

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

Opinion delivered on February 16<sup>th</sup>, 2023.

Justice Persia Naseri, Ashley Perez and Maria Pujol Voting.

Chief Justice Sebastian Aviles Abstaining.

Justices Affirming the Majority Opinion: Justice Persia Naseri and Justice Ashley Perez

Justices Dissenting: Justice Maria Pujol

*SGAC: 2023.01 Majority Opinion*

**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 how long a candidate must have attended Florida International University prior to running for the position of President/Vice President of the Student Government Association (SGA). The constitutional provision in question is SGA Constitution Article 7.04.1, which states "The President and Vice President shall have attended FIU for a minimum of two years and achieved at least junior standing". The remainder of this opinion shall utilize the word President only; however, it applies to both the presidential and vice-presidential candidates. The purpose of this opinion is to provide a clear and concise interpretation of this constitutional provision in accordance with the laws and traditions of the Florida International University Student Government Association.

**II.     *Jurisdiction***

Pursuant to the Student Government Association Constitution (SGAC), Section 6.04.1 and 6.04.1.4, the Supreme Court of the FIU Student Government shall have exclusive jurisdiction over "interpretation of any provision of the constitution and governing councils' constitutions and/or any governing documents". In the present case, the issue comes before the court as a Writ of Judicial Review on Interpretation. The Student Government Association Statute (SGAS) 5003.2 "writs for Judicial Review on Interpretation may be submitted by any Student." As such, this court maintains jurisdiction over the matter and is consistent with the

traditional role of the Student Government Association Supreme Court to consider interpretations on the language contained within the governing documents.

### III. *Definition of Two Years*

The question of how to determine the two-year requirement as laid out by SGA Constitution Article 7.04.1 requires a careful and thorough analysis of the applicable laws. This Court analyzed three primary ways to define what constitutes “two years”.

The first interpretation is to base it on the first date of the candidate’s enrollment plus 730 calendar days (2 Years). This definition would require the candidate to have been enrolled at Florida International University for a minimum of 730 calendar days prior to running for the position of SGA President, thus making them ineligible to run until their third year at FIU. It is the responsibility of this Supreme Court of the Student Government Association to base its interpretation upon the governing documents of Florida International University. For that reason this Court primarily considered the *second* and *third* interpretations to define what constitutes “two years.”

The second interpretation comes from SGAC 5.02.3 which states “The term for the Student Body President and Vice President shall be a one-year term beginning on the last day for faculty to submit the grades for the Spring Semester at 12:00 p.m. and ending on the last day for faculty to submit the grades for the next Spring Semester at 12:00 p.m.” This interpretation would require that the student has attended FIU in 2 separate legislative years, regardless of which semester they entered FIU. Based solely upon SGAC 5.02.3 as a basis for this interpretation, a two-years term would require a student chronologically attend FIU in the terms as follows: Last day for faculty to submit the grades for Spring at 12:00 p.m. onwards, following Summer, following Fall, following Spring, following Summer, following Fall, following Spring up until the last day for faculty to submit the grades for Spring at 12 p.m.. For example, an FIU student would have reached a two-years term if they attended FIU in the following terms: Last day for faculty to submit the grades for Spring 2022 at 12:00 PM onwards, Summer 2022, Fall 2022, Spring 2023, Summer 2023, Fall 2023, and Spring 2023 up until the last day for faculty to submit the grades for the Spring at 12 PM.

The third final interpretation of the two-year requirement as defined in Article 7.04.1 of the Student Government Association (SGA) Constitution can be based on the completion of four

semesters, as outlined in the Student Government Association Statutes (SGAS) 3013.2.1. which states “One year is to be constructed as two consecutive academic semesters inclusive of each summer semester.” While SGAS 30013.2.1 is not directly in reference to the elections code, it offers a definition of a year by specifying that one year is equal to two university semesters. Adopting this definition for the purpose of the SGA elections, two years is to be interpreted as the completion of four semesters. To make clear, this opinion does not rule on the merits of SGAS 3013.2.1 nor is this opinion setting the precedent that a definition in one statute, must affect the definition of a particular word in another separate governing documents. But rather, this court utilized all available resources in coming to the interpretation of a year solely for the purpose of SGAC 7.04.1. This approach provides a clear and consistent way of determining a candidate's eligibility based on their academic progress.

