

IN THE SUPREME COURT OF THE STUDENT GOVERNMENT ASSOCIATION
FLORIDA INTERNATIONAL UNIVERSITY

IN RE QUORUM

SGASC 2024-01

PER WRIT FOR JUDICIAL REVIEW ON INTERPRETATION

February 1, 2024

CHIEF JUSTICE RODRIGUEZ and JUSTICE COLLINS delivered the opinion of the Court.

Joined by JUSTICE ROBLEDO, JUSTICE WEAVER, and JUSTICE VIRGO.

I. *Introduction*

The action comes before the Supreme Court of the Student Government Association of Florida International University as a writ for Judicial Review on Interpretation. The question presented to the Court is whether the requirement for a quorum of the Student Senate as enumerated in the Statutes is unconstitutional. The provisions in question are SGA Constitution (hereinafter SGAC) Article 4.07.5: “These rules shall not override the quorum of the Senate which shall be set at a simple majority of the membership of the Senate,” and SGA Statutes (hereinafter SGAS) § 3008.1: “the Quorum for the chamber of the Senate shall be set at half (50%) of the members of a full senate with the addition of one additional senator (50%+1).” The purpose of this opinion is to provide a clear answer to this constitutional question.

II. *Jurisdiction*

Pursuant to the Student Government Association Constitution, § 6.04.1 and 6.04.1.4, the Supreme Court of the FIU Student Government shall have exclusive jurisdiction over the

“interpretation of any provision of the constitution and governing councils’ constitutions and/or any governing documents.” The Constitution further enumerates the power for this Court to strike down any provision of the Statutes deemed unconstitutional, pursuant to SGAC §6.05.1.2, which states that the Supreme Court shall “repeal statutes which conflict with the provisions of this constitution.” In the present case, the issue comes before the Court as a Writ for Judicial Review on Interpretation, which, pursuant to SGAS 5003.2, “may be submitted by any student.” As such, this Court retains jurisdiction over this matter.

III. *Definitions*

“The members of a full senate,” as referenced in the Statutes, can be defined by section 4.04 of the Constitution, which governs the apportionment of Senate seats. At present, the Senate has a total of 47 Senate seats, in accordance with SGAC § 4.04.1.20: “Final Total of Seats in the Senate: 47.” Therefore, this Court holds that “the members of a full senate,” in the context of SGAS § 3008.1, is defined as the number of total seats in the Senate, regardless of any vacancies, which at present is 47.

However, according to Black’s Law Dictionary, Free 2nd ed., “membership” is defined as “either individually or collectively, belonging to a group.” The Cambridge Dictionary defines “membership” as “all the people who belong to an organization” (“membership.” Dictionary.Cambridge.org. Cambridge Dictionary, 2023). By these definitions, this Court holds that “the membership of the Senate,” in the context of SGAC § 4.07.5, is defined as the total number of Senators serving as members of the Senate, or alternatively, the total seats of the Senate minus the number of vacancies.

IV. *Standards for Quorum as per SGAS 3008.1*

The question presented before the Court regards the constitutionality of a statute within the FIU SGA Statutes that sets the conditions under which a quorum can be established for a meeting of the Student Senate of the Student Government Association of Florida International University.

The question before the Court is whether the provisions of SGAS 3008.1 are unconstitutional. The full text contained within SGAS 3008.1 is below.

3008.1 The Quorum for the chamber of the Senate shall be set at half (50%) of the members of a full senate with the addition of one additional senator (50%+1). In cases where less than sixty-five percent (65%) of the Senate Membership is either duly elected or appointed and confirmed the quorum of the Senate shall be set at half (50%) of the appointed or confirmed members of the senate with the addition of one additional senator (50%+1). Emergency Senates with proper notification per statutory guidelines shall have their quorum set at thirty 30% of the duly appointed or elected senators of the senate when there is less than 65% of the Senate Membership duly elected or appointed and confirmed. This exception for Emergency Senate Meetings may only be used once. All other regular Senate Meetings Emergency or otherwise, that do not fall into one of the quorum exceptions shall default to the standard quorum of the Senate

Before this Court can render a decision on the constitutionality of this statute, the entire section at large ought to be evaluated. The statute contains three provisions governing the requirement for a Senate quorum to be established depending on various conditions.

The core provision of this statute is the first sentence, which requires the presence of “half (50%) of the members of a full senate with the addition of one additional senator (50%+1)” for a quorum to be established during meetings of the Student Senate.

