

**STUDENT GOVERNMENT ASSOCIATION
SUPREME COURT**

JUDICIAL ARCHIVE 2019

JUDGEMENTS

2019-0001 CoogsUnite v. SGA Chief Election Commissioner
2019-0002 CoogsUnite v. SGA Election Commission
2019-0003 CoogsUnite Request for Writ of Certiorari Denied
2019-0004 CoogsUnite Request for Writ of Certiorari Denied
2019-0005 Campbell v. SGA Election Commission
2019-0006 Regarding Representation of the Honors College

ADVISORY OPINIONS

2019-0001 Request Concerning Unofficial Election Results

**CoogsUnite v. Student Government Association
Chief Election Commissioner**

No. 2019-0001

[February 18, 2019]

Complaint e-mailed to Chief Justice, Kate Dentler, against the Chief Election Commissioner, Bo Harricharan, by Nader Irsan of CoogsUnite for violating Section 5.02 of the Constitution and violating Title 9.42 and Title 9.44 by having bias toward opposing candidates.

A.

Section 5.02 of the Constitution states the following:

“The President of the Student Government Association shall be elected by a majority of the members of the Student Government Association. Presidential candidates shall name a Vice Presidential candidate on their election application with whom they shall run for office jointly. Election ballots shall require members of the Student Government Association to vote for an executive ticket consisting of a Presidential and Vice Presidential candidate. The President and Vice President shall serve a concurrent one-year term commencing on the first day of April and terminating on the first day of the next following April or at such time as a duly elected President and Vice President involved in a disputed election are eligible to serve.”

We were presented with no reasonable evidence to suggest that the ballots are not constructed correctly and will not be posted and counted correctly the day after the general election.

We, therefore, dismiss this complaint with prejudice.

B.

Section 9.42 and 9.44 of the Bylaws states the following:

Section 9.42

“No official of the Student Government Association will bestow favors, make undue use of influence of powers of office, or offer special considerations of any kind in exchange for anything of value.”

Section 9.44

“Each Student Government official must make every reasonable attempt to fulfill their responsibilities to the best of their ability. Each member must discharge their duties in good faith and with due regard for the welfare of the entire Student Body.”

Irsan claimed that Chief Election Commissioner Harricharan had intent to harm his and his party’s campaign in a “blatant attempt to help CoogsUnite’s opponents” by originally deeming him ineligible to run and contacting him on the last day to make the necessary arrangements to run. This decision was reversed, no evidence of damages toward Coogs Unite was submitted and no compelling evidence of further bias was submitted towards Irsan and his party.

This complaint is hereby dismissed without prejudice.

It is so ordered.

Chief Justice, Kate Dentler

Justice Kauffman, Opinion of the Court

SUPREME COURT OF THE STUDENT
GOVERNMENT ASSOCIATION

“COOGS UNITE”, PETITIONERS v.
STUDENT GOVERNMENT ASSOCIATION ELECTION
COMMISSION

2019-0002

[February 26, 2019]

Justice Kauffman delivered the opinion of the Court

I

Coogs Unite petitioned the Student Government Association (hereby known as “SGA”) alleging a due process violation by the Chief Election Commissioner over complaints filed against CoogsUnite. The petition centers around the issue of the Chief Election Commissioner not having appointed a Chief Investigator pursuant to the Election Code. CoogsUnite claims that without a Chief Investigator, none of complaints against them were given proper due process. The Chief Election Commissioner claims that powers given to the Chief Investigator in the Election Code are shared with the Chief Election Commissioner. The complaints in question were, as titled in the 2019 SGA Election are “Complaint 4”, “Complaint 5”, and “Complaint 8”. “Complaint 4” and “Complaint 5” were financial disclosure violations filed by the Chief Election Commissioner, “Complaint 8” was a violation of a campaign ban

filed by Maysarah Kazia, through the reporting portal on the SGA Website.

A

When comparing the explicitly stated powers of the Chief Investigator to the general authority of the Chief Election Commissioner, the two important sections of the Election Code are, Article 2(7)(1) and Article 2(7)(5). In the opening paragraph, Article 2(7)(5) states, “both the Commission and the Chief Investigator will have the power to,” which is followed by granting broad investigatory powers. The Court decided that no due process violation has occurred if the Chief Election Commissioner investigates claims since both the Election Commission and the Chief Investigator possess that authority. There is only one responsibility specifically given to the Chief Investigator that is not possessed by the Chief Election Commissioner; Article 2(7)(1)(c) states that the Chief Investigator must, “Present complaints to the Attorney General.” Should the Election Commission submit a complaint directly to the Attorney General, the Court does find that to be a due process violation.