Upon further review Florida International University’s governing documents, this Court determined no additional definition of a “year” can be offered, nor any additional findings relevant or helpful to the defining of a “year” and therefore the “two-years” requirement.

#### IV. *Potential Conflict between SGAC 5.02.3 and SGAS 3013.2.1*

The court then analyzed whether the two specific definitions of a “year” offered were in conflict. Specifically, SGAC 5.02.3 and SGAS 3013.2.1. If a conflict were to arise between the SGAC and the SGAS, the SGAC would naturally supersede the SGAS. In evaluating both governing documents, this Court found that although both provisions use the term "year", they are defined in different contexts. SGAC 5.02.3 defines a year in the context of when the president serves their term, while SGAS 3013.2.1 defines a year in the context of a separate Legislative event. SGAC 5.02.3 specifically outlines that it is in reference to a “one-year **term**” thus limiting its definitional scope to that of the term of the presidency and not the general definition of one year. While SGAS 3013.2.1 outlines the definition of a year in the context of the Meet Your Dean Event which is outside the scope of the elections process.

Additionally, throughout the SGAC various forms of years were mentioned whether in reference to fiscal, term, or legislative years. The language specifically in SGAC 7.04.1 states “The President and Vice President shall have attended FIU for a minimum of **two years**...” Since SGAC 5.02.3 refers to a “one-year term” and SGAS 3013.2.1 refers to “one year,” it is

only the SGAS definition that is most relevant and relatable to the current issue of determining what defines “two-years.”

Therefore, as there is no direct conflict and neither definition is directly applicable to the definition of a year in the context of SGAC 7.04.1, the court must determine the definition of the word “year” as utilized in SGAC 7.04.1 and based upon a definition offered in SGAS 3013.2.1.

#### V. *Benefits and Pitfalls of Each Definition*

In considering the various interpretations of the two-year requirement, it is important to weigh the benefits and drawbacks of each option. One of the first definitions of two years is to base it on the first date of enrollment plus 730 calendar days. This interpretation does not consider gap semesters or intended/unintended leaves of absence, which could result in a student who has been a registered student for two years but has not taken any classes for the majority of that time, being ineligible to run for the SGA Student Body President position.

Another interpretation of the two-year requirement is to base it on the legislative year as indicated by SGAC 5.02.3. This interpretation would similarly bar many students from running for the SGA Student Body President position, as they would have to wait more than two years to be eligible. This interpretation presents certain challenges for transfer students or students who come in with college credits. This interpretation would bar students who graduate in less than four years from completing a full presidential term. This interpretation like the *first* interpretation would require FIU students attend Fall, Summer, and Spring semesters to run for Presidency. These students would be unfairly burdened with the academic, housing and financial weight of attending Summer terms, or Fall and Spring terms depending upon their challenges.

In contrast, basing the two-year requirement on completed semesters as outlined in SGAS 3013.2.1 provides several benefits. This interpretation ensures that the student has had adequate experience at FIU, while also avoiding the pitfalls of not allowing students who graduate in less than four years to serve as student body president. Additionally, this interpretation still ensures that the student has been a student at FIU in two different calendar years, which is in line with the purpose of the two-year requirement to ensure familiarity with the operations and culture of the University.

In addition to ensuring that the candidate has attended FIU for a minimum of 2 years, SGAC 7.04.1 also requires the candidate to have achieved at least junior standing. SGAC 7.04.01 requirement serves a dual purpose. Firstly, it ensures that the student has adequate experience of FIU's culture and practices. Secondly, it ensures that the candidate may only serve as president in their senior year(s). This is an important consideration in a student government election, as the SGA constitution should be fair to all students including transfer students and students with Advanced Placement (AP), Dual Enrollment (DE), or other transfer credits. Per Florida International University Official University Policy #1360.25 "Classification of Students", a Junior is defined as "A degree-seeking undergraduate student who has completed between 60 and 89 credit hours." The first clause of the SGAC Article 7.04.1 requirement, which mandates the candidate has attended FIU for two years, ensures that the candidate has sufficient experience at the university to be eligible to serve as SGA President. The second clause, which requires the candidate to have achieved junior standing, helps to further ensure that the candidate is fully prepared to take on the responsibilities of the role, as it presumes that the candidate has completed a minimum number of credit hours and progressed far enough in their educational program to be considered a junior.

