



*Via e-mail*

February 28, 2017

Joanne Adamchak  
Senior Associate General Counsel  
University of South Florida  
jadamcha@usf.edu

**Re: USF's obligation to protect students' First Amendment rights to advocate for divestment**

Dear Ms. Adamchak,

I write on behalf of the student coalition University of South Florida (USF) Divest to remind you and your client, USF, of your obligation to uphold students' First Amendment rights to freely debate university policy on divestment from human rights violations, via the ballot referendum process or in any other forum.

Your past actions to interfere with student speech rights violated the First Amendment, as asserted in the attached February 14, 2014 letter, from the Council on American Islamic Relations, the Center for Constitutional Rights, the National Lawyers Guild, and Shakfeh Law.<sup>1</sup> The letter describes how in 2013, your office pressured the USF student government into declaring "null and void" a student referendum supporting divestment from Israel, after the vote took place. It cites your email communications with student government officials and meetings with the students' attorney, and describes how you made three separate meritless justifications for nullifying the referendum. Your justifications invoked irrelevant law and regulations, and unconstitutionally pronounced that students cannot have a referendum on "political" issues.

Although your response on February 21, 2014 "categorically den[ied]"<sup>2</sup> that you violated student speech rights, you did not respond substantively to the evidence presented or retract the baseless justifications you had made to student government officers when you urged them to nullify the 2013 divestment referendum.

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<sup>1</sup> See attached, Letter from Council on American Islamic Relations -Florida, National Lawyers Guild South Florida Chapter, Center for Constitutional Rights, and Shakfeh Law to University of South Florida General Counsel Joanne Adamchak, February 14, 2014, <http://tinyurl.com/Letter-to-USF-Counsel-2-12-14>.

<sup>2</sup> See attached, Letter from USF Associate General Counsel Joanne Adamchak, February 21, 2014.

As you know, the USF student body is again engaged in a discussion about divestment, via a referendum on the ballot for student government elections this week beginning February 27 2017. The referendum asks students whether the university should divest from fossil fuels, private prisons, and human rights violators.<sup>3</sup>

Students have reported that USF administrators and student government representatives have erected multiple bureaucratic obstacles arbitrarily in an apparent attempt to thwart their efforts to pass a divestment referendum.<sup>4</sup> Most egregious is that the official ballot excludes the reasoning statement that student petitioners had submitted, in accordance with the requirements, which explains to voters why they feel the referendum is necessary. This exclusion departs from past practice and violates Student Government Statute 707.3.12, which states, "The official ballot shall also include a statement explaining the reason for bringing forth the referendum."<sup>5</sup> According to past practice, this statute requires that the official ballot include the students' "reasoning statement" to explain why they put the referendum on the ballot.

But this year, in place of the student reasoning statement, the official ballot includes the following language in parentheses: "The Student Referendum on USF Divestment has been brought forth because it passed a constitutional conformity review by the Supreme Court, met all requirements as set forth in the USF student body constitution, and fulfilled the requirements within Chapter 707, Section 707.3."<sup>6</sup>

This legalistic statement does not explain why students put forth the referendum, as 707.3.12 requires. It merely describes the technical hurdles that the referendum passed in order to get on the ballot. The referendum was brought forth because the petitioners want to ensure that USF does not profit from the suffering of minority communities; it was not brought forth because the petitioners complied with the relevant technical requirements. By excluding the reasoning statement that students submitted for inclusion on the official ballot, USF is in violation of the Student Government statute.

Given these recent events and the university's documented history of interference, students are concerned that USF administrators are again moving to suppress student debate and tampering with the referendum outcome.

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<sup>3</sup> See Student Government University of South Florida, "SG Vote," <http://sg.usf.edu/vote/documents/>.

<sup>4</sup> Palestine Legal is investigating recent student reports of irregularities in the referendum process, including: (1) USF administrators refused to return the signature petition for the divestment referendum to the student organizers who collected the signatures, departing from common practice, and (2) the student Supreme Court arbitrarily created new standards of review for proposed ballot referendums the night before it was to review the divestment ballot; the Supreme Court proceeded to reject the divestment referendum for failing to meet the standard it had created only the night before. The rejection was overturned in a vote to reconsider after an outcry during the open comment period. (Interviews with USF student [Name redacted], February 7, 2017, February 10, 2017, February 22, 2017, notes on file with Palestine Legal.)

<sup>5</sup> University of South Florida at Tampa Student Government Statute 707.3.12, updated and certified accurate on 8/1/2016, <http://www.usf.edu/student-affairs/sgato/documents/sg-statutes-2016-08-01.pdf>.

<sup>6</sup> See Election Referendum Ballot, attached.

You have a legal obligation to cease, and to advise your client to cease further interference with student speech activities, and to facilitate a free marketplace of ideas at USF, including students' rights to vote on ballot referenda concerning divestment from human rights violators. Under the First Amendment of the U.S. Constitution, you may not discriminate against certain viewpoints, even if university administrators disapprove of them.

As educators of the global leaders of tomorrow, we expect you will protect the university as a center of critical and unfettered inquiry – even and especially on controversial matters of public concern such as fossil fuels, private prisons, and human rights violations.

