



University of Oklahoma®
**STUDENT GOVERNMENT
ASSOCIATION**

**General Counsel Opinion
GC 2018-001
September 12, 2018**

Question Presented

- I. Is it in violation of the University of Oklahoma Student Government Constitution and the University of Oklahoma Student Government Association Code Annotated for a current member of the Student Parking Appeals Board to also hold a position within the Election Board concurrently?

Answer & Analysis

Petitioner believes that given the current language of Title IV, Chapter 6, Section 25 (a)(ii), and prior legislation allowing high office holders within the SGA to concurrently hold other positions within the SGA as illustrated by Bill 980131, that a current Parking Justice and member of the Student Parking Appeal Board may also concurrently hold a position within the Election Board.

In the analysis of the existing language of the SGA Code Annotated, and the discussion and outcome of *Monlux v. SGA* and *Monlux 2*, this office is of the opinion that such a concurrent seating of high office positions would constitute a violation.

To provide context to the issue at hand, it is worth mentioning a brief history of legislation and resulting amendments which have resulted in this conclusion. In the spring of 2018, Bill 980114 effectively transferred the Election Board and Election Chair from the Executive Branch to the Judicial Branch. The Student Parking Appeals Board remained within the Judicial Branch, and was not affected by the amendment. The result was that of the Student Parking Appeals Board and the Election Board both being defined as high offices within the Judicial Branch.

Petitioner cites SC 2017-001, *Monlux v. SGA*, as a source indicating the conclusion that there are no prohibitions on a member currently holding a high office, from holding a second high office within the same branch. However, the question of whether an individual holding high office may also concurrently hold an additional high office position within the same branch was not at issue in this case. Because it was not at issue, the question was never discussed or resolved within the opinion. The opinion remains silent on that question. Alternatively, *Monlux v. SGA* sought to define whether an individual could serve as a high officer within any branch and simultaneously serve in a different branch in any capacity. The court answered in the negative. At the time, the Code prohibited serving as a high officer in one

branch of SGA while concurrently serving in any capacity under another. Whereas the issue in that case hinged on the language within Title I, Chapter 2, Section 7 of the SGA Code Annotated and its restrictions surrounding the simultaneous service in the legislative or executive branches, the question at hand is in regard to solely the judicial branch.

Shortly after, and in response to the delivery of the aforementioned unanimous opinion, Bill 980131 – also known as the High Office Clarification Act of 2017 – was authored and presented to the houses. The purpose of the act was to change and clarify which offices count as high offices and respectively preclude other SGA involvement. Congress considered the Bill and amended it on the floor. As cited in *Monlux 2*, “The amendment to section 7 limited the prohibition to serving simultaneously in multiple high offices.” The Bill was then passed by both houses.

Under Title I, Chapter 2, Section 7, the language is clear: “No person serving in a high office may simultaneously serve in another high office.” The language does not clarify a specific branch in which this high office may be held, it simply encompasses all branches, prohibiting the concurrent service of multiple high offices, simultaneously.

Petitioner requests this office to read the High Office Clarification Act as one that sets the precedent of allowing high office holders to hold multiple positions at the same time, within the SGA. This is a correct reading. However, the Act was written with the intent of preventing multiple high offices from being held at once, by an individual. The amendments of the original language, including the removal of the prior “exceptions” clause, and the broadening of the language, is illustrative of that specific intent. Petitioner also makes note of the chart and illustration provided by the court in *Monlux vs. SGA*, which conveys the former restrictions on service within the branches. Because of the amendments to the language of Section 7, this illustration is no longer applicable nor accurate, though it was representative of the law at the time.

The High Office Clarification Act was authored in response to an individual holding a high office position, who wanted to pursue an additional, non-high-office, SGA position within her same branch. The individual was not pursuing a seat within two high offices of the same branch. The language of Section 7 was amended in order to allow for current high officers within the SGA, freedom to participate in additional SGA positions, but at an arguably lower capacity. This language allows a high officer to hold their current position and also participate in other areas of the SGA in a non-high-office position. The language specifically prohibits the simultaneous service of more than one high office, regardless of the branch. Previous language placing restrictions on such service based on the individual’s branch were specifically removed with the passage of the High Office Clarification Act. The intent here, is clear. An individual may not hold more than one high office simultaneously, regardless of branch.

In sum, as discussed by the court at length in *Monlux 2*, the amended language of Section 7 now only forbids serving in simultaneous high offices. A high office of one branch can now serve in a different branch, so long as the latter position is not a high office. It follows that a high officer of one branch may now hold an additional position within their own current

branch, given that the additional position is not a high office. Only the holding of multiple high offices is prohibited.

Petitioner also cites Congressional Bill 9901, also referred to as The Election Board Selection Act of 2018, placing emphasis on the following language: “The Election Board may not consist of anyone currently holding an office within SGA.” This language comes directly from SGA Code Annotated, Title IV, Chapter 6, Section 25(a)(ii). Petitioner makes special note of the previous existence of that language, in which it has not been amended. Again, the language here is clear. It seeks to prohibit members of the Election Board from simultaneously holding any additional positions within SGA. This language specifically places restrictions solely on members of the Election Board, much like the previous language that existed within Section 7, before the High Office Clarification Act was passed.

The Election Board Selection Act was authored with the intent of promoting a heterogeneous Election Board. This focus on the importance of providing a fair, and diverse Election Board is reflected by the restrictions placed within the Code’s language on who may serve on the Board. It is likely that these restrictions exist in order to promote diverse, unbiased, student perspectives within the Board, something that may be hard to screen or prevent if current SGA members, who very likely have relationships with candidate-hopefuls, were allowed to serve in such a capacity. It may also place said restrictions in order to promote more SGA involvement from previously-uninvolved students. Regardless, whatever policy reasons lie behind such language does not alter this office’s opinion, today. The language is clear: if you currently hold office within the SGA, you are not eligible to participate as a member of The Election Board.

In conclusion, the recently-amended language and intent of Section 7 speaks directly to the issue at hand. No individual may serve in more than one high office position, simultaneously, regardless of the branch. The amendments made under the High Office Clarification Act provided flexibility for students holding positions of high office to pursue additional SGA seats within any branch, as long as that additional position is not one of high office. Because both the Election Board and Student Parking Appeals Board are those of high offices, only one may be held at a time. The fact that they are now both housed within the Judicial Branch and will not hear the same cases nor ever have to answer to the other’s appeals is not of any effect.

Additionally, the restrictive language within the Code in regard to the Election Board also illustrates the prohibition of active-SGA members holding the position. This language has not changed; it has been affected by neither recent legislation nor recently-issued SGA General Counsel opinion.

This is the opinion of the General Counsel.

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