#### VI. *Conclusion*

This court holds that any student who has completed 4 terms (Fall, Spring, and/or Summer terms) and achieved at least junior standing has met the requirement of SGAC Article 7.04.1 and is eligible to run for the office of the SGA Student Body President. The court recognizes the importance of ensuring that the SGA Constitution is fair to all students, including transfer students and those with AP, DE, or other transfer credits, and that candidates are well prepared to serve as SGA President. This interpretation of SGAC Article 7.04.1 strikes an appropriate balance between ensuring that candidates have adequate experience and familiarity with the operations and culture of FIU, and that they are ready to take on the responsibilities of the role. This opinion defines a year only within the scope of SGAC 7.04.1 and should not be extended to other sections without further review from the Court.

Justice Maria Pujol dissenting.

### *Dissenting Opinion*

#### *I. Introduction*

This cause having come before the Supreme Court of the Student Government Association of Florida International University on February 15, 2023, as a Writ for Judicial Review on Interpretation, this Court is tasked with deciding the applicability of a statute governing the annual “Meet Your Dean” event in the context of eligibility to run for the position of Student Body President. Section 7.04.1 of the Constitution states that “The President and Vice President shall have attended FIU for a minimum of two years and achieved at least junior standing.” The Writ for Judicial Review has been filed by a student and SGA official who seeks to confirm his eligibility for the office of Student Body President, and asks that the definition of a year as construed in section 3013.2.1 of the statutes be taken into account when evaluating his candidacy. This opinion renders a judgment on the applicability of that statute to the Constitutional clause in question which governs eligibility.

#### *II. Background*

The “Meet Your Dean” event is an event held twice annually by the SGA Senate, once in the Fall and once in the Spring in order to connect students with their Deans. On October 31, 2022, the Senate passed a bill codifying that event into the Statutes in the Legislative Branch section of the Statutes (Title III). The Executive Board later passed a motion to add the language from the bill into the Statutes earlier than scheduled, allowing the language to be added to the Statutes in the early Spring semester of 2023.

### III. *Precedent*

In considering any judicial action, it is important to stand by prior actions, respecting already established precedent and following established procedure. This is known as the principle of *Stare Decisis*. There is significant precedent when it comes to interpreting Section 7.04.1 of the Constitution.

In the Spring semester of 2022, a Presidential ticket had to replace its Presidential candidate and find a new Vice-Presidential candidate, who is also beholden to the two-year requirement. Numerous candidates were vetted by the SGA advisor who is tasked with determining eligibility, and they were deemed unable to fulfill the position due to not having been registered FIU students in Spring of 2020. Because the registration was taking place in Spring 2022 and the requirement stated that students must have had to be a student at FIU for at least two years, students had to have been a student at FIU in Spring of 2020 in order to run for President or Vice President. The student currently serving in the office of Student Body Vice President was deemed eligible to run for that position because she had been a student in the Spring of 2020.

The SGA advisors were tasked with evaluating the same provision again this year, and applied the same standard. In order to run for President or Vice President in Spring of 2023, a student needs to have been a student at FIU since Spring of 2021. This is the principle that was applied last year, and again applied this year. This court ought not to throw this decided procedure out the window.

#### IV. *Constitutionality*

This court is tasked with rendering an opinion on a section of the statutes that has not yet taken legal effect. Section 12.01.2.10 of the Constitution states that “Changes made to the Statutes by the legislature shall not take effect until the next legislative year.”

The legislature is the law-making body of the government, and in this case exists as the Senate. The Senate changed the Statutes to include the Meet Your Dean codification, through a bill passed on October 31, 2022. Therefore, the Meet Your Dean codification bill was a change made to the Statutes by the legislature. As such, it is important to uphold the supremacy of the Constitution, which clearly states that changes like this one shall not take effect until the next legislative year.