Sincerely,

A handwritten signature in blue ink, enclosed in a thin blue rectangular border. The signature is cursive and appears to read "Liz Jackson".

Liz Jackson  
Staff Attorney, Palestine Legal  
Cooperating Counsel, Center for Constitutional Rights

cc: Gary Manka, Director of Student Government Advising; Jennifer Bielen, Assistant Director of Student Government Advising; Tammy Dixon, Office Manager of Student Government Advising.

Enc.



Council on American-Islamic Relations  
Tampa Office  
8056 N 56th Street, Tampa, FL 33617  
Tel 813.514.1414 Fax 813.987.2400 [www.cairflorida.org](http://www.cairflorida.org)

February 14, 2014

*Certified Returned Receipt and E-mail*

Dr. Judy Genshaft, President  
University of South Florida  
4202 E Fowler Ave  
Tampa, FL 33620

Dr. Cynthia S. Visot, Chief of Staff to the President  
[cvisot@usf.edu](mailto:cvisot@usf.edu)

Steven D. Prevaux, General Counsel  
[prevaux@usf.edu](mailto:prevaux@usf.edu)

**RE: University of South Florida's legal obligations to Students for Justice in Palestine under Title VI and the First Amendment**

Dear President Genshaft and General Counsel Prevaux,

We write to you on behalf of the student organization, Students for Justice in Palestine (SJP), to discuss important developments concerning the United States Department of Education (DOE) and University of South Florida's obligations under Title VI of the Civil Rights Act of 1964. Please see the attached legal advisory for more information.

In August 2013, DOE dismissed complaints against the University of California (UC) Berkeley, UC Santa Cruz, and UC Irvine, which had alleged, *inter alia*, that Jewish students who identify with the state of Israel are deprived of an equal education in violation of Title VI when exposed to student or faculty speech critical of Israel. In recent years, some organizations have relied on this theory to pressure universities around the country to take punitive or censorial measures against faculty or students who express such viewpoints. **DOE rejected the premises underlying these complaints and reaffirmed the importance of First Amendment expression on campus.**

These decisions are especially relevant to the University of South Florida (USF) because several controversies have recently taken place on campus threatening the First Amendment right of SJP to engage in criticism of the state of Israel. These events raise concern that USF is not meeting its obligation under the First Amendment to protect student speech on controversial issues.

In the spring of 2013, a student referendum sponsored by SJP that advocated for boycott and divestment from companies that profit from Israel's occupation was declared "null and void."<sup>1</sup> The

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<sup>1</sup> See attached, "03-01 Brian Goff Email" notifying the student body that the referendum will not be recorded as an official student referendum; see also attached, 02-28 Executive Memorandum 53-012, from Student Body President and University Trustee Brian Goff to the Election Rules Commission requesting that "the results from the Student Referendum pertaining to divestment be deemed invalid, null, and void."

referendum consisted of a non-binding straw poll, asking students to opine on whether they would support boycott and divestment as a tool to promote human rights.<sup>2</sup> Justification for the nullification of the referendum came from student government leaders, who offered the unsubstantiated claim that the referendum “conflicts with” or is “inconsistent” with local and state laws.<sup>3</sup> A recent appeal by SJP to the student Supreme Court was denied on the basis that the court was unable to hear the case because the referendum would “violate State law and university policy,” again without providing a basis for this claim.<sup>4</sup> When pressed to provide a justification, student government officials directed SJP to consult USF General Counsel.<sup>5</sup>

Based on the executive memorandum from the student body president and emails from the USF General Counsel’s office to student government leaders obtained via a public records request, it is clear that the decision to nullify the referendum was made in response to pressure from the General Counsel’s office.<sup>6</sup> The student body president noted that he requested that the referendum be voided after “many intense discussions with Legal Counsel and University Officials.”<sup>7</sup> The General Counsel’s office has provided several justifications at different times. First, University officials pressured student government officials to remove the referendum from the student ballot because it was “political” in nature.<sup>8</sup> Second, the General Counsel’s office advised student government officials that the referendum violated Fla. Stat. § 104.31 and Fla. Stat. § 110.233.<sup>9</sup> Finally, during a meeting with SJP and CAIR, Associate General Counsel Adamchak referred the students to university purchasing regulations USF 4.02000 - 4.02090 which she also claimed conflicted with SJP’s referendum.

None of the justifications provided by USF officials stand up to legal analysis. First, it is obvious that a non-binding straw poll of student political opinion does not, under the First Amendment, conflict with any law. It is pure political speech, and cannot be censored at a public university.

Second, Section 104.31, Fla. Stat. proscribes political activities of officers and employees of the state, to prevent specified corrupt or influence-peddling actions, primarily in an electoral context. The electoral context is clearly not at issue here, nor is corruption. Section 110.233, Fla. Stat., proscribes specified employment practices in career service. This does not apply because state universities are explicitly exempt from career service provisions. Further, the students seeking to survey their peers’

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<sup>2</sup> See attached, “SJP BDS Referendum Spring 2013.” The referendum text described oppressive conditions of the Palestinian people, listed corporations affiliated with the oppression, and asked the following questions of the student body: “**Question 1:**  Would you support the USF student government in adhering to the principles of Dr. Martin Luther King Jr. that ‘injustice anywhere is a threat to justice everywhere’?  **Question 2:**  Would you support boycotting, divesting, and sanctioning corporations affiliated with human rights violations by replacing them with ethical alternatives at University of South Florida?”

