

IN THE STUDENT JUDICIARY
OF THE UNIVERSITY OF ALABAMA

No. 19-002

JACK KAPPELMAN, SENATOR;

Complainant

versus

HARRISON ADAMS, PRESIDENT;
CLAY GADDIS, ATTORNEY GENERAL;
KATHRYN HAYES, SPEAKER OF THE SENATE;

Defendants

Appeal for Judicial Review

OPINION

CHIEF JUSTICE LAWING delivered the opinion of the Court, which was joined in full by six other justices who served on the present case.

The Student Government Association's Senate presides under the guidance of the SGA Constitution, Code of Laws, and Robert's Rules of Order Newly Revised. According to the Code of Laws, "All Student Government Association must be open to the public."¹ The Student Senate operates under the classification of open meetings and closed sessions, which are defined by strict definitions set forth by the Code of Laws. Closed sessions are only called under special exceptions to the requirement of open meetings. The Code of Laws states "A 'Closed Session' is defined as a meeting in which the body considers nominations or other items that deserve privacy."² The Code of Laws further states that "A body must vote to hold a 'Closed Session,' and the decision shall be made by majority rule."³ In line with the parliamentary procedure

¹ Chapter 1002 Clause 1 of the Student Government Association Code of Laws

² Chapter 1004 Clause 2 of the Student Government Association Code of Laws

³ Chapter 1004 Clause 2 Subclause 1 of the Student Government Association Code of Laws

required for Senate to conduct business, “A Quorum an assembly is such a number as must be present in order that business can be legally transacted.”⁴ Debate in the Senate must be conducted according to parliamentary procedure, as overseen by the Parliamentarian of the Senate.⁵ Senators must “be recognized by the chair as having obtained the floor”⁶ and “address their remarks to the presiding officer, be courteous in their language and deportment, and avoid all personalities, never alluding to the officers or other members by name, where possible to avoid it, nor to the motives of members.”⁷ Voting in the Senate is conducted according to parliamentary procedure, as defined in Article VII of Robert’s Rules of Order Newly Revised..

The SGA President is guided under the SGA Constitution and Code of Laws. Their powers are strictly defined under Article IV Section 5 of the SGA Constitution. One power of the President is to “call special sessions of the Senate when deemed necessary.”⁸ The President is required to use Executive Orders to call the aforementioned Special Session. Article IV Section 10 Subsection C (2) of the SGA Constitution states “The Attorney General shall... [w]rite executive orders at the discretion of the SGA President.”⁹

I

At 12:13 pm on Friday, April 19th, 2019, Speaker of the Senate Kathryn Hayes sent out a message to the 2019-2020 SGA Senate via GroupMe regarding action to be taken on Act A-08-19: Act to Establish a Payscale. She informed the Senate that, “we still need to vote on Act A-08-19: Act to Establish a Payscale. This piece of legislation is time sensitive, as it must be voted on by the Senate before the budget is due at the end of the month.” She informed the Senate that there would be an Executive Order sent out to allow for electronic voting via Google Form on this “time sensitive” legislation.¹⁰ At 12:51 pm on Friday, April 19th, 2019, Speaker of the Senate Kathryn Hayes sent out an email with the link to electronic voting via Google Form for Act A-08-19: Act to Establish a Payscale, as well as an Executive Order written by Attorney General Clay Gaddis on behalf of President Harrison Adams titled “An Executive Order to Empower the Senate to Vote Electronically on Act-08-19 during the week of April 15th, 2019.”¹¹ At 1:16 pm, Speaker Hayes informed the Senate GroupMe that the email with voting had been sent. At 3:04 pm, Speaker Hayes added temporary Parliamentarian Hani Razavi to the Senate GroupMe. She then informed Senators that “if anyone has any Pro’s or Con’s toward the pay

⁴ Article XI Section 64 of Robert’s Rules of Order Newly Revised

⁵ Article III Section 5 Subsection C of the Student Government Association Constitution

⁶ Article VII Section 42 of Robert’s Rules of Order Newly Revised

⁷ Article I Section 7 of Robert’s Rules of Order Newly Revised

⁸ Article IV Section 5 Subsection E of the Student Government Association Constitution

⁹ Article IV Section 10 Subsection C (2) of the Student Government Association Constitution

