Advisory Opinion

Opinion No.: 11 SSG 001
Inquirer: Zachary De La Rosa
Re: BOE Chair Confirmation

Date Issued: April 24th, 2011

I. QUESTION(S) PRESENTED

1. Does the “special majority” of Congress required for confirmation of a Board of Elections (hereafter “BOE”) Chair-elect lacking one term’s experience as required by IV S.G.C. § 302(A)(1) require a separate resolution waiving the experiential prerequisite before the vote or simply a two-thirds (2/3) majority of representatives’ votes in favor of the Chair-elect’s confirmation?

II. BACKGROUND

1. On April 19, 2011, Student Body President Mary Cooper nominated Dakota Williams to serve as BOE Chair for the 2011-2012 academic year. Williams has no prior experience serving on the BOE.
2. On April 20, 2011, the Rules and Judiciary Committee of Student Congress recommended Williams’ nomination favorably to the full Congress.
3. On April 24, 2011 at 9:24 p.m., Zachary De La Rosa, Speaker of Student Congress, emailed Student Solicitor General-Elect Erik Davies asking for clarification on the above legal question.
4. Williams’ nomination will go before the full Congress on April 26, 2011.

III. ANALYSIS

Inquirer, being charged with overseeing the activities of Student Congress, wishes to know whether he must introduce a separate resolution waiving the requirement that Williams serve at least one semester on the BOE prior to serving as Chair or simply certify the nomination with the approval of a minimum of two-thirds of Congress.

IV S.G.C. § 302(A)(1) reads:

The Chair of the Board of Elections shall be appointed by the newly elected Student Body President and approved by the Student Congress. Appointees for the Chair of the Board of Elections shall have at least one term’s experience on the Board of Elections unless allowed by a special majority of two-thirds (2/3) of the full Student Congress.

The distinction hinges upon interpretation of the term “special,” a word the Student Code leaves undefined. In matters of particular gravity, however, the Code requires a 2/3 vote of particular committees in order to override standard procedures,

---

1 The term is used elsewhere to denote “special elections,” “special committees,” and “special orders.”
including the impeachment of members of Student Congress and overturning decisions of the BOE Chair.

At first glance, it would seem that the “special majority” clause requires a higher proportion of Congressional votes for the inexperienced nominee than for a veteran BOE member. VII S.G.C. § 308, however, indicates that a 2/3 majority is necessary for the confirmation of any nominee for BOE Chair.

The term “special” denotes a procedure that differs from the standard course of action. In this case, a 2/3 majority of Congress in support of Williams would be required for his confirmation even if he had served a term as a member of the BOE. It follows that the nomination of Williams, who has no experience, requires an added layer of endorsement from Congress – that is, “special” approval. I interpret “special” approval to mean that Congress must deliberately waive the one-term requirement by a two-thirds vote before proceeding with the question of Williams’ confirmation.

IV. CONCLUSION

The Student Code requires any BOE Chair-Elect to be approved by a two-thirds vote. Because the Code calls for a “special” majority to approve the appointment of an inexperienced nominee, and because the term “special” seems to call for heightened scrutiny of candidates lacking the mandatory one term’s service on the BOE, I advise Speaker De La Rosa to draft a separate resolution waiving the one-term requirement for Williams before presenting his nomination to the full Congress.

/s/Erik M. Davies

Erik M. Davies
Student Solicitor General-Elect
303 Smith Level Rd., Apt. C22
Chapel Hill, NC 27516

---

2 II S.G.C. 126
3 VI S.G.C. § 308(8)