<sup>3</sup> 02-28 Executive Memorandum 53-012.

<sup>4</sup> See attached, “02-05-14 Denial of Request for Trial.”

<sup>5</sup> See attached, “02-06-14 Email from Solicitor General Shaheen Nouri.”

<sup>6</sup> See attached, “02-24-13 Email exchange bw Adamchak and SG.”

<sup>7</sup> 02-28 Executive Memorandum 53-012.

<sup>8</sup> See attached, “02-21-13 Gary Manka Email” where Gary Manka, Director of Student Government Advising Training and Operations, notified student government officials that “since SG is an arm of the university and since the university does not take on political referendums, SG does not as well.” In the document titled, “02-24-13 Email Exchange bw Adamchak and SG” it is clear that student government officials contested this policy, noting that “Gary’s statement, as advised by legal” conflicted with the student government constitution providing that “any student has a right to call for a University-Wide initiative/referendum...” without exception for “political” topics, and further noting that students passed numerous non-binding political resolutions the previous year.

<sup>9</sup> 02-24-13 Email Exchange bw Adamchak and SG.

opinions on divestment are neither officers or employees of the state as contemplated by the cited Florida statutes.

Third, the purchasing regulations are designed to eliminate practices that undermine legitimate competition because of undue influence exerted on individual purchasing agents. They do not speak to the university's right to adopt purchasing policies called for by students based on ethical considerations. The regulations currently provide for exceptions to the competitive bidding process including, for example, a preferential policy for purchase of commodities produced with recycled content. (Reg. 4.02040(7)). In any case, as the Supreme Court has held, the right of the States to regulate economic activity cannot justify prohibiting a nonviolent, politically motivated boycott, much less mere *advocacy* for a boycott.<sup>10</sup>

Finally, if either of these statutes or regulations – or indeed any statute or regulation—were to be construed as restricting advocacy for or implementation of a peaceful boycott protesting human rights violations, it would be stricken as unconstitutional. The Supreme Court has ruled that boycotts based on matters of public concern are protected speech and expression, and rest “on the highest rung of the hierarchy of First Amendment values.”<sup>11</sup>

The entire process by which the referendum was nullified violated SJP students' constitutional rights to free speech and due process, and also made a mockery of USF Student Government's mission, which is “to be the premier opportunity in becoming engaged, provide the setting for all students to be equally heard and represented, and maximally enhance each student's experience and development.”

More recently, SJP has been made aware that, in response to pressure from off-campus organizations, USF officials have raised questions about the university's role in permitting SJP to sponsor an educational “game show” event about the Israel-Palestine issue.<sup>12</sup> University officials made a direct inquiry to SJP, and apparently questioned student government officials about funding for the event.

Both the decision to nullify SJP's student referendum in the Spring of 2013 and the current apparent university investigation into SJP's right to host programming that has a political message suggest that USF is scrutinizing campus speech in support of Palestinian rights based on the viewpoint being expressed. Such actions undertaken against expressive activities based on their viewpoint or content are prohibited under the First Amendment.<sup>13</sup> Further, burdening speech in this manner undermines a primary purpose of the university itself, which is to expose students to a wide range of viewpoints.

The recent DOE decisions reaffirm that **public universities violate the First Amendment when they stifle, burden, or otherwise censor student and departmental activities on the basis of**

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<sup>10</sup> *NAACP v. Claiborne Hardware Co.*, 458 US 886, 912-915 (1982).

<sup>11</sup> *NAACP v. Claiborne Hardware Co.*, 458 US 886, 913 (1982).

<sup>12</sup> The event is misrepresented by Danielle Haberer in *Algemeiner*, “College Group Uses ‘Game Show’ to Dehumanize Israel” December 18, 2013, available at, <http://www.algemeiner.com/2013/12/18/college-group-uses-game-show-to-dehumanize-israel/>. The author identifies herself as a fellow for Committee for Accuracy in Middle East Reporting in America (CAMERA), an organization dedicated to promoting a positive image of Israel and well known for advocating suppression of views critical of Israel on campus.

<sup>13</sup> “[I]f there is a bedrock principle underlying the First Amendment,” the Supreme Court has said, “it is that the government [including publicly funded universities] may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” *Snyder v. Phelps*, 131 S. Ct. 1207, 1215 (2011) (quotations and citations omitted).

**the viewpoint expressed**, including in the context of the Israeli/Palestinian conflict. For example, DOE found that, at UC Santa Cruz, with respect to speaking events organized or sponsored by University departments featuring critics of Israeli policies, “[a]ll these events constituted (or would have constituted) **expression on matters of public concern directed to the University community. In the university environment, exposure to such robust and discordant expressions, even when personally offensive and hurtful, is a circumstance that a reasonable student in higher education may experience.**”<sup>14</sup> (Emphasis added.)