B

The complaint portal on the SGA website during the 2019 SGA Election is run by the Attorney General. Any complaints filed through that

portal are sent directly to the Attorney General who then forwards it to the Election Commission for investigation prior to making a decision. Due to the methods of how this system operates, the Court does not find that the Election Commission has presented complaints to the Attorney General. This is how “Complaint 8” was filed. Therefore, there was no due process violation. “Complaint 4” and “Complaint 5” were not filed through the portal. Those complaints were submitted directly from the Election Commission to the Attorney General. The Court rules that this constitutes a violation of Article 2(7)(1)(c), and, thus, constitutes a due process violation.

C

Due to this violation, the Court hereby orders the following: anyone found to have been guilty of a complaint originating out of the Election Commission will have 12 hours from the announcement of the verbal order on February 24, 2019 at 5:00pm to submit an appeal on the merits of the complaint. Furthermore, the Supreme Court will claim original jurisdiction of all complaints originating out of the Election Commission, until such a time that the Election Commission becomes compliant with the Election Code. The Court urges the SGA Senate to correct the poor language of the Election Code and fully believes that to be the root of this case. Furthermore, the case originated out of a discrepancy of interpretation of “will”,

“must”, and “shall”. Anything that is preceded by “will” or “must” is mandatory; anything that is preceded by “shall” is not mandatory.

It is so ordered.

Associate Justice Elliot Kauffman

Joined by:

Chief Justice Kate Dentler
Associate Justice Jacob Kratavil
Associate Justice Lena Craven
Associate Justice Edward Muñoz
Associate Justice Stepheni Torres

Associate Justice Mike Floyd concurring:

Summary

The Constitution, Bylaws, and Election Code of the Student Government Association of the University of Houston set forth the rules and guidelines for each officer and department within the association. The governing texts provide clear and coherent grants, and limitations, of powers and authorities for each officer, body, and branch. The Court has unanimously observed widespread general inflations of authority by several officers within the student government association. Therefore, this opinion to case No.2019-0002 reiterates the Court’s commitment to the principle of limited definitions of authority and establishes a comprehensive and final understanding of the endowments of powers and capabilities vested in officers by the Constitution, Bylaws,

and the Election Code. The Justices below - and all unanimously in deliberations - decide with finality that officers holding any position within the Student Government Association of the University of Houston cannot and will not expand their authority beyond the literal texts respective to their positions found in the Constitution, Bylaws, and Election Code of the Student Government Association of the University of Houston.

Opinion

Case No.2019-0002, *CoogsUnite v. SGA Election Commission*, presented the Court with a minor technical violation of the Election Code by the sitting Chief Election Commissioner, Bo Harricharran. Harricharran's failure to appoint a Chief Investigator, as stipulated by Article 2, Section 7 of the University of Houston Student Government Association Election Code, resulted in the violation of the due process rights of Coogs Unite. While the due process rights of every student and political party at the University of Houston are of the utmost importance, the Court's decision on *CoogsUnite v. SGA Election Commission* yielded a result that should reach far beyond the Election Code violations of Chief Election Commissioner Harricharran.

In *CoogsUnite v. SGA Election Commission*, Chief Election Commissioner Bo Harricharran defended her failure to appoint a Chief Investigator by claiming she had "not found the position of Chief Investigator necessary." However, Harricharran admitted she had assumed the powers of the Chief Investigator because she was unable, after 176 days in office, to fill the position. The logical conclusion from Harricharran's assumption of the Chief Investigator's powers points to the very necessity of the position. Regardless of the legislative inaptitude that bred the entirely technical issues found in *CoogsUnite v. SGA Election Commission*, it is Harricharran's defense of her inaction that is highly problematic and relatively dangerous for the University of Houston Student Government.

The entirety of Harricharran's defense of her failure to complete her duties as Election Commissioner rests on two significant assumptions: 1) that the position of Chief Investigator was "unnecessary" despite being required by Article 2, Section 7 of the Election Code, and 2) that Harricharran possessed the powers to interpret the Election Code and accordingly choose which parts of Article 2 she would enforce or follow. The dangers of Harricharran's defense are quite clear: had the Court ruled in her favor, the Election Code would be

merely advisory, subject to the will and interpretation of unelected individual appointees. By extension of the potential precedent, any rogue official, elected or unelected, who held irreverential views towards the founding documents would be unchecked, capable of construing or ignoring the texts to their conveniences. The Court unanimously ruled in the majority opinion that Harricharran's inflation of her authority was inappropriate and against the principles of constitutionalism – that a government which derives its authority from the people must follow the laws, rules, and principles to which the people consent. The threat to the rule of law from Harricharran's defense, as well as President Barrett's advisory opinion, presented disastrous implications for the entirety of the University and represented a seething practice that previous administrations, and Courts, have allowed to propagate within the ranks of every branch, department, and position. The Justices in agreement reject Harricharran and Barrett's political philosophy of expanding powers beyond the grants provided by the governing texts, as well as any and all actions that share the same dangerous foundations.