¹⁰ Screenshots provided in Exhibit A

¹¹ Executive Order-02-19 of President B. Harrison Adams, Jr.

scale, you may use this group message to make them known.”¹² Speaker Hayes added the Author of Act A-08-19, Vice-President of Financial Affairs Hunter Scott, to the GroupMe. At 3:39 pm, VPFA Scott began answering non-debatable technical questions. Intermittently during this time, GroupMe notified the message that Senator Sam Perry was improperly added to the GroupMe, an issue which was not rectified until approximately 4 pm. While still in non-debatable technical questions, Senator Katie Ray stated her opinion of the pay scale, in line with “a lot of her constituents are concerned.”¹³ At which point, Senator Ellen Walton rose out of order to simply state one phrase of “non-debatable technical questions.”¹⁴ Without addressing the parliamentary procedure of the previous instant, Speaker Hayes moved debate to pro/con discussion by stating “[p]lease DM me personally if you would like to voice your opinion.”¹⁵ After an indeterminable amount of time, Speaker Hayes stated “we are now in line to vote on Act A-08-19. If you have not already done so, please refer to the email sent this morning and use the link. Voting closes tomorrow, Saturday 4/20 at noon.”¹⁶

II

In this case, we consider Senator Kappelman’s allegations against the involved parties. Firstly, we examine the Executive Order drafted by Attorney General Clay Gaddis on behalf of President Harrison Adams. The question presented to the Court was whether or not the actions in the Executive Order lie within the powers of the President, as defined in Article IV Section 5 of the SGA Constitution. Secondly, we examine the setting of the meeting. The questions presented to the Court were whether or not GroupMe can be considered a meeting, whether or not the meeting met the requirements of an open meeting or closed session, and finally whether or not Quorum was met. Thirdly, we examine the debate found within the GroupMe. The questions presented to the Court were whether or not the debate that occurred in the GroupMe met the standards of parliamentary and whether or not parliamentary procedure for debate was accurately enforced. Lastly, we examine the vote on Act A-08-19. The questions presented to Court were whether or not the vote is valid, who verified the votes, and who had access to the Google Form used for voting. The Court received Stipulated Facts and Rebuttals from both parties in this case. After the Defendants motioned for Oral Arguments, the Court voted 6-0 to allow the case to move to Oral Arguments.

¹² Screenshots provided in Exhibit A

¹³ Screenshots provided in Exhibit A

¹⁴ Screenshots provided in Exhibit A

¹⁵ Screenshots provided in Exhibit A

¹⁶ Screenshots provided in Exhibit A

We hold that the Executive Order does not fall within the powers of the President outlined in Article IV Section 5 of the SGA Constitution, as the content of the order was to empower the Senate to vote electronically rather than the President's intent of calling for a special session.¹⁷

We hold that the GroupMe does not count as an official meeting of Senate, as it violated Chapter 1004 of the SGA Code of Laws. The meeting was an improper closed session, as the body never voted to hold a closed session. The meeting also is invalidated, as Quorum was not established as per Robert's Rules of Order Newly Revised.

We hold that the debate within the GroupMe did not follow the standard of parliamentary procedure and that parliamentary procedure was not accurately enforced, as determined by lack of order from Senators and the lack of moderation from Speaker Hayes.¹⁸

In the final allegation, we hold that the vote is invalid on multiple reasons. The Executive Order did not constitutionally give Senate the right to vote electronically, nor did the meeting meet the standards required to conduct business. Therefore, the vote was directly in violation of Article III Section 8 of the SGA Constitution. Furthermore, the vote could not have accurately represented the body of Senate, as the original voting record did not reflect the attendance record for members counted present.¹⁹ Finally, voting via Google Form was not secure and the votes could not be accurately verified for each Senator. While the Court can see the Defendants' attempts at correcting these inconsistencies, however, the correction in and of itself is a flagrant violation of parliamentary procedure.

III

The language in the President Adams' Executive Order speaks to the inability "to physically hold session during the week of April 15th,"²⁰ which thus led to the "need" for electronic voting. Executive Orders must be ruled on content, not intent of the President. Should the President have wanted to call a special session of the Senate, he should have done so within the context of his Executive Order. The President does have the power to call special session of the Senate, that is not in question. The President, however, does not have the power to change the nature of existing meetings of the Senate or any existing body. That is what occurred with his empowerment to vote electronically.