DOE’s resolution of these cases should bolster your confidence in defending First Amendment values on your campus by refraining from interference—whether in the form of overt censorship or burdensome scrutiny—with student and faculty events based on their viewpoint on Israeli/Palestinian issues. For your convenience, we have attached DOE’s complete written decisions and a Legal Advisory summarizing the key determinations. We hope these documents will serve as a resource to your university when responding to pressure from advocacy organizations regarding student and faculty speech.

Regarding the University’s recent failure to protect the free speech and due process rights of Students for Justice in Palestine at USF, we ask that USF immediately cease its unconstitutional treatment of SJP.

Furthermore we ask that you contact us before Monday, February 24, 2014 to schedule a meeting to discuss possible remedies. These include certification of the SJP referendum, and assurances that, going forward, the University will refrain from further restriction and heightened scrutiny of SJP based on the content of their expression.

You may contact the undersigned organizations through Thania Diaz Clevenger, at [813-514-1414 Ext 102](tel:813-514-1414), [tclevenger@cair.com](mailto:tclevenger@cair.com).

Sincerely,



Thania Diaz Clevenger  
CAIR-FLORIDA  
Civil Rights Director

*s/Dante P. Trevisani*  
Dante P. Trevisani  
NLG South Florida Chapter  
President



Dima Khalidi  
Center for Constitutional Rights  
Cooperating Counsel

*/s/ Abraham Shakfeh*  
Abraham Shakfeh  
Shakfeh Law, Ltd.  
Attorney at Law

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<sup>14</sup> Letter from DOE to UC Santa Cruz, Aug. 19, 2013, re: Case No. 09-09-2145, available at <http://bit.ly/doeucsc>.

Cc: Joanne M. Adamchak, Associate General Counsel, jadamcha@usf.edu

**Attachments:**

- 1. Documents related to the nullification of SJP's Divestment Referendum: (a) "03-01-13 Brian Goff Email" (b) 02-28-13 Executive Memorandum 53-012 (c) "SJP BDS Referendum Spring 2013." (d) "02-05-14 Denial of Request for Trial." (e) "02-06-14 Email from Solicitor General Shaheen Nouri." (f) "02-24-13 Email exchange bw Adamchak and SG." (g) "02-21-13 Gary Manka Email"**
- 2. Legal Advisory Concerning Recent DOE Investigations at UC Irvine, UC Berkeley, and UC Santa Cruz**
- 3. UC Santa Cruz Dismissal Letter**
- 4. UC Berkeley Dismissal Letter**
- 5. UC Irvine Dismissal Letter**





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## [USF-INFO] Apologies from Student Government

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McDonald, Danielle <dean@sa.usf.edu>

Fri, Mar 1, 2013 at 2:46 PM

To: [REDACTED]

Members of the Student Body,

It is with great regret that I send this email to you.

I would like to reach out and formally apologize, both on behalf of Student Government and myself, for the referendum that was placed on the ballot pertaining to divestment in corporations potentially linked to Human Rights violations.

It has come to my attention that this referendum has caused a lot of confusion among the Student Body and that many Students have felt it inappropriate to even be on the ballot.

At this time I would like to assure you that it is not the stance of Student Government, it's employees, or any of its affiliates to divest or boycott any corporation. This referendum was not vetted by any branch of Student Government, but was proposed by a group of students so they could gauge the opinion of their peers.

Student Government remains firm in its commitment to Florida students and only getting involved with/taking stances on issues that are directly relevant to them. This, for example, means tuition, fees, creation of new universities, equal access to education, etc. Your Student Government hasn't, and won't, take a stance on international politics that is well beyond our means.

I would again reiterate that we are here for YOU, the Students, which is how this referendum came to light. We accept full responsibility for the confusion and lack of advertisement for this referendum. It is always our #1 priority to make sure the student voice is heard, which is why we added this last minute to the ballot. This did not give us enough time to advertise the ballot to you, for which we apologize. At the time, it was what we felt to be the best thing to do in order to make sure their voices were heard, but we now realize that doing so inhibited our voters from being as informed as possible and voicing their opinions, which is not our intent nor was it the intent of the authors of the referendum.

Due to the large amount of confusion, the lack of notice and the inconsistencies in the referendum with Florida Statute and USF Policies and Regulations, the Referendum will not be recorded as an official SGA Referendum. We, as your Student Government, will do everything possible to make sure that something like this does not happen again. We will also work diligently to make sure that the student voice, regarding this topic, is heard in a manner less confusing and accessible to all students.

The remaining portions of the ballot will still be considered and counted pending certification tomorrow afternoon. If you have yet to vote on the Our Shirt for next year, I highly suggest you make your voices heard and vote at [SG.usf.edu/vote](http://SG.usf.edu/vote).

If you have any questions or concerns, please do not hesitate to contact me.