Any and every office or position within the Student Government Association of the University of Houston must act in accord

with the grants and limitations of powers vested through and by the Constitution, Bylaws, and Election Code. Officials and officers, either elected or appointed, of the Student Government Association do not have the power to interpret the Constitution, Bylaws, or Election Code of the Student Government Association. Only the Supreme Court of the Student Government Association has the authority to interpret the language of the Constitution.

Therefore, it is the opinion of the Justices below, and all who value order and process, that all officers and officials, elected or appointed, must follow grants and limitations of powers vested in them by the Constitution, Bylaws, and Election Code. Any assumption of powers, whether they be explicit or oblique, beyond the literal grants of authority by any officer or official subjects said individual, and those implicated or involved in such an assumption of power, to the full extent of the Student Government Association disciplinary process. Further, no individual officer or official of the Student Government Association, aside from the Justices of the Supreme Court, can unilaterally apply an interpretation of the Constitution, Bylaws, or Election Code to their position. As the Court is the final authority on any and all interpretations of the Constitution, Bylaws, and the

Election Code, the Supreme Court of the University of Houston stands ready to offer advisory opinions on constitutional questions or difficulties.

It is the Opinion of the Justices.

Associate Justice Mike Floyd

Joined By:

Associate Justice Ben Solis

Associate Justice Matthew Stell concurring:

Opinion

No.2019-0002, *CoogsUnite v. Student Government Association Election*

Commission, required the Student Government Association Supreme Court to examine and scrutinize two issues: the interpretive authority of officers and the complexing verbiage used in the current SGA Election Code. Bo Harricharran, Chief Election Commissioner for the 2019 SGA Elections, deemed the position of Chief Investigator “not necessary” during her tenure. Article 2, Section 7, Clause 1 of the SGA Election Code clearly and explicitly states that “the Chief Election Commissioner will appoint a Chief Investigator as a staff officer of the Election Commission”. By Harricharran not appointing a Chief Investigator, she violated the Election Code and engaged in an act of complete and total nonfeasance. In the Court’s opinion for No.2019-0002, the Justices unanimously agreed that when the words “shall” or “may” are

utilized in any governing documents or legislation, they are defined as discretionary powers, whereas the words “will” or “must” are considered mandatory. From this point forward, any interpretations not laid out by the Court in No.2019-0002 are invalid, unless reversed by a subsequent court.

But the pertinent concern that must be addressed is the inconsistency and poor language employed in the recently amended SGA Election Code. This fault is that of the SGA Senate alone, who voted to amend the document by way of resolution, also known as *SGAB-55001* in April of 2018; the first month of the Barrett Administration and Speakership of Andrew Trinh. While a sense of vagueness has been applied in many governing documents for hundreds of years, the ambiguity and impreciseness in this document ultimately led to No.2019-0002. In Article 2, Section 7, Clause 1, Subsection D, the Chief Investigator is to “perform any other functions or duties as are requested by the Commission in relation to their position as Chief Investigator”. Harricharran interpreted this as that the duties of the Chief Investigator are at her discretion, reasoning to why she wrongly believed she possessed the right to deem the position not necessary. In her defense, Harricharran also argued that the Chief Investigator was a not position within the Election Commission due to Article 2, Section 2, Clause 1 stating that “The Election Commission must be composed of a Chief Election Commissioner

and at least two Associate Election Commissioners”. It is also very much unclear to the Court whether or not the Chief Investigator retains sole investigatory responsibilities. According to Article 2, Section 7, Clause 1, Subsection C, the Chief Investigator is to “present complaints to the Attorney General”. Confusion as to who holds the absolute power to investigate continues in Article 2, Section 7, Clause 5 as it states that “both the Commission and Chief Investigator will have the power to c) require by order that any candidate, or authorized agent thereof, furnish any records, reports, forms, documents, or other evidence as may be requested”. These few but significant examples led to speculative interpretations. If the overall document was much more comprehensible as it relates to the position of Chief Investigator and its role within the Election Commission, it is much more easier to believe that No.2019-0002 would have had no need to be argued before the Court. It is the exclusive responsibility of the SGA Senate to ensure that these governing documents are logical, sensible, and practical.