¹⁷ Oral Arguments made by President Harrison Adams

¹⁸ Screenshots provided in Exhibit A

¹⁹ Oral Arguments made by Speaker of the Senate Kathryn Hayes

²⁰ Executive Order-02-19 of President B. Harrison Adams, Jr.

The Student Government Association is constitutionally committed to being as transparent as possible. The creation of a GroupMe session of Senate directly violates that commitment to transparency. This is evidenced by a lack of opportunity for the public to access the meeting nor to provide comment. A GroupMe cannot provide the physical space for public forum. As Chapter 1002 of the SGA Code of Laws states that “open meeting[s] of the Student Government Association shall be required to allot time for members of the student body to bring forth comments and concerns,”²¹ the Court urges officers of SGA to not simply rely on elected representatives to connect to the student body. The student voice must be heard from the source, not just through the lens of an elected official.

The actions of the Speaker of the Senate and members of Senate directly violates the rules of parliamentary procedure set forth in Robert’s Rules of Order Newly Revised. The actions of members such as Senator Katie Ray and Senator Ellen Walton are evidence of debate that is extremely out of order. The format of dialogue that GroupMe forces is not conducive to following parliamentary procedures. Ultimately, the responsibility falls on the officers of the Senate to create an environment for debate so that the Senators can “address the academic and non-academic concerns of the students of The University of Alabama...”²² as well as “make themselves accessible and accountable to their constituents.”²³ From actions such as enforcing debate and verifying voting, Senate Officers provide an equal opportunity for these student representatives to work at creating change on this campus. The Speaker, Secretary, and Parliamentarian of the Senate should actively create these spaces for session. In instances where deadlines are present and potential threats arise, these officers should preemptively work out alternative plans to actively put into place once the session is deemed incapable of being held.

IV

The Court would like to make it clear that the excuse of “important” legislation does not nullify Executive and Legislative officers of their duty to follow the Constitution and Code of Laws. While the SGA payscale is a sensitive issue, the imperative nature of business to be addressed in Senate does not in any way justify the alteration of Senate procedures in a way that is not consistent with the SGA Constitution and Code of Laws. In being sworn into office, members swear to obey the Constitution and to faithfully execute their office. The actions presented in this case seemingly disregard that oath entirely. While it may not have been the intent of any party to go against the Constitution, all officers should work to actively live through their constitutional powers and obligations.

²¹ Chapter 1002 Clause 2 of the Student Government Association Code of Laws

²² Article III Section 6 Subsection A of the Student Government Association Constitution

²³ Article III Section 6 Subsection B of the Student Government Association Constitution

ORDER

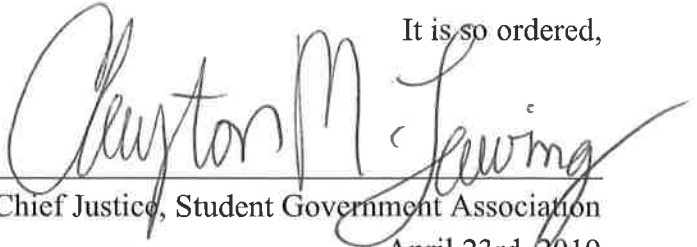
IT IS HEREBY ORDERED that the Student Senate actively work to create open meetings for the input of the student body to be heard. These meetings should be created in line with the requirements set forth in Chapter 1002 of the Code of Laws.

IT IS HEREBY ORDERED that the Student Senate work to directly adhere to the parliamentary procedure set forth in Robert's Rules of Order Newly Revised so that the platform can be created for all University of Alabama students may have their voices and ideas heard.

IT IS HEREBY AFFIRMED that President and Executive Council members of the Student Government Association should further their platforms and legislation through appropriate and constitutional channels.

