



Election and Disputes Commission Student Government George Mason University

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I.

The issue as set before the Election and Disputes Commission (herein 'EDC') regards the constitutionality of Section 4.1 of the Election Code, as passed by Senate on February 9, 2012. The petitioner stated, through oral and written testimony, that the aforementioned provision violates Article II, Section 2 and Article III, Section 1 of the Student Body Constitution of George Mason University (herein 'Constitution').

II.

Article II, Section 5 of the Constitution states, "No Senator, while holding office, shall be appointed to the Election & Disputes Commission, or the Executive Branch of the Student Government; and no person holding office under the Elections & Disputes Commission or the Executive Branch of the Student Government, shall be a member of the Student Senate." The EDC, at the conclusion of the election process, merely certifies and announces results (see Election Code section 7.9). At the time that the votes are certified, all persons with enough votes to win their respected office are considered elected to their positions, and have the right to hold the office that they just won. The EDC cannot backtrack and re-certify the results after someone drops out; a position vacated after certification is filled by appointment in the senate, and the succession plan for executive offices (see Article III, Section 3). Therefore, procedurally speaking, it is impossible for a candidate to be elected to both offices because it is in conflict with Article II, Section 5 of the Constitution.

As stated in the EDC's response to Senators' complains with the election code, as submitted to the minutes of the Senate meeting on February 9, 2012, the "EDC holds that the purpose of an election is to win. Running for two offices is an inherent conflict of interest. If the desired result of winning both elections is achieved, the candidate would not be eligible to hold both offices. This would result in a would-be winner being disqualified for an office, which they should rightly hold." The EDC maintains that position. As outlined in the previous paragraph, holding two positions as a senator-elect and President or Vice President-elect would ultimately result in someone not winning their rightful seat, either the 31st person in the spring Senate election, or the 2nd ticket in the spring Executive election.

The petitioner raised the issue of fairness through a line of questioning directed to a witness, Mr. Michael Jordan. Seeing as this decision does not rest on the merits of fairness, and the line

of questioning did not relate to the issue at hand, this Commission dismisses that point as irrelevant.

Additionally, the petitioner stated, "Attached to the grievance is a Bill to Amend the Code of Student Governance I will submit if the Commission strikes Election Code 4.1." The petitioner's statement is non-binding, and as such it cannot affect the decision making process of this Commission. The Commission cannot issue decisions based on a promise of future action.

Lastly, the Election Code central to this grievance was passed by Senate on February 9th, 2012. The petitioner, as an actively serving senator, voted 'yea' on this Election Code as part of its unanimous passage. Furthermore, an examination of the minutes from that meeting shows that the petitioner did not raise any objections to the clause at hand. The simple action of a 'yea' vote demonstrates a vote of confidence and approval of the Election Code as a whole.

III.

After hearing testimony from both parties involved the Elections and Dispute Commission has reached the following unanimous decision in regards to the aforementioned claim regarding the constitutionality of Section 4.1 of the Election Code: The EDC holds that Section 4.1 of the Election Code is in full and complete compliance with the Constitution. As such, the Commission dismisses the petitioner's claim forthwith.

Members of Elections and Dispute Committee present: David J. Bier (Chairman), Christina Lauderdale, Greg Mercer, and Emily Daniel.