



UNIVERSITY OF SOUTH FLORIDA  
STUDENT GOVERNMENT  
Office of the Attorney General

Legal Opinion (C) (55-022)

**Subject: Clarification of Hiring Procedure for Standing Positions during Transition Period**

**Date: March 10<sup>th</sup>, 2015**

*Vice President-Elect Michael Malanga requested a legal opinion on March 10<sup>th</sup>, 2015. Vice President-Elect Malanga asked can the President Elect begin the interview process for agencies, functional groups, the court and, (if the applicable structure has been passed) his cabinet during transition?*

Article II, Section IV of the Student Government Constitution states the following:

*SECTION IV: The Student Body President shall nominate, and with the advice and consent of the Senate, appoint justices to the Student Supreme Court.*

Furthermore,

Article IV, Section V of the Student Government Constitution states the following:

*SECTION V: The Student Body President, by and with the advice and consent of the Senate, shall appoint a justice to serve as the Chief Justice for the Supreme Court. The Chief Justice shall serve for one term, and may be appointed for additional terms.*

Furthermore,

Student Government Statute 303.2 and sub-clauses state the following:

*303.2 The President-elect and Vice President-elect may begin the interview process, subject to hiring guidelines as outlined in statutes, for the following members of their staff upon the certification of the election results:*

*303.2.1 Chief of Staff*

*303.2.2 Chief Financial Officer*

*303.2.3 Attorney General*

*303.2.4 Solicitor General*

Furthermore,

Student Government Statute 303.5 and sub-clauses state the following:

*303.5 The President-elect may work to propose a new executive structure and budget during the transition. The structure and budget shall be subject to the Senate's approval prior to taking effect.*

*303.5.1 The proposal can be heard by the current term Senate, but if passed must be subject to a vote of confidence by the new Senate at their first Summer meeting.*

Furthermore,  
Student Government Statute 301.3.14 states the following:

*301.3.14 Nominate an Election Rules Commission Supervisor of Elections by 4:59:59 PM of the last business day of the third week in July.*

Furthermore,  
Student Government Statute 606.2 and sub-clauses state the following:

*606.2 The Election Rules Commission shall be comprised of the following individuals:*

*606.2.1 The Supervisor of Elections*

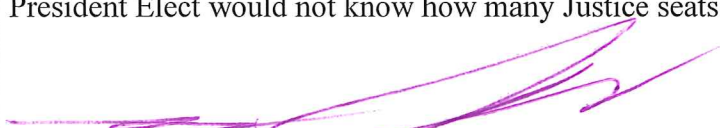
*606.2.2 Associate Supervisor(s)*

*606.2.3 Deputy Supervisor(s)*

*606.2.4 Assistant Deputies*

Therefore, it is the opinion of the Attorney General that as far as the Executive Agencies are concerned, the President Elect may not start the hiring committee for Agency Directors or their new cabinet positions because Title 3 has clearly identified what positions in the Executive Branch may be hired during the transition period. However, Title 3 does give the President a very specific deadline in the summer to hire a Supervisor of Elections. It is in my opinion that the Supervisor of Elections could be considered a standing position within Student Government. The deadline prescribed in Title 3 places a burden during the typical summer hiring process for the Supervisor of Elections. Statutes also separate the Election Rules Commission from all branches, therefore it is in the Attorney General's opinion that the Student Body President Elect could start the hiring process for the Supervisor of Elections during their transition period because it is standing in nature.

As far as the Supreme Court is concerned, it is the Attorney General's opinion that the Student Body President Elect could also start the hiring process for the Chief Justice during the transition period, due to the Constitutional term of the Chief Justice being one year and that the position is standing in nature due to the language in the Student Government Constitution. Also, the Student Body President cannot start the hiring process for Associate Justices without a Chief Justice, so the hiring timeline for the Chief Justice could be time sensitive depending on how many Justices are currently on the Court and/or if multiple Justices are about to have their terms expire, causing the Court to possibly lose quorum. However, the Student Body President Elect can not start the hiring process for Associate Justices during the transition period, because the current Student Body President still has the Constitutional ability to appoint Associate Justices, therefore the Student Body President Elect would not know how many Justice seats are available.

  
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CC:

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