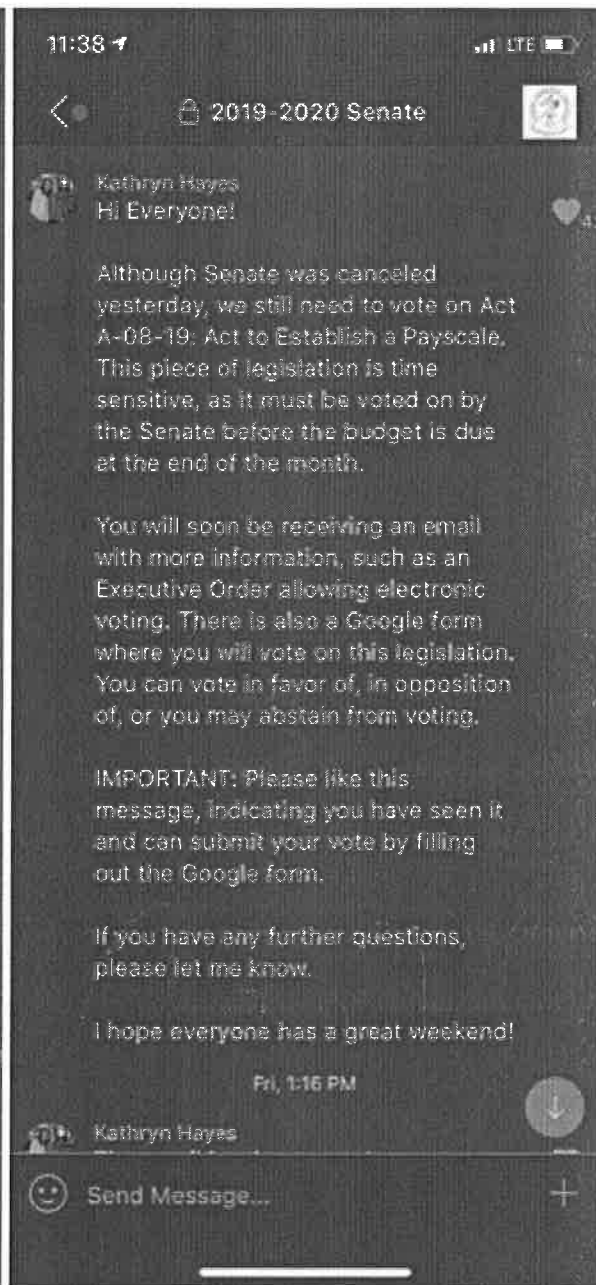
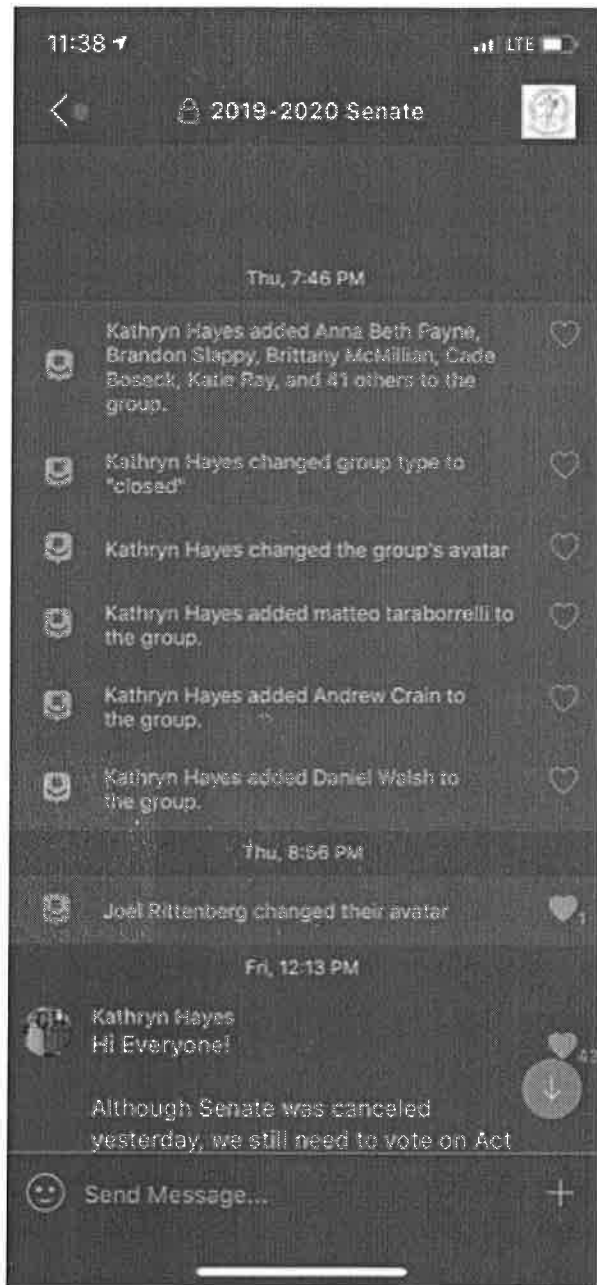
FAILURE TO COMPLY with the aforementioned orders, and the guidelines set forth in Title X of the Code of Laws, entitled "Ethics Law", warrants an investigation into involved parties by the SGA Student Judiciary, led by Chief Justice Lawing

