



**General Counsel Opinion
GC 2017-006
October 15, 2017**

Questions Presented

SGA General Counsel has been requested to provide an opinion on the following question:

- I. Whether Congressional Bill NO 980131 is unconstitutional?**
- II. Whether the University of Oklahoma Presidential Search Committee (“Search Committee”) is an internal committee or an external committee in relation to Congressional Bill NO 980131 section 7(e)(2)?**

Answer & Analysis

The purpose of Congressional Bill NO 980131 (“Bill”) is to change and clarify what offices count as high offices and preclude other SGA involvement. The section in the Bill at issue is section 7(e) which states:

e. Exceptions to Concurrent Service of High Offices¹

1. Any high office member may serve on any SGA Boards, Committees, or Taskforces outline in Title 11 of the Student Government Association Code Annotated.
2. Any high office member may serve on any external university board, committee, or task force not specifically outlined within the Code Annotated but wherein they would serve as a representative of the Student Government Association.
3. Any high office member may serve within the programming branch of the Student Government Association so long as they are not serving in high office of said branch.

I. Whether Congressional Bill NO 980131 is unconstitutional?

Petitioner believed that this language attempted to be added to the SGA Code Annotated is in violation of the SGA Constitution Article III Section 6, which states, “no Congress member or

¹ Congressional Bill NO 980131: High Office Clarification Act of 2017.

Senator shall serve simultaneously in any high executive or judicial office of the SGA.”² Petitioner cited to *Monlux v. SGA*, SC 2017-001 because of Superior Court’s interpretation of Title I, chapter 2 section 7 of the SGA Code Annotated, which states: “no person serving in the legislative or executive branches shall simultaneously serve in a high office of any branch other than the one in which they serve.”³ The court in *Monlux* interpreted that section to mean “if a person holds a high office in any branch, then that person cannot serve in a different branch at the same time.”⁴ Petitioner believes that this same logic can be applied to the SGA Constitution Article III Section 6. Looking at the court’s reasoning in *Monlux* breaking down Title I, chapter 2 section 7 of the SGA Code Annotated, a similar logic can be applied to the SGA Constitution Article II Section 6. The court took the original section which states that “no person serving in the legislative or executive branches shall simultaneously serve in a high office of any branch other than the one in which they serve.”⁵ The court broke that section down to essentially means: “if a person is serving in the legislative or executive branch, then that person cannot hold a high office in a different branch at the same time.”⁶ Further, the court stated:

“A representative in Congress cannot serve as a Superior Court Justice (high office of the Judicial Branch), Vice President of SGA (high office of the Executive Branch), etc. This rule could also be stated in the inverse: The Vice President of SGA cannot be a representative in Congress. Both statements mean the exact same thing. Therefore, the rule broken down above also means: “If a person holds a high office in any branch, then that person cannot serve in a different branch at the same time.” Put more simply, a person cannot be both a high officer in a branch and simultaneously serve in a different branch (as a high officer or otherwise).”⁷

Here, a similar logic can be applied to SGA Constitution Article II Section 6 which states, “no Congress member or Senator shall serve simultaneously in any high executive or judicial office of the SGA.”⁸ This could be broken down to mean if a person is serving in the legislative branch, then that person cannot hold high office in a different branch at the same time. Congress representative cannot serve as the Vice president of SGA and this can also be stated in the inverse: The Vice president of SGA cannot be a representative in Congress. Both statements mean the exact same thing. Therefore, if a person holds a high office in any branch, then that person cannot serve in the legislative branch at the same time. However, the Constitution is silent in regards to whether high offices of the Legislative branch can serve in other branches. That prohibition, along with prohibition of a person serving as a high officer in a branch and simultaneously serve in a different branch, is only present in the Code Annotated, which the Legislative branch is entirely within its constitutional power to pass new Acts of Legislation so long as it is within the SGA Constitution.⁹ Therefore, we do not find this Bill to be unconstitutional unless any of the SGA Boards, Committees, or Taskforces will fall within the Legislative Branch. In that case, any person serving in high office of any branch cannot serve in the Legislative branch at the same time.

² SGA Constitution Art. III Sec. 6.

³ SGA Code Annotated Title I Ch. 2 Sec. 7.

⁴ *Monlux v. SGA*, SC 2017-001, pg 5.

⁵ SGA Code Annotated Title I Ch. 2 Sec. 7

⁶ *Monlux v. SGA*, SC 2017-001, pg 5

⁷ Id.

⁸ SGA Constitution Art. III Sec. 6.

⁹ SGA Code Annotated Title I Ch. 7 Sec. 29.

Petitioner further mentioned about the Search Committee and Congress Chair Rains-Saucedo and Senate Chair Pavlowsky. We do not need to discuss that here because the Bill does not mention them. Further, the Search Committee and Congress and Senate Chair have already been mentioned by the Superior Court in the *Monlux* decision.

II. Whether the University of Oklahoma Presidential Search Committee is an internal committee or an external committee in relation to Congressional Bill NO 980131 section 7(e)(2)?

Congressional Bill NO 980131 makes no references to the Search Committee. Therefore, we do not need to discuss this issue in depth. Petitioner argues that the Search Committee is an internal committee because the court in *Monlux* ruled that “those selected by the Regents will become members of the Executive Branch.”¹⁰ Petitioner’s argument is flawed because he misinterpreted the court in *Monlux*. Those students whom are selected by the Regents to be a part of the Search Committee will indeed become members of the Executive Branch, but that does not make the Search Committee as a whole to be a part of the Executive Branch. The Search Committee shall consist of faculty, staff, and students.¹¹ Faculty and staff whom are chosen to be a part of the Search Committee do not fall in the Executive Branch. Although the student positions whom are selected to be a part of the Search Committee are considered internal positions because they fall within the Executive branch (as determined in *Monlux*), the Search Committee as a whole is not an internal committee because they are a part of the Board of Regents’ committee and the Search Committee consists of other members besides students. Moreover, it cannot be said that the Board of Regents is an internal committee of the University or the Student Government Association because The Board of Regents follows its own policies and procedures. Having students whom are a part the SGA Executive Branch does not automatically make the Search Committee an internal committee. The Search Committee is an external committee with internal student representation in it. Therefore, we hold that the University of Oklahoma Presidential Search Committee, as a whole, is an external committee.

This is the opinion of the General Counsel.

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¹⁰ *Monlux v. SGA*, SC 2017-001, pg 4.

¹¹ Regents’ Policy Manual for The University of Oklahoma Sec. 1.4