Advisory Opinion

Opinion No.: 11 SSG 002
Inquirer: Zealan Hoover, Student Body Vice President
Re: Anti-Discrimination Statutes and Student Organization Funding in the Student Code

Date Issued: August 31st, 2011

I. QUESTION(S) PRESENTED

1. Which statues of the Student Code are relevant for compliance with anti-discrimination statutes to retain Student Congress funding?

II. BACKGROUND

1. On August 28th, 2011, Psalm 100, a student organization recognized by Student Congress and receiving $138.20 in Student Activity Fees, voted to expel a member from its ranks. This individual identified as non-heterosexual. Psalm 100 cited the incompatibility of the former member’s ideas with the charter of the organization as the sole basis of its action.
2. On August 30th, 2011 at 4:56 p.m., Student Body Vice President Zealan Hoover solicited this Advisory Opinion via e-mail, specifically requesting a review of the Student Code for non-discrimination statutes.
3. On August 30th, 2011 at 6:17 p.m., Associate Director for Student Activities and Student Organizations Jon Curtis filed a public records request for Psalm 100’s constitution and bylaws on behalf of Student Solicitor General (SSG) Erik Davies. At the time this Opinion was issued, the SSG had not reviewed said constitution.

III. ANALYSIS

Every student organization is required to abide by all University policies and bylaws, including the University Non-Discrimination Policy, in order to maintain official recognition by the University. A thorough review of the Student Code, however, fails to produce any statute that explicitly requires compliance with the Non-Discrimination Policy or any other non-discrimination measures as a condition of receiving monies from the Student Activities Fund.¹

Perhaps the strongest basis for retributive action, legislative or judicial, on the part of interested members of Student Government lies in a broadly-written line within the Preamble:

It shall be the further responsibility of every student to abide by the Campus Code, namely to conduct oneself so as not to impair significantly the welfare or the educational opportunities of others in the University community. I S.G.C. § II(1)(B).

¹“All funds of organizations that receive SG Funds must be expended in accordance with the Student Code, Title V, and the Treasury Laws.” V S.G.C. § 602.
This statute is likely enforceable under the Instrument of Student Judicial Governance, not the Student Code. Any lawsuit initiated by a member of Student Government on the basis of this statute is unlikely to prove successful because it does not speak to matters of funding.\(^2\)

The Student Code repeatedly requires of Congress and the Student Body Treasurer ideological neutrality in matters of funding appropriations. I S.G.C. § 1(4)(T); V S.G.C. § 109. Interestingly, while the Student Code also requires student organizations to annually provide a constitution in order to receive University recognition and, therefore, funding from Student Government, nowhere does the current Code actually compel the organization to uphold the bylaws set forth in its own constitution as a condition of funding.

**IV. CONCLUSION**

I cannot find a statute in the Student Code that empowers Student Government to freeze, retract, diminish, or otherwise alter the funding it has provided to a student organization on the basis of allegedly discriminatory actions on the part of said organization.

Although a student directly affected by such actions may have options for recourse before the Student Supreme Court and/or other judicial or administrative bodies, I advise the Executive Branch not to attempt a penalty on a student organization for allegedly violating non-discrimination policies not clearly outlined in the Student Code.

/s/Erik M. Davies

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\(^2\) This Opinion should not be construed to mean that no legal challenge filed against a student organization on the grounds of discriminatory measures could prove successful. I am careful to contain my analysis to the question of whether the Student Code mandates compliance with any non-discrimination requirements or with the University Non-Discrimination Policy as a condition for receiving funding from Student Congress. It is conceivable, however, that students who feel adversely affected by a decision of a student organization may have standing to sue that organization before the Student Supreme Court pursuant to III S.G.C. § 411(A).