The current legislative year ends on the last Senate session of Spring of 2023. Following the inauguration of the next Senate at the start of Summer 2023, the next legislative year will have begun, and all changes to the statutes made this year will take effect. Before Summer 2023, however, no change made by the statutes to the legislature has any legal weight, according to Section 12.01.2.10 of the Constitution.

Due to the clear wording of the Constitution, section 3013.2.1 of the Statutes, which is part of the Meet Your Dean codification bill, cannot take legal effect yet, and is not allowed to be considered a true part of the Statutes until the start of the next legislative year in Summer 2023.

The words of the bill were added to the Statutes through a vote of the Executive Board, which allowed the words to be inserted into the Statutes. However, the Executive Board does not have the power to override the Constitution, which clearly states that changes such as this one shall not take effect until the next legislative year. Regardless of whether they are listed in the



Statutes already, they cannot take legal effect yet, and thus any definition of the word “year” listed in that section does not hold legal weight and cannot be considered in this opinion.

V. *Scope of SGAS 3013.2.1*

The Constitution says that Elections shall be run according to the Elections Code. It says this in Section 10.02.2. This means that no other part of the Statutes affects the way elections are to be run except the Elections Code, according to the Constitution.

Section 3013.2.1 of the Statutes, which defines a year as two semesters for the purpose of Meet Your Dean, is not a part of the Elections Code, and has no applicability towards it. That section is solely applicable to the matter of the planning of the Meet Your Dean event. The Constitution gives this section no authority over the way elections are to be run, and thus it must not be considered.

The Elections Code has a long list of definitions at the end of it. That list of definitions does not include the definition of a year. If someone wanted to change the definition of a year for the purpose of the elections, then someone would have to pass a bill changing the definition of a year within the Elections Code section of the statutes. Since the Meet Your Dean bill did not make any amendment to the Elections Code, it cannot affect the way elections are run, since that would be in violation of section 10.02.2 of the Constitution, which says that elections shall only be run in accordance with the Elections Code, and doesn’t mention anything else.

Since the Elections Code has no definition of a year, the definition must revert to the definition that has already been used by the SGA advisors to determine previous candidates’ eligibility. To redefine it now, based on an irrelevant section of the Statutes, would be unfair to the previous students who have had to wait their turn and abide by this definition. Under the

definition of a year that has already been used by our advisors and affected candidates' ability to run for office both last year and this year, a student needs to have been a student in Spring of 2021 in order to qualify for President or Vice President. The only way this would be able to change is by a Constitutional amendment, or a change to the Elections Code. Meet Your Dean has nothing to do with elections, and definitions contained in that section or any other have no bearing on whether someone is able to run for President.

#### VI. *Impacts on students at FIU*

It is important to consider the impact that our definitions have on the FIU student body. Particularly, the needs of transfer students need to be considered. Our current Student Body President is a transfer student who was able to run for President because he had been a student at FIU for two years, enough time for him to get to know this university and its students. The constitution specifies that two years is the requirement to run for President because the student body deserves a President and Vice President who know this school inside and out. Students who have only been around for a few semesters deserve the chance to be involved in student government, but do not have enough experience to sit on the Board of Trustees and represent the rest of FIU. The Constitution states the two-year requirement exactly because it is most fair to the student body to have the most experienced candidates running for President and Vice President.

#### VII. *Conclusion*

We dissent from the majority, and contend that the definition of “two years” has already been well established by our SGA advisors and applied to other students last year and this year.

We contend that a reference to a “year” in the Meet Your Dean section of the Statutes does not affect the Elections Code or the Constitutional requirements for eligibility, due to it being unrelated. Therefore, this Court ought to hold that any student wishing to seek the Presidency or Vice Presidency in the Spring of 2023 needs to have been a student at FIU in Spring of 2021, which is the same standard that has been applied in previous years. We do not feel it is appropriate to let a bill which has not taken effect yet and does not deal with elections to affect the interpretation of the Constitution on this matter, when it does not deal with elections at all and a definition for “year” already exists, as determined and enforced by the SGA advisors for multiple years. We feel that this is in the best interest of all students, because it ensures that their representatives are experienced and know the university and student body intimately well before they can run to represent such a large community. We dissent.