In Bull Pride,

*Brian Goff*

Student Body President and University Trustee

Student Government

University of South Florida

4202 East Fowler Avenue, MSC 4300

Tampa, Florida 33620

Office: (813) 974-9900

Fax: (813) 905-9993

[www.sg.usf.edu](http://www.sg.usf.edu)

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This message has been approved under the [USF Mass E-Mail Policy](#)



UNIVERSITY OF SOUTH FLORIDA  
STUDENT GOVERNMENT  
*Office of the President*



Executive Memorandum 53-012

To: The Election Rules Commission

From: Brian Goff, Student Body President and University Trustee

Subject: Referendum #2 on the General Election Ballot

Date: February 28, 2013

To Whom it May Concern:

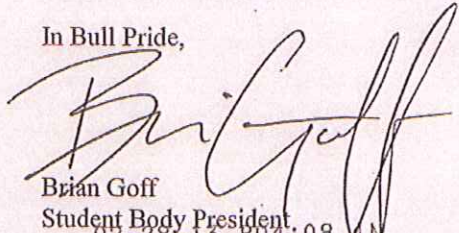
While I understand the Election Rules Commission (ERC) is an independent agency from any of the branches of Student Government, I would be negligent in my duties if I did not make the following request of the ERC.

- That the results of the Student Referendum pertaining to divestment be deemed invalid, null, and void for the following reasons:
  - Conflicts with our Statutes, our University Policies, Local laws and Ordinances, as well as State Laws as determined by University Legal Counsel.
  - Confusion on behalf of the Student Body for what the referendum was asking and what they were voting for.
- That all referendums on the ballot be considered non-binding and not the voice of Student Government or any of its employees or affiliates.
- That the ERC draft a proposal to amend Statutes (Title VII) as well as the constitution so that an incident of this nature does not happen again in the future.
- That said proposals be drafted by the end of business on March 22<sup>nd</sup>, 2013 so that it may be heard by the 53<sup>rd</sup> term Senate for consideration and ratification.

I hope you take these recommendations with serious consideration. I do not ask this of you lightly, but only after many intense discussions with Legal Counsel and University Officials.

If you have any questions, do not hesitate to ask and I will do my best to explain.

In Bull Pride,

  
Brian Goff  
Student Body President

02-28-13 P04:08 MN



According to the United Nations, the “crime of apartheid” is defined as: “Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part.”

Apartheid and the continued crimes against the Palestinian people fit this definition. Nelson Mandela and many others that lived under South African apartheid have stated that the situation for the Palestinians is even worse than apartheid.

May 2013 marks 65 years of the catastrophic expulsion of hundreds of thousands of Palestinians from their homeland. Today, Palestinians constitute the largest refugee population in the world. The massacres, looting, and destruction that characterized the depopulation of Palestine are in direct conflict with our values as University of South Florida (USF) students.

Corporations affiliated with the oppression, occupation, and apartheid of the Palestinian people includes:

- Sabra Hummus – Sabra is owned by parent company Strauss Group Ltd. It actively provides financial support and supplies to the Golani Brigades. The Golani Brigades in particular are notorious for their record of grave and systematic human rights abuses. Sabra Hummus is provided in USF dining halls.
- Hewlett-Packard (HP) – HP is a primary contractor of Basel System, Matrix, Tact Testware and Israel’s biometric ID card system. Approximately 4 million Palestinians are affected daily by the checkpoint system and the separation wall that are supported with technology from HP. HP provides technology services to Israel’s army and participates in businesses in the illegal West Bank settlement of Ariel. Hewlett-Packard products are sold at USF venues, including the USF computer store.
- Wellington Small Cap and Value – Wellington Management, the parent company of Wellington Small Cap Value, is a major owner of Rapiscan Systems, which manufactures security scanners through its Israel representative, Hashmira (also known as G4S Israel). Wellington Management is also the largest shareholder for Terex, which produces trucks, floodlights and other construction equipment for the building of the Separation Wall. Terex’s equipment is also used for the development of checkpoints near the Ofer prison and detention center and the Deir Sharaf checkpoint in the West Bank. As of September 30, 2012, USF Foundation had investments worth \$9.0 million in Wellington Small Cap Value.

**Question 1:**

Would you support the USF student government in adhering to the principles of Dr. Martin Luther King Jr. that “injustice anywhere is a threat to justice everywhere”?

**Question 2:**

Would you support boycotting, divesting, and sanctioning corporations affiliated with human rights violations by replacing them with ethical alternatives at University of South Florida?



University of South Florida  
Student Government  
Supreme Court  
2013 – 2014 Term  
Spring Session



STUDENT GOVERNMENT SUPREME COURT

Solicitor General Shaheen Nouri's Request for Trial

CERTIORARI TO THE SUPREME COURT

DATE SUBMITTED: 5 FEBRUARY 2014  
DECISION RENDERED: 5 FEBRUARY 2014

**Question before the Court:** "Whether the Election Rules Commission had original jurisdiction for the case, and thus violated statutes 501.2 & 501.2.1"

**Jurisdiction:** According to Title V of the Student Government Statutes:

501.2 The Supreme Court shall have appellate jurisdiction over:

501.2.1 All cases and controversies involving the Election Rules Commission.

**Relevant Facts:**

Student Body Constitution Article I Sec. II:

"The powers and responsibilities of the Student Government Association...shall not conflict with University Regulations or any other municipal, state, or federal law."