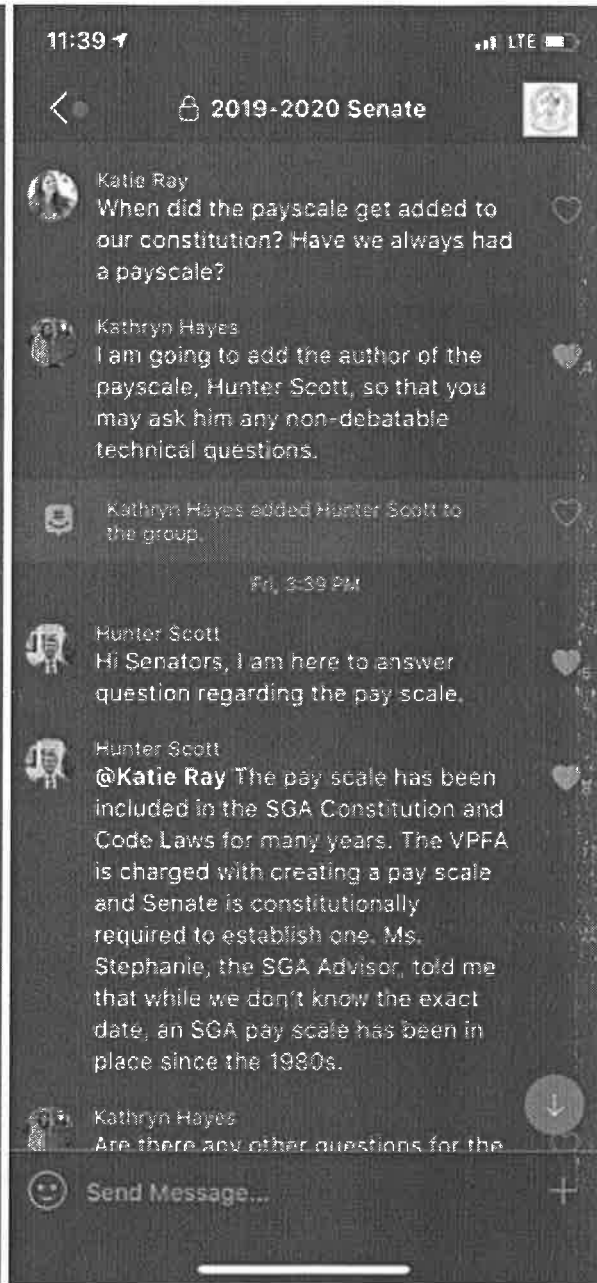
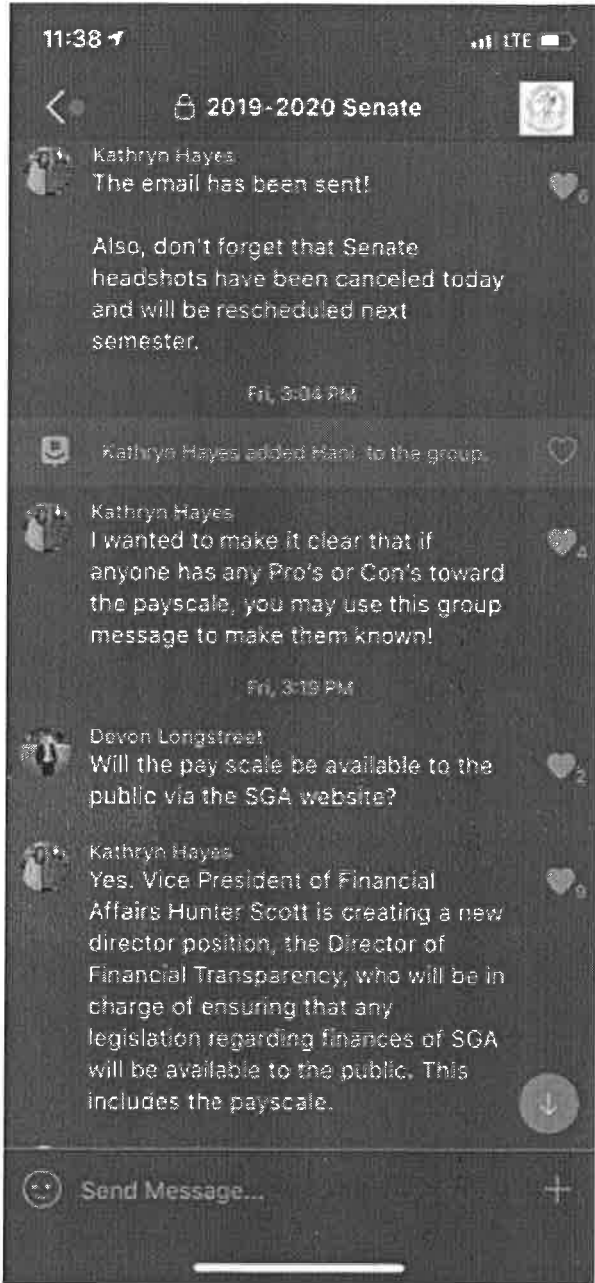
It is so ordered,

