Legal Opinion (S) (55-010)

Subject: Election Fines and Certification

Date: October 15th, 2014

SGATO Director Gary Manka requested a legal opinion on October 15th, 2014. Mr. Manka asked if a (senatorial) candidate is assessed a fine, must the ERC hold certification for that college if said candidate is elected until the fine is paid or until the appropriate time elapses where the candidate is disqualified?

Statute 701.6.8 states the following: For all General and Mid-Term Elections, the Election Rules Commission shall certify the results on the Friday following the close of the respective election’s polls no earlier than 3:00 PM and no later than 8:00 PM, pending any grievances filed. If a grievance is filed against a Senate election, then the results for the respective college will not be certified until the grievance is resolved. If a grievance is filed against a Presidential election, then the results for the Presidential election will not be certified until the grievance is resolved. If a grievance is filed against a referendum election or constitutional amendment, then those results will not be certified until the grievance is resolved.

Furthermore,

Statute 702.7.6 states the following: For each minor violation after the first violation and written warning, a nominal of $20 will be levied against a Senate candidate or referendum campaign certified to take part in a USF Student Government election. The ERC must issue a written notification that includes the amount of the fine and violation.

Furthermore,

Statute 702.7.8 states the following: All minor violations must be paid within ten (10) business days of being issued a written notification. If fines are not paid within ten (10) business days, the candidate, ticket, or referendum campaign shall be disqualified from the current and any subsequent USF Student Government elections and a hold will be placed on the financially accountable student’s OASIS account by the ASBO office.

Furthermore,

Statute 702.7.8.1 states the following: If unpaid fines remain at the end of a USF Student Government election, the financially accountable student for a ticket, candidate, or referendum campaign may request a one-time ten (10) business day extension for payment via a written request to the ASBO office.

Furthermore,

Statute 702.7.8.2 states the following: If unpaid fines remain after the one time ten (10) business day extension, a hold will be placed on the financially accountable student’s OASIS account and their respective ticket, candidate, or referendum campaign will be disqualified.
Therefore, it is the opinion of the Attorney General that if a candidate has won a seat and requested an extension on paying their election fines, the certification of that college election must be held off because the grievance has yet to be resolved. If the winning candidate has paid their respective fine before the 10 day deadline, the Supervisor of Elections may certify the college assuming there are no other grievances. Furthermore, to certify the election with a pending fine would run the risk of having a winning candidate disqualified after the certification of the election if they did not meet their 10 day extension. Moreover, for the Mid-Term election any at large seats collectively should be treated as the same college.

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CC:
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Senate President Andy Rodriguez
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Chief Justice Sammy Hamed
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Supervisor of Elections John Quiroz