Supreme Court ROP 1.6.:

"The Supreme Court may dismiss a complaint that fails to state a claim for which relief can be granted by the Supreme Court."

**Certiorari denied:** 1-4-1

**Reason for Denial of Certiorari:**

Proper standing must be established for certiorari to be granted and a hearing to occur. The appellant does not have standing. Pursuant to Supreme Court ROP 1.6: "The Supreme Court may dismiss a complaint that fails to state a claim for which relief can be granted by the Supreme Court." If the Election Rules Commission's decision were to be overturned, a referendum which violates State Law and University policy would be validated which violates Article I Sec. II of the Student Body Constitution as it must not conflict with "University Regulations or any other municipal, state, or federal law." Thus relief may not be granted by this Court which is beholden to the Student Body Constitution.



Liz Jackson <lizjackson@gmail.com>

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## Fwd: Request for trial decision

1 message

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**Students for Justice in Palestine** <sjpusf2010@gmail.com> Thu, Feb 6, 2014 at 7:42 PM  
To: Ahmad Saadaldin <ahmaji900@gmail.com>, Liz Jackson <lizjackson@gmail.com>, carol sanders <csanders999@yahoo.com>, Abraham Shakfeh <ashakfeh@shakfehlaw.com>, Thania Clevenger <tclevenger@cair.com>

----- Forwarded message -----

From: **Nouri, Shaheen** <shaheennouri@usf.edu>  
Date: Thu, Feb 6, 2014 at 5:07 PM  
Subject: RE: Request for trial decision  
To: Students for Justice in Palestine <sjpusf2010@gmail.com>

SJP,

If I have determined correctly, you seek clarification as to which "**statu[t]es or policies the Supreme Court is claiming we are violating.**"

As these laws and policies are *State* laws and *University* policies, the Student Government Supreme Court would not maintain proper, binding or reasonable jurisdiction in clarifying them. Such as task would fall under the jurisdiction of University General Counsel. From conversation passed down to me from the Counsel regarding this issue, Counsel believes that this issue was addressed and completed during the appropriate ERC decision in 2013, and that SG will not re-open this final case. In an effort to advocate on your behalf, I would like to recommend that if you still wish to gain clarification on the matter from the appropriate source (General Counsel), I can go ahead and request through email that such clarification be forwarded and presented. Again, if you would wish for this route to be taken, let me know.

**Shaheen Nouri**

Solicitor General

Student Government Association

University of South Florida

Email: [shaheennouri@usf.edu](mailto:shaheennouri@usf.edu)

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**From:** Students for Justice in Palestine [mailto:[sjpusf2010@gmail.com](mailto:sjpusf2010@gmail.com)]  
**Sent:** Thursday, February 06, 2014 2:30 PM  
**To:** Nouri, Shaheen  
**Subject:** Re: Request for trial decision

According to Student Body Constitution Article I Sec. II:

"The powers and responsibilities of the Student Government Association.. shall not conflict with University Regulations or any other municipal, state, or federal law."

The Supreme Court stated in its rejection for trial, "The appellant does not have standing" because the "If the Election Rules Commission's decision were to be overturned, referendum which violates State Law and University policy would be validated which violates Article I Sec. II of the Student Body Constitution"

The Supreme Court never specified which policies were violated. **Students for Justice in Palestine would like a declaratory judgment that will clarify which statues or policies the Supreme Court is claiming we are violating.**

SJP @ USF

On Thu, Feb 6, 2014 at 12:09 AM, Nouri, Shaheen <[shaheennouri@usf.edu](mailto:shaheennouri@usf.edu)> wrote:

Mr. Buenaventura,

My clients would like to respectfully gain a little further insight and clarity on the State laws and University regulations that the Court refers to in claiming that they would be violated by reversing the invalidation of the referendum in question.

Thank you,

***Shaheen Nouri***

Solicitor General

Student Government Association

University of South Florida

Email: [shaheennouri@usf.edu](mailto:shaheennouri@usf.edu)

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On Feb 5, 2014, at 8:44 PM, "Buenaventura, Bryan" <buenaventura@usf.edu> wrote:

Mr. Nouri,

Attached you will find the decision for request for trial with a summary.

Thank you

V/R

*Bryan Buenaventura*

Chief Justice

Student Government Supreme Court

University of South Florida

Work Phone: (813) 974-9120

Cell Phone: (813) 531-2715

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<image001.jpg>

<Nouri Request for trial - denial.pdf>



**Subject:** Re: Student Referendum

**Date:** Sunday, February 24, 2013 8:53:02 PM ET

**From:** Manka, Gary

**To:** Goff, Brian, Gao, Helin, Hussein, Karim

**CC:** Morgan, Jessica, McDonald, Danielle, Adamchak, Joanne M.

**Priority:** High

Dear Brian, Jeff and Karim:

As a result of the information provided by university counsel, I am advising that SG remove the referendum from tomorrow's ballot. The conflict with state statues along with the penalties that may result by moving forward as planned necessitate this advisement on my part. I feel it would be more beneficial for all parties, including those students who submitted the petition, for SG to hold their own referendum later in the semester. This would be the best way to honor the petition submission and represent those students' voices to the student body at large. Of course, this is your decision.