In addition, the statute sets out a different requirement for a quorum to be established if the Senate has less than 65% of its seats filled. In such cases, pursuant to the statute in question, “the quorum of the Senate shall be set at half (50%) of the appointed or confirmed members of the senate with the addition of one additional senator (50%+1).”

Finally, the statute sets out an even lower requirement for a quorum to be established during a Senate meeting for which two conditions are both true: that the Senate has less than 65% of its seats filled, and that the Senate meeting in question is an emergency Senate meeting (provided that the emergency Senate meeting has been convened in accordance with the applicable statutory parameters). When these conditions have been met, the requirement to establish a quorum for such a Senate meeting is set at only 30% of the members of the Senate.

However, the statute also makes clear that this shall only apply on the first instance in which these conditions are met; the requirement for a Senate quorum shall revert in subsequent meetings to either of the two thresholds described in the preceding paragraphs dependent on the percentage of the seats of the Senate that are filled.

V. *Standard for Quorum as per SGAC 4.07.5*

The Constitution sets the quorum of the Senate in SGAC 4.07.5, which enumerates that the Senate has the power to “Determine the rules of its proceedings which shall be known as Senate Rules. These rules shall not override the quorum of the Senate which shall be set at a simple majority of the membership of the Senate, nor contradict the provisions of this constitution, the statutes nor Roberts Rules of Order.”

The portion of SGAC 4.07.5 governing the quorum of the Senate states that the quorum “shall be set at a simple majority of the membership of the Senate,” and that the Senate does not have the power to enact rules which override this threshold.

VI. *Conflicts between SGAS § 3008.1 and SGAC § 4.07.5*

The FIU SGA Constitution’s Supremacy Clause states: “this Constitution shall be the supreme law of the Student Government Association, no statute, rule, policy, or action may conflict with the express will of this document.” In light of this constitutional language, this Court holds that all provisions contained within the Statutes must be enacted in accordance with the Constitution.

Therefore, the standard for evaluating the constitutionality of the provisions of SGAS § 3008.1 is set by the Constitution. Per the definition established for “the membership of the Senate,” this Court holds that SGAC § 4.07.5 sets the quorum of the Senate at a simple majority of the total number of Senators serving as members of the Senate. To determine the constitutionality of the provisions of SGAS § 3008.1, we will evaluate the extent to which the provisions conform to the standard set by SGAC § 4.07.5.

The first provision of SGAS § 3008.1 establishes the quorum of the Senate at “half (50%) of the members of a full senate with the addition of one additional senator (50%+1).” This sets the quorum of the Senate at 24, which is “50%+1” of 47, the present number of members of a full Senate. The threshold offered in SGAC § 4.07.5, however, is lower, because it sets the quorum of the Senate at a simple majority of the total number of Senators serving, which accounts for vacancies. Thus, under SGAC § 4.07.5, the quorum of the Senate would be lower than 24 if there are vacancies. Therefore, the first provision of SGAS § 3008.1 conflicts with SGAC § 4.07.5, because it overrides the quorum of the Senate set forth by the Constitution.

The second provision of SGAS § 3008.1 establishes the quorum of the Senate at a simple majority of the members of the Senate, accounting for vacancies, but only if the Senate has less than 65% of its seats filled. Therefore, allowing this threshold to take effect only “in cases where less than sixty-five percent (65%) of the Senate Membership is either duly elected or appointed and confirmed” violates the Constitution.

The third provision of SGAS § 3008.1 establishes the quorum of the Senate at only 30% of the members of the Senate for an emergency Senate meeting when the Senate has less than 65% of its seats filled, and that this shall only be the case for the first emergency Senate meeting. The threshold for quorum established by this provision, 30% of the members of the Senate, is lower than the threshold established in the Constitution. Regardless of any conditions placed upon when this threshold shall take effect, setting the threshold for a Senate quorum at a lower threshold than the one established in the Constitution violates the Constitution.

VIII. *Holding*

This Court holds that SGAS § 3008.1 is unconstitutional. It sets a standard threshold for the quorum of the Senate that is higher than the Constitution allows; it sets an erroneous condition for the use of the constitutionally correct quorum threshold; and it sets a lower quorum threshold than the Constitution allows when another set of erroneous conditions is met.

In light of these considerations, this Court orders that the text of SGAS § 3008.1 be immediately repealed and stricken from the Statutes.

We further hold that the quorum of the Senate shall in all cases default to the threshold established in the Constitution: “a simple majority of the membership of the Senate.” This number shall be calculated by finding the simple majority of the number of filled seats in the Senate.