

IN THE STUDENT JUDICIARY
OF THE UNIVERSITY OF ALABAMA

No. 19-003

LOGAN GOULART;
ASSOCIATE JUSTICE, STUDENT JUDICIAL BOARD;
CHAIR, DOCUMENTS AND RULES COMMITTEE:

Complainant

versus

HUNTER SCOTT, VICE PRESIDENT FOR FINANCIAL AFFAIRS
CLAY MARTINSON, EXECUTIVE VICE PRESIDENT:

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 First Year Council selection process is outlined in Article XI Section 4 of the Student Government Association Constitution as:

“Section 4: Selection

- A. FYC members shall be selected no earlier than the fourth week of class during the fall semester and no later than the sixth week of class during the fall semester.
- B. The Executive Secretary shall blind all applications received for First Year Council. The Executive Vice President, along with at least two former First Year Councilors, shall review blinded applications and reduce the number to an amount appropriate for interviewing.

C. Interviews shall be conducted by a committee composed of two designates from the executive, legislative, and judicial branches as well as one representative from the Residence Hall Association and the Dean of Students Office.

1. The President shall designate the representatives from the executive branch.
2. The Speaker of the Senate shall designate the representatives from the legislative branch.
3. The Chief Justice shall designate the representatives from the judicial branch.
4. The President of the Residence Hall Association shall designate the representative from the Residence Hall Association.
5. The Executive Vice President shall serve as a non-voting member except in the case of a tie amongst the votes cast by the eight voting members of the committee.

D. Those selected to serve as members of FYC shall be certified by a majority vote (fifty percent plus one vote) of the SGA Senate.

E. In the case of vacant seats in the First Year Council, the Executive Vice President shall appoint the next highest scoring applicant(s) to said vacant seat(s) to be certified by a majority vote (fifty percent plus one vote) of the SGA Senate.”

I

At 12:11 PM on Friday, September 20, 2019, the Student Judicial Board received an email from a concerned student at the University of Alabama for Judicial Review of Vice President for Financial Affairs. The email read:

“It has come to my attention recently that Vice President of Financial Affairs, Hunter Scott, has been providing confidential information regarding the FYC selection process to members of his fraternity. He has been promising them positions on the council and has been giving them confidential information regarding their essay and interview scores.

This came to my attention after talking with a FYC applicant named Colin Marcum, who made it known to me that Hunter Scott had promised him a spot in FYC. Mr. Marcum was not given an interview because Mr. Scott told him he’d missed the cut off by 2 points on the application scoring.

This is incredibly troubling because if proven to be true, Mr. Scott has egregiously disregarded the confidentiality agreement that he signed in regards to FYC interviews. This is potentially grounds for impeachment, something that was made aware to all SGA officials who signed the agreements.

I wish to remain anonymous throughout these proceedings.”

Per Judicial Procedure, the anonymous petition was sent to the Chair of the Student Judicial Board Documents and Rules Committee, Logan Goulart. Associate Justice Goulart reviewed the petition on initial merits to decide if the email brought into question matters under the jurisdiction of the Student Judicial Board. After reviewing the petition, Associate Justice Goulart named VPFA Scott and Executive Vice President Clay Martinson as parties to the case, due to their proximity to the accusations and their supervisory role in the First Year Council selection process, respectively. Associate Justice Goulart then officially submitted the appeal to Chief Justice Clayton Lawing. After initial review of the petition, Associate Justice has no official responsibilities in the case and is not party to the appeal. After initial notification to all parties that an appeal had been filed, the Court requested a witness statement from Student Colin Marcum. At 11:20 am on Sunday, September 22nd, the Court received a witness statement from Colin Marcum describing his recollection of the incident. As the student mentioned is not a member of the Student Government Association and both the initial email and the witness statement directly contradict each other, the Court had to consider both documents on their merits. The Court found that regardless of statement, both documents posed a potential breach in confidentiality, whether quantitative or qualitative, in regards to Colin Marcum's performance in the process. Specifically, the Court found rather concerning this sentence in the witness statement: "Hunter told me that he 'heard I did well on my application' but he did not make me aware of any other information regarding the confidential FYC application process, and certainly never told me that I missed the interview cutoff "by 2 points" as alleged." It is these alleged violations that concerned the Court and prompted the investigation for this appeal.

The Defendant party motioned for Oral Arguments, which the Court approved in a 6-0 vote. During this hearing, the Court allowed for the Defendant party, alongside Chief of Staff to the Executive Vice President Caitlyn Johnson, to present their case and formally demonstrate the entire First Year Council selection process. The Defendant party presented testimony that Caitlyn Johnson was the one responsible for blinding the applications, as blinding was conducted on a rolling basis during the summer and the Executive Secretary was unavailable during the summer. Further, the Defendant party highlighted that VPFA Scott and Speaker of the Senate Kathryn Hayes attended the Pre-Interview Selection Panel due to their happenstance of being in the SGA office and the need for an expert in Excel. The Defendant party claimed that there was no formal outline as to how this Pre-Interview Selection Panel should be conducted. Further, the Defendant party claimed that the application displayed during this panel were still blinded but that the only possibility that VPFA Scott could have seen an unblinded application would have been for a few moments while Chief of Staff to the Executive Vice President Caitlyn Johnson was switching tabs on the document. The Defendant party argued that VPFA Scott did not have access to the document containing unblinded application and could not have seen the full score of the Colin Marcum. Once the Defendant party moved into the Interview section of the process, the claim made was that all the required officers, as outlined in Article VI Section 4 Clause C of the SGA Constitution, were given the opportunity to participate in the interview process but that it is

logistically impossible for those running the interviews to mandate full attendance by the aforementioned officers.