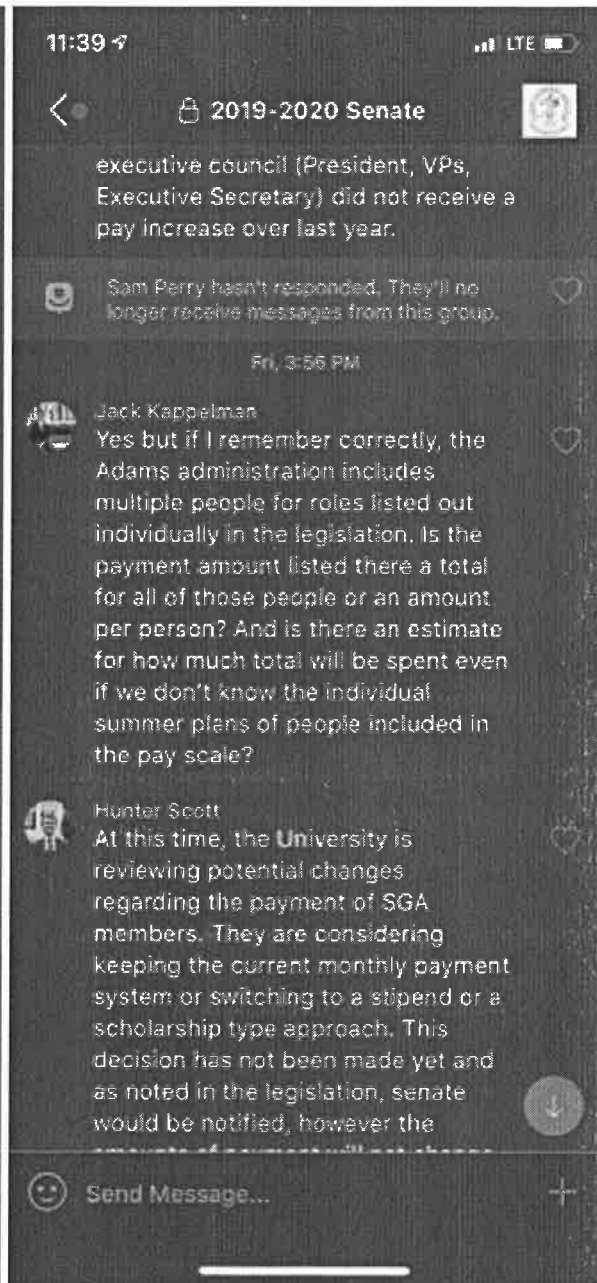
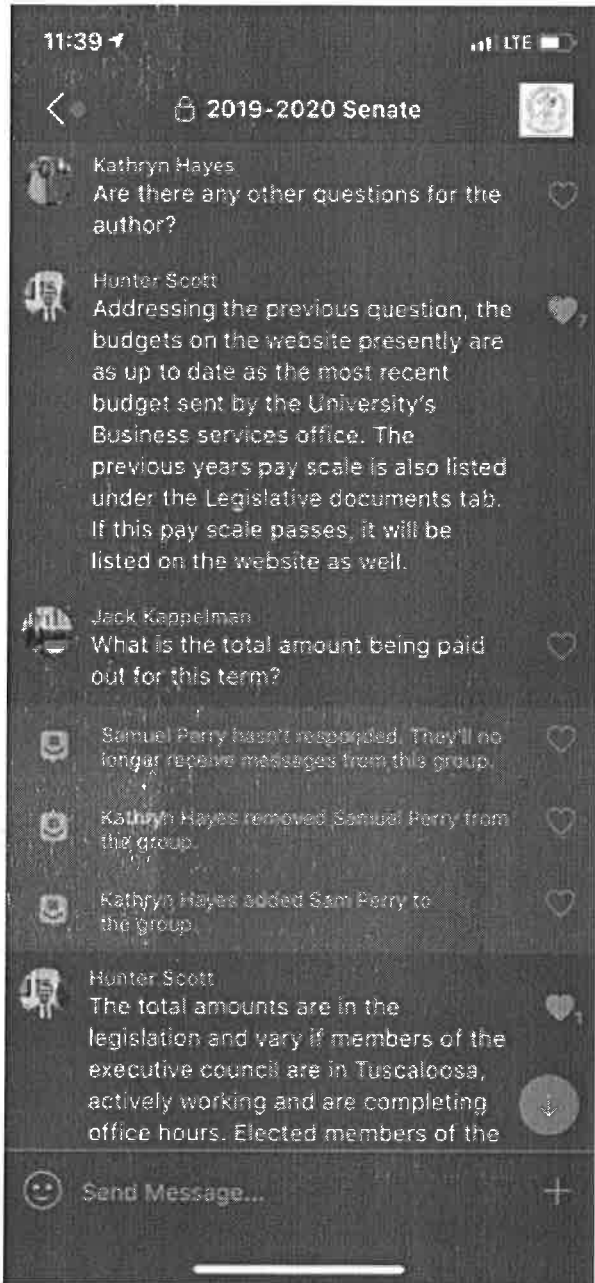


