Advisory Opinion

Inquirer: Will Leimenstoll, Student Body President

Date Issued: December 16, 2012

I. QUESTION PRESENTED

1. Is the Student Body President (SBP), operating in conjunction with the Student Body Vice-President (SBVP) and Executive Branch Officers, authorized by the Student Code to dismiss an executive appointee from two executive appointments and to select provisional appointees to fill these offices subject to the requirements set forth in I SGC §204(A-G)?

II. BACKGROUND

1. On December 4, 2012, SBP Will Leimenstoll and SBVP Rachel Myrick met to discuss concerns regarding Connor Brady’s ability to continue to represent the executive branch as Chair of the Hardship Parking Committee (HPC) and Student Safety and Security Committee (SSSC).

2. On December 5, 2012, SBP Leimenstoll moved forward with the removal after obtaining unanimous approval from the Executive Branch Officers; he informed the Speaker of his intent to remove Mr. Brady from the aforementioned offices.

3. SBP Leimenstoll communicated the decision to Mr. Brady on December 6, 2012 and met with Mr. Brady on December 7 to discuss the removal.

4. SBP Leimenstoll and SBVP Myrick met with the Student Solicitor General on December 13, 2012 to request an advisory opinion regarding the removal of Mr. Brady and their intention to appoint provisional appointees for his two offices.

III. ANALYSIS

Inquirer, having dismissed the Chair of the HPC and SSSC, wishes to know whether this exercise of his discretion is lawful under the Student Code. I SGC §800(B)(1) Establishes the position of Chair of the SSSC as an executive appointee. I SGC §234(A)(8) lists the Chair of the HPC as one of the “Student Body President’s appointees.” Based on I SGC §200(E), this may be considered synonymous with “executive appointee.” According to I SGC §200(H), the term “discretionary appointee” in the Statutes encompasses executive appointees.

I SGC §203(H) reads: H. “At any time, an appointer can instigate a review of his/her discretionary appointee on that appointee’s attendance, performance, or the concern of others within the respective committee or board.” Upon the recommendation of the SBVP acting in his/her capacity as the appointer, the SBP may then choose to dismiss an executive appointee pursuant to I SGC §203(D) and (I).

Inquirer also wishes to know whether it is lawful for him to determine provisional appointments for the two vacant positions in order to ensure the continued operation of the relevant independent agencies. I SGC §204(A) does not provide any limitation as to the “various committees and boards” to which the Student Body President may appoint provisional appointees, nor are the positions of Chair of the HPC or the SSSC included in a list of offices that are ineligible for provisional appointment in I SGC §204(G). Inquirer’s provisional appointments will therefore be lawful if they adhere to the stipulations set out in the relevant portion of this Statute, which include first-time service for the provisional appointee and notification of the appointee with regard to the nature of his/her appointment.

The provisional chairs of both the SSSC and HPC may assume the full duties of acting chair upon their appointment. Provisional appointments do not require the approval process for initial discretionary appointees described in I SGC §202 in order to begin immediate service within their office. This is indicated by relevant portions of I SGC §204. The Statute provides that the period of provisional appointment may be no longer than 30 days (B), during which time Student Congress may at any point approve or reject the provisional appointee (F). The “*continued* service” (emphasis added) of that office is subject to this decision (D), indicating that service may lawfully begin *prior* to Student Congress confirmation. This is attested to later in the statute, which states that a provisional appointee may “continue to serve” following Student Congress confirmation.

IV . CONCLUSION

The Student Solicitor General finds that SBP Leimenstoll and SBP Myrick had the standing to remove Mr. Brady from chairmanship of the SSSC and the HPC. The removal process proceeded in a timely and lawful manner according to the requirements of I SGC §203.

The Student Solicitor General further finds that the Student Code authorizes the SBP’s appointment of a provisional appointee to both chairmanships, provided that this appointment is made in compliance with the requirements of I SGC §204. Once selected, until such time as Student Congress convenes to approve or reject the provisional appointments, these individuals will have immediate and complete authority to perform the service of his/her duties as Chair.

/s/Henry L. Ross

Henry L. Ross

Student Solicitor General

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