 (1990). “The beginning point must be the language of the provision, and when the text speaks with clarity to an issue, judicial inquiry into its meaning, in all but the most extraordinary circumstance, is finished.” *Ramey v. Director*, 326 F.3d 474, 476 (4th Cir.2003).

The portion of the FSU Constitution regarding the constitutional amendment process is but a single sentence. Contained in Article VI, titled “Amendment Process And Referendum Elections,” and pertinent to the issue presented here, Section 1 states:

### ARTICLE VI SECTION 4.

(1) It shall be possible to place questions on the ballot to determine student opinion on issues.

(2) Such questions shall be placed on the ballot in the same manner as referenda, although they shall only require a properly signed petition of at least two hundred (200) students, or a majority vote of the Senate at the request of the Student Body President. However, they may only be used to access student opinion on issues and shall not be binding on Student Government, nor subject to Court Review before being placed on the ballot.

### FSU Const. Art. VI, § 4

The FSU Student Body Constitution states one of the Student Government Association's purposes is “[t]o provide an official voice through which the opinions of the student body may be expressed.” FSU Const. Art. I, sec. 6. This is distinct from its separate purpose of allowing students to participate in the “governance” and “policy development” of FSU, *Id.* Art. I, sec. 5(1), and to “take action” on behalf of the student body on issues relating to the University and education more broadly, *Id.*, Art. I, sec. 5(a)-(g). Additionally, the purpose of the Student Body Consitution

is to “develop SGA policies in a fair and open manner.” *Id.* Art. I, sec. 7.

Consistent with this general purpose, the Constitution provides several opportunities for students to petition to have the student body vote or obtain various opinions of the FSU student body on various issues. First, students may propose a "ratification vote" on amendments to the FSU Constitution by filing a petition signed by 1,500 students. FSU Const. Art. VI, sec. 1. This corresponds with FSU Statute (FSU Stat.) 704.4(b)(3). Second, students may propose a "referendum vote" on a "mandate" to compel certain actions by the Student Government by filing a petition signed by 500 students. *Id.* Art. VI, sec. 2. This corresponds with FSU Stat. 704.4(b)(2). Third, students may propose a vote on a "question" in order "to determine student opinion on issues" by filing a petition signed by 200 students. *Id.* Art. VI, sec. 4(1)-(2). This corresponds with FSU Stat. 704.4(b)(1). The Constitution specifies votes in this third category "may only be used to access student opinion on issues and shall not be binding on Student Government, nor subject to Court Review before being

placed on the ballot." *Id.* Art. VI, sec. 4(2).

The Constitution does not define “issues” and has the requirement to “determine” the opinions prevailing on campus when a question is proposed to be added to the ballot. Oxford Languages defines “determine” as to “*ascertain or establish exactly...*” Currently, the way that the question is written, the “determination” of the Student Body opinion is not possible. Art. VI, sec. 4. Moving to the meaning of “issue.” Oxford Languages defines “issue” as “*an important topic or problem for debate or discussion.*” There can be no debate or discussion without understanding the “topic” or “problem.”

There is an expansive view of the term *issue* where the drafters of Art. VI, Sec. 4(1), could have specifically contemplated a use to gather the general student body's opinion on areas outside the Student Senate's control. This may be evidenced by the phrase “shall not be binding on Student Government” in Art. VI, Sec. 4(2). However, the provision may have been contemplated as to only opinions regarding issues that the Student Body Senate can act on. This might be the

more plausible reading, considering the purpose of the Student Body Constitution “is to provide FSU students with representation, services, and advocacy within the university structure.” Art. I, sec. 3. Thus, while assuming a petition containing a valid “question” that would actually obtain the student body’s “opinion,” that hypothetical question would not be subject to court review, however, the court must still make a threshold determination whether a proposed submission even falls within that category.

There is a middle reading of the statute that might be best. When the opinion is dealing with topics outside the control of the student senate, it must be extremely specific since there are many meanings to world affairs and there will be no discussion to figure it out either or no back stop to ascertain the meaning at a later date. However, if the question is regarding an issue that the student senate has control over then it does not need to be as specific because presumably, the student senate will discuss, argue, and engage in the political process regarding the opinion. We think this is the best reading. Care should still be taken when

drafting any opinion question. However, when the question revolves around topics that the student senate can control there is a backstop where the meaning can be ascertained, and the voters may not feel ‘duped’ because they can still talk to their representative about what they thought the question meant, if it turns out there was multiple meanings and ultimately their voice will still be heard.

Second, the question that is being asked is hopelessly vague. There is no way to “determine” the opinions of the FSU student body with the current version of the question. The question assumes that FSU partners with companies committing violations of unspecified United States and international law provisions without providing evidence or indication of the alleged violations. Setting aside the high probability that the question is libelous, determining whether “legal” violations have occurred is a fact and law question that cannot be decided through a poll.

Additionally, what counts as a “weapons manufacturer?” Where is the line drawn, a company that provides the raw materials for weapons? Companies that provide the munition? Does the term

weapons manufacturers include subsidiary companies that produce weapons or a company that merely assembles the weapons parts sourced from across the globe? Does it include technology and tools like drones, night vision goggles, and explosives capable of either civilian or military use? What about defensive systems like the Iron Dome that save civilian lives by intercepting terrorist missiles? Does it include only the particular entity allegedly engaged in legal violations or all parents, subsidiaries, and other affiliates? In other words, is FSU supposed to be cutting off relations with giant global conglomerates based on objections to what one division of one subsidiary is doing?

Lastly, as shown there are numerous interpretations to the question posed, and hypothetically, those who voted thought the question was interpreted to mean something other than what they voted for, a meaning they did not intend, is that likely to “ensure the greatest participation by students in the immediate governances ... of FSU?” Art. I, sec. 5(1), is that likely to “expand [] student power...?” *Id.* sec. 5(a), is that

likely to “enhance [] the civil rights of students...?” *Id.* 5(c), does that help “develop policies fairly and openly?” *Id.* sec. 6.

The drafting of the opinion question is hopelessly vague, and students of FSU cannot meaningfully determine what they’re being asked to vote on. Thus, it follows that the question on the ballot cannot “determine student opinions on issues.” There are far too many possible readings for the question to “determine” the student bodies’ opinion regarding the current question, and therefore, it is not a valid question and does not have to be added on the student ballot or posted on the Supervisor of Election’s website. Since the question did not meet the constitutional requirement, the corresponding statute stemming directly from a constitutional requirement is also not met.

**Recommendation:** The Senate should work with some of the world-renowned research professors here at FSU to develop a formula for getting specific opinions from the student body and add that process to the Student Body Constitution. Additionally, note that every

year, FSU has thousands of new students who, in all likelihood, have no idea what transpired during the previous year.

*Respectfully Submitted this the 19th day of  
September, 2024.*