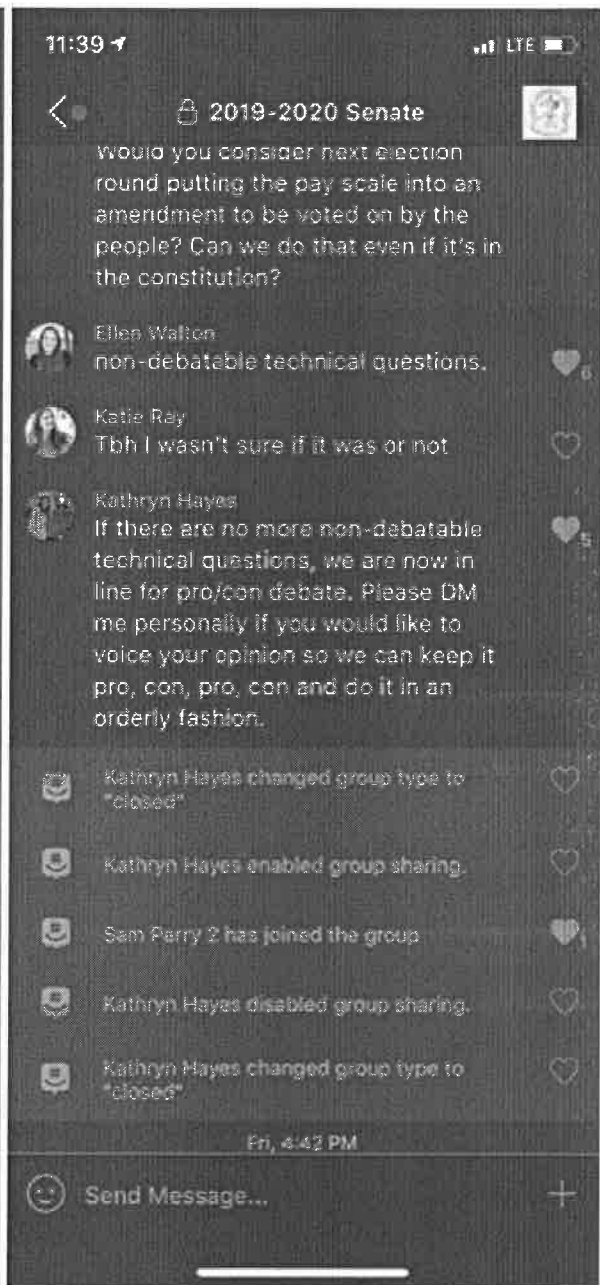
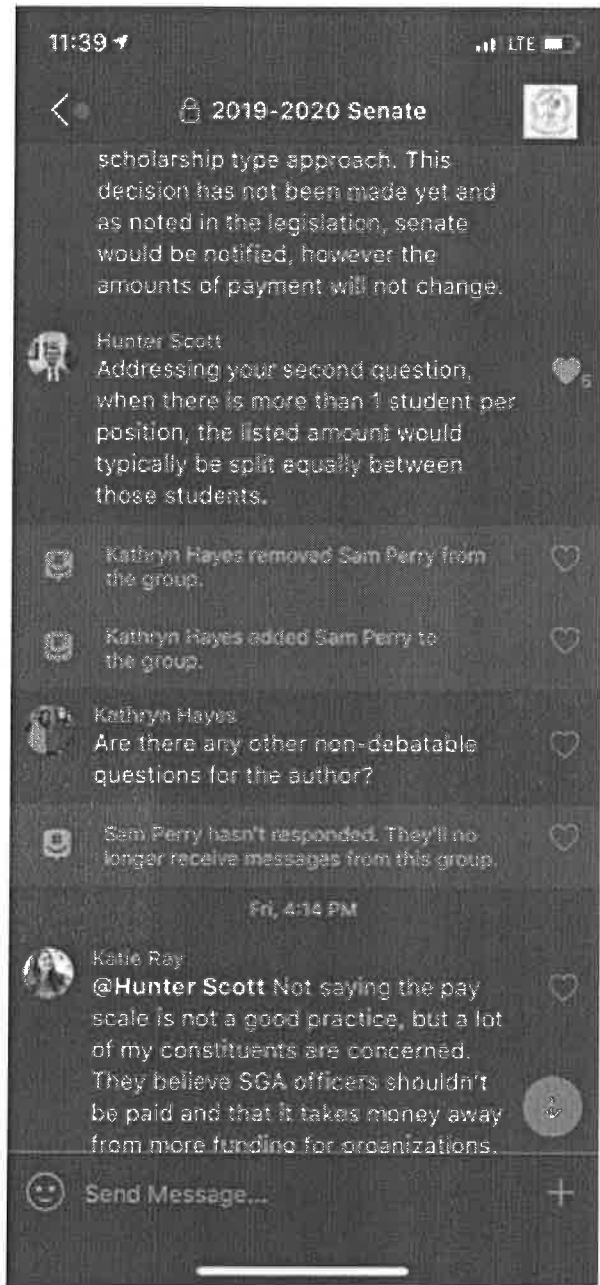
Chief Justice, Student Government Association
April 23rd, 2019

Exhibit A
GroupMe Screenshots
2019-2020 Senate
Provided by both the
Complainant and Defendants









11:39

LTE



2019-2020 Senate



me personally if you would like to voice your opinion so we can keep it pro, con, pro, con and do it in an orderly fashion.



Kathryn Hayes changed group type to "closed"



Kathryn Hayes enabled group sharing.



Sam Perry 2 has joined the group



Kathryn Hayes disabled group sharing.



Kathryn Hayes changed group type to "closed"



Fri, 4:42 PM



Kathryn Hayes

Seeing that there are none, we are now in line to vote on Act A-08-19. If you have not already done so, please refer to the email sent this morning and use the link. Voting closes tomorrow, Saturday 4/20 at noon.



Kathryn Hayes removed Hunter Scott from the group.



Send Message...

