



UNIVERSITY OF SOUTH FLORIDA
STUDENT GOVERNMENT
Office of the Attorney General

Legal Opinion (C) (55-016)

Subject: Elections

Date: January 12th, 2015

SGATO Director Gary Manka requested a legal opinion on January 12th, 2015. SGATO Director Manka asked if a member of one branch runs for an elected position in another branch, upon winning the seat, do they need to resign from their current position?

Article II, Section I of the Constitution states the following:

The Executive branch shall consist of the Student Body President; Student Body Vice President; all department, office, bureau, and agency employees; and all executive appointees; hereinafter may be referred to as executive officers. No executive employee may hold an office in any other branch of Student Government during his/her term of office in the executive branch, unless otherwise provided in the Constitution or Statutes

Furthermore,

Article III, Section XI of the Constitution states the following:

The Senate shall establish its own meeting times, rules and procedures. The Senate shall assemble in open meetings at frequent intervals for the deliberation of legislation and the business of the student body. No officer may hold an office in any other branch, agency, or department of Student Government during his/her term of office in the legislative branch.

Furthermore,

Article IV, Section IV of the Constitution states the following:

The Supreme Court shall be comprised of nine (9) Justices. The Student Body President shall nominate and, by and with the advice and consent of the Senate, appoint Justices who shall serve no more than three terms, unless re-appointed by the Student Body President. These terms shall run concurrently with the terms of the other branches. No justice may hold an office in any other branch of Student Government.

Furthermore,

Amendment XI of the Constitution states the following:

The Supreme Court shall be comprised of seven (7) Justices.

Furthermore,

Statute 103.76 states the following:

103.76 Term- A year of Student Government business which shall directly correspond with the University academic year. A Student Government Term shall begin at midnight on the Monday after Spring Commencement and end corresponding to the termination of the Spring Commencement ceremonies.

Furthermore,


Statute 503.9.6 states the following:

503.9.6 Justices shall not engage in any political activity within Student Government, other than in relation to measures concerning the improvement of the law, the judicial system, or the administration of justice.

Therefore, it is the opinion of the Attorney General that there is no rule explicitly stating a member of one branch must resign from their position if they win an elected seat in another branch, with the exception of the Supreme Court because they are forbidden to participate in most political activity.

Logically, if a member of one branch won an elected seat in another branch, they are not in two branches at the same time because they have not begun their time in office yet because the new term has not started since the election for the new term is still in the previous term. Additionally, the Constitution in Article II, Section I, does provide that statutes may alter this situation, however the only mention of this type of limitation is in Title V.

Therefore, it is the opinion of the Attorney General that if a person won an elected position in another branch, they would not need to resign from their current position.


Alexander Johnson
Attorney General

CC:

Student Body President Jean Cocco
Student Body Vice President Rhondel Whyte
Senate President Andy Rodriguez
Senate President Pro-Tempore Abdool Aziz
Chief Justice Sammy Hamed
Senior Justice Daniel Shapiro
SGATO Director Gary Manka

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