OFFICIAL REQUEST FOR INTERPRETATION

DATE: Thursday, Sept. 5, 2019  
TO: The Supreme Court of the Student Government Association of the University of Georgia  
FROM: Ethan Pender, SGA Attorney General  
SUBJECT: Request for an interpretation of the Constitution regarding the composition of the Elections Committee

Consistent with and as required by Article VI, Section 2, Paragraph D, Sub-Section V of the SGA Constitution, which states that the Attorney General “shall serve as the chair of the Elections Committee,” I, as the Attorney General and the Chair of the 2020 Elections Committee, request an official interpretation of the SGA Constitution by the Supreme Court regarding the composition of the Committee. It has come to my attention that the SGA Constitution currently requires that two (2) specific individuals, being the President of the Senate and the President Pro-Tempore of the Senate, fulfill the same obligation of serving on the Elections Committee.

As Chair of the 2020 Elections Committee, I petition the Court to decide which individual has the constitutional obligation to serve on this Committee.

ARTICLES IN QUESTION

SGA Constitution Article V, Section 1, Paragraph A, Sub-Section ix: “[The President of the Senate] shall serve on the Elections Committee.”

SGA Constitution Article VI, Section 3, Paragraph B, Sub-Sections ii and v: “[The Elections Committee] shall be comprised of the President Pro-Tempore, two non-active members of SGA and two active members of SGA appointed by the President – at the recommendation of the Attorney General – and approved by an absolute majority vote of the Senate,” “Should the President Pro-Tempore not be able to impartially serve on the elections committee, they must recommend a Senator to serve on the committee.”

DETAILS OF REQUEST

As the Constitution is currently written, both the President of the Senate and the President Pro-Tempore of the Senate are endowed with the responsibility and obligation of serving on the Elections Committee in what appears to be the same capacity. I believe this observation to be a constitutional contradiction.

One could argue that both individuals have the obligation of service. However, this argument is rendered moot based on constitutional context.
Article VI, Section 3, Paragraph B, Sub-Section ii defines five (5) specific members who shall serve on the Elections Committee, including two (2) active members of SGA, two (2) non-active members of SGA, and the President Pro-Tempore of the Senate. The SGA Faculty Advisor and the SGA Graduate Advisor are named as ex-officio, non-voting members in Sub-Section iii, and the Attorney General is named in Sub-Section i as a voting member only in the case of a tie.

In Sub-Section vi, quorum is defined as consisting of “four of the five voting members and the Attorney General.” The specific number of voting members is established as five (5), which equates to the same number of people defined by Sub-Section ii. The language in Sub-Section ii is clear inasmuch as it does not use the phrase “at least two active/non-active members;” it clearly intends that only two (2) active and only two (2) non-active members of SGA serve on the Elections Committee. It also states that the President Pro-Tempore must serve, as well as the Attorney General, who shall Chair the Committee and shall vote only in the case of a tie, which can only occur when one (1) voting member is absent or abstains.

The President of the Senate is not at all mentioned in Article VI, Section 3, which defines the Elections Committee and its purpose, composition, and governing documents. The absence of any mention of the President of the Senate (including the absence of the simultaneous mention of the President of the Senate and the President Pro-Tempore of the Senate in this section), as well as the inclusion of language that specifies only five (5) voting members exists leads me to infer that only one (1) of these two (2) mentioned legislative officers (the President of the Senate and the President Pro-Tempore of the Senate) may serve on the Elections Committee.

Because both the President of the Senate and the President Pro-Tempore of the Senate do not share a responsibility of service on the Elections Committee, it can be inferred that only one (1) of these officers shall carry this obligation of service.

While Article V, Section 1, Paragraph A, Sub-Section ix states that it is a duty of the President of the Senate to serve on the Elections Committee, the President of the Senate is not mentioned a single time in Article VI, Section 3, which defines the Committee’s purpose, composition, and governing documents.

Because this section clearly defines the Elections Committee and its composition, and because this section clearly defines the role of the President Pro-Tempore within this Committee, it can be inferred that the President Pro-Tempore bears the obligation of service on the Elections Committee and that the President Pro-Tempore, not the President of the Senate, should be included as a serving member in the composition of the 2020 Elections Committee.
The obligation of the President Pro-Tempore to serve on the Elections Committee finds precedent in a previous ruling by this same Court in Statement 32-01, issued on August 16, 2019.

In Statement 32-01, the Court issued a ruling on a similar discrepancy between the duties of the President of the Senate and the duties of the President Pro-Tempore. The Court unanimously agreed that a constitutional contradiction existed and offered an interpretation.

This interpretation recognized that Amendment 31-01, “An Amendment Regarding the Presiding Officer of the Senate,” established the office of the President of the Senate and specific duties of that office within the Constitution. However, the Court also acknowledged that Amendment 31-01 “failed to identify the constitutional contradiction that this would create,” and therefore, the Court “decided that the language and line within the original Constitution, prior to the passing of Amendment 31-01, should be followed,” upholding the section of the Constitution that established and discussed the composition and formation of the First-Year Senator Selection Committee, including the restoration of the President Pro-Tempore of the Senate as the Committee Chair.

Applying this same line of legal reasoning, it would appear to me that the Court would uphold the original intent of the Constitution before the passage and adoption of Amendment 31-01, thereby establishing the President Pro-Tempore of the Senate as a serving member of the Elections Committee, not the President of the Senate.

This request for interpretation and my explanation of the origin of my confusion is based on the Constitution as it is currently written.

As this request is being written, Amendment 32-01, “An Amendment Regarding Constitutional Inconsistencies,” has already received its first reading in the Senate and is awaiting a second reading, debate, and passage. Given the current sentiment of the Senate, this Amendment is highly likely to pass the Senate. Additionally, there is a high likelihood that the Amendment will pass the student body when the Amendment is presented for consideration on the Homecoming Ballot.

In the event that Amendment 32-01 is passed by the Senate and ratified by the student body, I, as the Attorney General, pose the following questions:

If, before the final passage of Amendment 32-01, the Court interprets that the President Pro-Tempore is to serve on the Elections Committee, and if the Elections Committee is formed and confirmed before the final passage of Amendment 32-01, does the President Pro-Tempore still bear the obligation of Elections Committee service based on the rules governing the composition of the Elections Committee that stood at the time of his appointment and the Committee’s formation?
Or, would the Court deem that a retroactive application of the Amendment is more appropriate, mandating that the President of the Senate serve on the Elections Committee?

Furthermore, based on the Court's interpretation of the Constitution, does the President Pro-Tempore require confirmation by the Senate to serve on the Elections Committee?

If this confirmation is required, and if the President Pro-Tempore is therefore confirmed as a member of the Elections Committee before the final passage of Amendment 32-01 by the student body, and if the Court chooses to apply the Amendment retroactively, mandating the service of the President of the Senate instead, would the President Pro-Tempore be required to resign or be removed formally from the Committee, and would the President of the Senate require subsequent confirmation?

I urge the Court to consider this issue, and I respectfully request that the Court render a decision as soon as possible due to my desire to form the Elections Committee in a timely manner.

09/05/2019

Ethan Pender, Attorney General

Date