II

In this case, we consider a few questions, alongside a question of the Court's jurisdiction on the matter. Article V Section 2 Clause A of the Student Government Association Constitution outlines that the Student Judicial Board shall have jurisdiction to consider "All controversies arising under this constitution and any rules and regulations which may be established pursuant to this Constitution." In a unanimous vote of the Court, the Student Judicial Board has jurisdiction over the context of this appeal as it relates to Article V Section 2 Clause A of the SGA Constitution. Firstly, we examine the question: Was the Chief of Staff to the Executive Vice President Caitlyn Johnson's blinding of the applications constitutional? Secondly, we examine the question: Was constitutional blindness maintained throughout the process? Thirdly, we examine the question: Was the attendance of the Pre-Interview Selection Panel constitutional? Lastly, we examine the question: Was the committee's, as described in Article VI Section 4 Clause C of the Constitution, involvement in the interview process constitutional?

We hold that the blinding of First Year Council applications by Chief of Staff to the Executive Vice President Caitlyn Johnson was unconstitutional, as the SGA Constitution specifically empowers the Executive Secretary to blind these applications.

We hold that constitutional blindness of the applications was not maintained throughout the process, as there was at least one instance in which the blindness of information that had been previously blinded was not maintained.

We hold that the attendance of the Pre-Interview Selection Panel was not constitutional, as all members involved in the review of blinded applications were not in attendance at this panel.

In the final allegation, we hold that the committee's involvement in the interview process was constitutional, as there is not enough clarity in the SGA Constitution to provide an explicit constitutional procedure.

III

The SGA Constitution clearly states that the blinding of First Year Council applications should be conducted by the Executive Secretary in Article VI Section 4 Clause B. Although the Executive Secretary was unavailable to do so throughout the summer, the Constitution does not

impose that such blinding must occur over the summer, and this process could have been conducted by the Executive Secretary upon the Executive Secretary's becoming available. While the Court recognizes Chief of Staff to the Executive Vice President Caitlyn Johnson's efforts were conducted in good faith, the lack of clarification of an alternative does not negate the specific allocation of the responsibility to the Executive Secretary made by the SGA Constitution.

Based on the facts presented to the Court by the Defendant party, there was at least one instance in which the blindness of information that had been previously blinded may not have been maintained. Whether this violation of blindness was intentional or unintentional, it created an opportunity for individuals to access information that they should not have had access to. It is not material whether or not votes were finalized, as blindness, as outlined in Article VI Section 4 Clause B of the SGA Constitution, should have been maintained. Any understanding of an applicant's performance, whether a qualitative indication of positive or negative performance or knowledge of an individual applicants final score, by the very nature violates constitutional blindness.

According to Article VI Section 4 Clause B "The Executive Vice President, along with at least two former First Year Councilors, shall review blinded applications and reduce the number to an amount appropriate for interviews." It is the belief of this Court that the inclusion of the conjunction "and" in such verbiage mandates that all individuals involved in the review of blinded applications should be a part of the Pre-Interview Selection Panel in which the applications are reduced to an amount appropriate for interviewing. While the Court recognizes that reaching consensus among the large number of individuals that reviewed blinded applications may be logistically difficult, it is the word of the SGA Constitution that such a collaborative effort be made.

The Court believes that, as written, Article VI Section 4 Clause C creates a severe lack of clarity regarding the interview process and extent of those empowered to conduct the interview process. It is not clear whether the "Committee" as named in the SGA Constitution shall meet in totality each time an interview is conducted or whether there is a fluidity as to whether all members must be present at all times in order for an interview to be constitutionally valid. This lack of clarity does not allow the Court to determine whether the actions taken were unconstitutional, but further legislative clarity may allow such a determination to be made in the future regarding future actions.

IV

The Court would like to make it clear that it is the responsibility of officers of the SGA to follow the constitution as worded, not comply with colloquial practices that have become normative as time has progressed. As the power to make revisions to the Constitution lies within the Legislative and Executive branches of the University of Alabama's Student Government Association, there is an expectation that these branches continue to codify their practices. Further, if there exists mandates within the Constitution that are practically impossible to abide by, it is also the responsibility of these branches to legislate in order to remediate such instances of impossible compliance.

ORDER

IT IS HEREBY ORDERED that the announcement of the First Year Council class of 2019-2020 be allowed to continued as planned. While aspects of the selection process did not precisely follow the word of law as expressed in the SGA Constitution, the outcome of selections was not inherently impacted.


IT IS HEREBY ORDERED that all members of the University of Alabama Student Government Association actively seek and understand their roles and responsibilities as expressly defined in the constitution.

IT IS HEREBY ORDERED that should there exist a lack of clarity in the elucidation of these roles and responsibilities, it is the expectation that members of the Executive and Legislative branch of the University of Alabama Student Government Association seek to codify a remediation to the uncertainty.

IT IS HEREBY ORDERED that a review and resulting revision to Article VI Section 4 of the SGA Constitution be conducted to alleviate future controversy regarding the First Year Council selection process. This must occur prior to the SGA elections held in the Spring of 2020.

FAILURE TO COMPLY with the aforementioned orders warrants an investigation into involved parties by the SGA Student Judicial Board, led by Chief Justice Lawing.

It is so ordered,



Chief Justice, Student Government Association

October 3rd, 2019