For the many reasons aforementioned, the Court requests that the SGA Senate, at its earliest convenience, revise the Election Code for the sake of general understanding. Such revisions will bring clarity and coherence to a process in which we democratically elect our representatives. A governing body cannot rely on erratic and fluctuating documents that produce nothing less than perplexity and

disarray. The Student Government Association, at the minimum, deserves consistency. It is in this spirit, that the Court pleads with the SGA Senate to provide major rectifications to the SGA Election Code.

It is the Opinion of the Justice.

Associate Justice Matthew Stell

COOGSUNITE REQUEST FOR WRIT OF CERTORARI

No. 2019-0003

[February 25, 2019]

Petition for writ of certiorari denied. CoogsUnite petitioned pursuant in the order expressed in *CoogsUnite v. Student Government Association* (hereby known as “SGA”) *Chief Election Commissioner* to appeal “Complaint 5” as titled in the 2019 SGA election. There was no evidence produced appealing merit, which was the requirement.

Therefore, the Supreme Court of SGA denies the writ of certiorari.

It is so ordered.

Chief Justice Kate Dentler

COOGSUNITE REQUEST FOR WRIT OF CERTIORARI

No. 2019-0004

[February 26, 2019]

Petition for writ of certiorari denied. CoogsUnite petitioned to appeal “Complaint 13” as titled in the 2019 Student Government Association (hereby known as “SGA”) Election. There is no evidence to suggest that the complaint process and investigation was not sufficiently handled, or extraordinary levels of evidence to suggest the decision was incorrect based on the merits.

Therefore, the Supreme Court of SGA denies the writ of certiorari.

It is so ordered.

Chief Justice Kate Dentler

Randolph Campbell Jr. v. SGA Election Commission

No. 2019-0005

[March 4, 2019]

Complaint e-mailed to Chief Justice Kate Dentler against Student Government Association (hereby known as “SGA”) Election Commission by Randolph Campbell for violating Art. 5, Section 4.06 of the SGA Election Code by alleging the SGA Election Commission failed to randomize the ballot.

A.

Article 5, Section 4.06 of the Election Code states the following:

“Ballot positions will be randomized by the online voting system each time they are accessed. If a candidate withdraws from the election or is disqualified following the establishment of the online ballot, but no sooner than four (4) days prior to the start of voting, their names will be replaced by “withdrawn” on all ballots. The Election Commission will notify the appropriate University personnel administering the online ballot system regarding the withdrawal or disqualification of the candidates prior to the start of voting”

The Election Code clearly states that the “Ballot positions will be randomized”. In *CoogsUnite v. SGA Election Commission*, the Court clarified that “will” means mandatory. In a statement responding to the complaint filed by Campbell, the Election Commission’s office explained that the program being used “could not randomize rank choice options” and because of this, the ballot was arranged “alphabetically to eliminate the possibility of personal biases”. The Election Commission’s ordering of the candidates on the ballot is a direct violation of the Election Code.

The Court finds that the ballot was not properly ordered according to the Election Code. However, there is no evidence presented to lead to the conclusion that the election results were significantly affected by this error. More importantly, vacating the election results after the election has concluded will create a significant burden to the student body. We, therefore, mandate that next year’s ballots must be compliant or legislation must be passed to change the rules of the ballot order or the result will be vacated.

It is so ordered.

Chief Justice Kate Dentler

**ADVISORY OPINION CONCERNING ANNOUNCEMENT
OF UNOFFICIAL ELECTION RESULTS**

No. 2019-0001

[February 14, 2019]

Advisory Opinion was petitioned by Chief Election Commissioner, Bo Harricharran to Chief Justice Kate Dentler concerning announcement of unofficial Student Government Association (hereby known as “SGA”) Election results.

The primary question was whether the Chief Election Commissioner is required to announce the election results on the day after the general election if there are technical difficulties being experienced. The Chief Election Commissioner was concerned that due to the new voting system and tabulator, no form of results will be available by the deadline defined in the SGA Election Code

It is the opinion of the SGA Supreme Court that the unofficial results must be announced the day after the general election—unless any unofficial results cannot be produced. Once any form of the unofficial results or portion of an unofficial result is produced, then it must be immediately announced and made public if the day after the general election has passed.

Chief Justice Kate Dentler