If you have any questions or concerns please feel free to contact me or Danielle McDonald. Thank you.

Respectfully,

Gary Manka, Director  
Student Government Advising, Training & Operations  
University of South Florida  
4202 East Fowler Avenue, MSC 4300  
Tampa, Florida 33620  
813-974-4704  
gmanka@usf.edu

Note: Florida has a very broad public records law. Most written communications to or from state employees regarding state business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.

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**From:** <Adamchak>, "Joanne M." <JAdamcha@usf.edu>

**Date:** Sunday, February 24, 2013 5:45 PM

**To:** Gmanka <gmanka@usf.edu>, Brian Goff <bgoff@usf.edu>, "Gao, Helin" <hgao@usf.edu>

**Cc:** Jessica Morgan <jmmorgan@usf.edu>, "Hussein, Karim" <karimhussein@usf.edu>, "McDonald, Danielle" <dmcDonald@usf.edu>

**Subject:** RE: Student Referendum

As per my voice message to SGA, the Florida Statutes to refer to are 104.31 and 110.233.

From my reading of the referendum, if SGA permits the referendum the officers are indirectly advising the University on how to purchase commodities etc.

I understand the position of SGA is there is no limitation on the referendum permitted, however, there is an overall duty to abide by state law and Univeristy policies and SGA cannot adopt a statute, by law...or referendum that violates those laws and policies.

I don't know what more I can say but to provide you the statute and advise that the referendum as drafted could be interpreted to violate the provisions of the statutes.

1) No officer or employee of the state, or of any county or municipality thereof, except as hereinafter exempted from provisions hereof, shall:

(a) Use his or her official authority or influence for the purpose of interfering with an election or a nomination of office or coercing or influencing another person's vote or affecting the result thereof.

(b) Directly or indirectly coerce or attempt to coerce, command, or advise any other officer or employee to pay, lend, or contribute any part of his or her salary, or any money, or anything else of value to any party, committee, organization, agency, or person for political purposes. Nothing in this paragraph or in any county or municipal charter or ordinance shall prohibit an employee from suggesting to another employee in a noncoercive manner that he or she may voluntarily contribute to a fund which is administered by a party, committee, organization, agency, person, labor union or other employee organization for political purposes.

(c) Directly or indirectly coerce or attempt to coerce, command, and advise any such officer or employee as to where he or she might purchase commodities or to interfere in any other way with the personal right of said officer or employee.

The provisions of this section shall not be construed so as to prevent any person from becoming a candidate for and actively campaigning for any elective office in this state. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. The provisions of paragraph (a) shall not be construed so as to limit the political activity in a general, special, primary, bond, referendum, or other election of any kind or nature, of elected officials or candidates for public office in the state or of any county or municipality thereof; and the provisions of paragraph (a) shall not be construed so as to limit the political activity in general or special elections of the officials appointed as the heads or directors of state administrative agencies, boards, commissions, or committees or of the members of state boards, commissions, or committees, whether they be salaried, nonsalaried, or reimbursed for expense. In the event of a dual capacity of any member of a state board, commission, or committee, any restrictive provisions applicable to either capacity shall apply. The provisions of paragraph (a) shall not be construed so as to limit the political activity in a general, special, primary, bond, referendum, or other election of any kind or nature of the Governor, the elected members of the Governor's Cabinet, or the members of the Legislature. The provisions of paragraphs (b) and (c) shall apply to all officers and employees of the state or of any county or municipality thereof, whether elected, appointed, or otherwise employed, or whether the activity shall be in connection with a primary, general, special, bond, referendum, or other election of any kind or nature.

(2) An employee of the state or any political subdivision may not participate in any political campaign for an elective office while on duty.

(3) Any person violating the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Nothing contained in this section or in any county or municipal charter shall be deemed to prohibit any public employee from expressing his or her opinions on any candidate or issue or from participating in any political campaign during the employee's off-duty hours, so long as such activities are not in conflict with the provisions of subsection (1) or s. 110.233.

History.—s. 8, ch. 26870, 1951; s. 7, ch. 29615, 1955; s. 5, ch. 29936, 1955; s. 1, ch. 59-208; s. 18, ch. 65-379; s. 53, ch. 71-136; ss. 1, 2, ch. 74-13; s. 1, ch. 75-261; s. 30, ch. 79-190; s. 1, ch. 80-207; s. 628, ch. 95-147; s. 1, ch. 2006-275.

