



University of Oklahoma®
**STUDENT GOVERNMENT
ASSOCIATION**

**General Counsel Opinion
GC 2021-001
October 12, 2021**

Questions Presented

- I. Can candidates for the Student Government Association's fall elections begin campaigning prior to the publication of the Candidates Booklet?
- II. When must the Election Commissioner publish the Candidates Booklet?

Brief Answers

- I. No. The Student Government Association Code Annotated explicitly states that the Campaign Time Frame begins after the publication of the Candidates Booklet.
- II. The Election Commissioner is required to publish the Candidates Booklet the Friday of the second (2nd) week before an election.

Background

These questions arise out of Student Government Association (hereinafter, "SGA") regulations surrounding the Campaign Time Frame. The following issue was brought to the attention of the General Counsel by the SGA Election Commissioner: The [SGA Code Annotated](#) (hereinafter, "Code") defines the Campaign Time Frame as beginning after publication of the Candidates Booklet (hereinafter, "the Booklet"), yet additional uncodified legislation states that the Booklet shall be published on a date that would allow for limited time for campaigning. As a result of concern from a variety of parties, the General Counsel determined an official opinion would be necessary so that candidates may be aware of how to proceed and so this issue could be subject to judicial review by the SGA Superior Court.

Discussion and Analysis

Two provisions in the Code state explicitly that candidates are restricted from campaigning until after the publication of the Booklet. First, the Campaign Time Frame is defined by the Code as: "The time between the publishing of the Information on Candidates Booklet and the validation of the election." *SGACA* Tit. IV Ch. 1, § 1(b). Additionally, the Code further elaborates on this point by specifying: "Only after the publishing of the Information on Candidates Booklet, may candidates begin campaigning." *SGACA* Tit. IV Ch. 4, § 22.

In September 2020, the legislative branch of the SGA voted to enact various pieces of legislation aimed at reorganizing the election processes. One such piece of legislation was the

Uniform Campaigning Act of 2020, identified as CB-104-10. This legislation specified the details of the Booklet, including when the Booklet should be published. *Uniform Campaigning Act of 2020* § 5. The relevant section provided in part: “The booklet shall be published on the Friday of the second (2nd) week before any given election.” *Id.*

CB-104-10 was approved by both the Undergraduate Student Congress and the Graduate Student Senate, as well as signed by the SGA President. *Id.* § 8. However, for reasons unclear at this time, this provision regarding the Booklet’s publication was never officially codified and cannot be found in the Code. *See Generally SGACA*. In fact, the Code does not identify when the Booklet is required to be published.

“In the unusual event of a dispute between the various forms of SGA law, the SGA Constitution is still the supreme law of the SGA. The Constitution is followed by the SGACA and Acts of Legislation, which are followed by General Counsel and Superior Court opinions.” *SGACA Preface*. While there is no technical dispute in this case between CB-104-10 and the Code, as the Code does not specify when the Booklet must be published, this provision makes clear that CB-104-10 is enacted SGA law. Since the SGA Constitution and the Code are silent on the issue, the next highest authority would come from Acts of Legislation, such as CB-104-10.

Thus, a plain reading of the law enacted in CB-104-10 and the Code can lead to only one conclusion. Candidates may not begin campaigning until after the publication of the Booklet, and the Booklet shall be published on the Friday of the second week before the election. In the case of the upcoming election (taking place November 2–3, 2021), the Booklet must be published on October 22, 2021. This means that under the current provisions Code, candidates may campaign from October 22 until the validation of the election.

One could argue that the language of CB-104-10 which uses the word “shall” might imply that the Election Commissioner may only need to ensure the Booklet is published prior to the Friday of the second week before the election and may otherwise decide to publish the booklet earlier. However, the specific language states that the Booklet shall be published *on* the Friday of the second week, not *by* the Friday of the second week. *Uniform Campaigning Act of 2020* § 5. Additionally, such an interpretation is inconsistent with another provision of CB-104-10 which gives candidates in any election until the Friday of the third (3rd) week before the election to turn in their information for the Booklet.

It is undeniable that this decision has significant consequences for the upcoming election. It provides a much more limited timeframe for the candidates to campaign than they anticipated. This limited timeframe implicates obvious policy concerns for the election such as the potential impact on voter turnout and whether voters will have enough time to make an informed decision. However, it is not the role of the General Counsel to make legislation but instead to interpret and enforce the provisions of the SGA Constitution, the Code, and properly enacted legislation.

THEREFORE, in accordance with the SGA Code and the provisions of CB-104-10, candidates are precluded from campaigning until the publication of the Booklet, which shall be published in this election on October 22, 2021.

This is the opinion of the General Counsel.

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