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**From:** Manka, Gary  
**Sent:** Sunday, February 24, 2013 4:03 PM  
**To:** Adamchak, Joanne M.; Goff, Brian; Gao, Helin  
**Cc:** Morgan, Jessica; Hussein, Karim; McDonald, Danielle  
**Subject:** Re: Student Referendum

Dear All,  
Attached is a pdf copy with referendum rationale and two questions. FYI. --gary

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**From:** <Adamchak>, "Joanne M." <JAdamcha@usf.edu>  
**Date:** Sunday, February 24, 2013 3:41 PM  
**To:** Brian Goff <bgoff@usf.edu>, "Gao, Helin" <hgao@usf.edu>  
**Cc:** Gary Steven Manka <gmanka@usf.edu>, Jessica Morgan <jmmorgan@usf.edu>, "Hussein, Karim" <karimhussein@usf.edu>, "McDonald, Danielle" <dmcdonald@usf.edu>  
**Subject:** RE: Student Referendum

I am not certain what the "question" is....why don't we get the referendum and the question together and we can discuss them on Monday morning.

To expedite this kindly send the text of the issues so we are certain we are all discussing the same things.

Jodi  
4-1683

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**From:** Goff, Brian  
**Sent:** Saturday, February 23, 2013 11:15 PM  
**To:** Gao, Helin; Adamchak, Joanne M.  
**Cc:** Manka, Gary; Morgan, Jessica; Hussein, Karim; McDonald, Danielle  
**Subject:** Re: Student Referendum

We will not put the second question on the ballot.

From my HTC Sensation 4G on T-Mobile. The first nationwide 4G network

----- Reply message -----

**From:** "Gao, Helin" <hgao@usf.edu>  
**To:** "Adamchak, Joanne M." <JAdamcha@usf.edu>  
**Cc:** "Goff, Brian" <bgoff@usf.edu>, "Manka, Gary" <gmanka@usf.edu>, "Morgan, Jessica" <jmmorgan@usf.edu>, "Hussein, Karim" <karimhussein@usf.edu>, "McDonald, Danielle" <dmcdonald@usf.edu>  
**Subject:** Student Referendum  
**Date:** Sat, Feb 23, 2013 7:06 pm

Dear Jodi,

In regards to the student referendum [REDACTED] Through conversation

with you concerning the topic. It is my stance that Student Government should not be making any political statement on behalf of the students. Therefore agreeing with Gary's statement as advised by legal, *"since SG is an arm of the university and since the university does not take on political referendums, SG does not as well."* I understand the topic of the referendum is political.

However, the issue I see is the referendum itself. Stated in SG constitution, *"Any student has the right to call for a University-Wide initiative/referendum election provide that a petition signed by at least 20% of the number of students that voted in the most recent general election"* Article V Section I. It does not outlaw specific topics of the referendum. Neither I or Student Body President Goff has the authority to stop this referendum, since the student has followed all appropriate steps to bring forth this referendum. I feel we are violating the student's right to the referendum process. This non-binding referendum isn't put forth by any branches of Student Government, rather it is an individual student, following the correct process to have their voice hear.

Student Government have passed pervious non-binding resolution in support of political topics, like the polytechnic and tuition issue last year. At this point it would be ill-advised of me to stand between the student and their right to the referendum.

Sincerely

**Jeff Gao**

Senate President

College of Engineering Senator

University of South Florida Student Government

4202 East Fowler Avenue, MSC 4304

Tampa, Florida 33620

(813) 974-2401 ext. 4857

[www.sg.usf.edu](http://www.sg.usf.edu)

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Muhammad Imam <imam@mail.usf.edu>

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## student referendum

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Manka, Gary <gmanka@usf.edu>

Thu, Feb 21, 2013 at 1:58 PM

To: "Imam, Muhammad" <imam@mail.usf.edu>

Cc: "Gao, Helin" <hgao@usf.edu>, "Morgan, Jessica" <jmmorgan@usf.edu>, "Hussein, Karim" <karimhussein@usf.edu>

Dear Imam,

I regret to inform you that the student referendum will not be placed on the election ballot next week. I have been advised that since SG is an arm of the university and since the university does not take on political referendums, SG does not as well.

Respectfully submitted,  
Gary S. Manka, Director  
Student Government Advising, Training & Operations  
University of South Florida  
4202 East Fowler Avenue, MSC 4300  
Tampa, FL 33620  
[813-974-4704](tel:813-974-4704)

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 winmail.dat  
4K



February 21, 2014

Attention: Thania Diaz Clevenger, [tclevenger@cair.com](mailto:tclevenger@cair.com)

CAIR  
Council on American-Islamic Relations  
8056 N. 56<sup>th</sup> Street  
Tampa, FL 33617

Your letter dated February 14, 2014, to the University of South Florida ("USF") has been forwarded to me for response. Rest assured, USF is fully complying with its first amendment obligations regarding all student organizations, including Students for Justice in Palestine ("SJP").

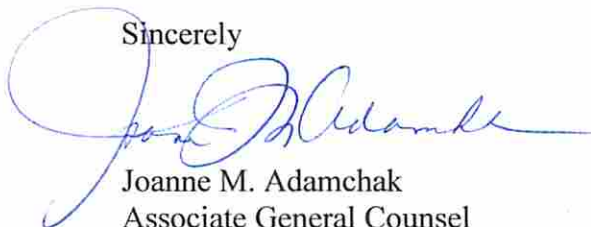
As you may recall, you and I and members of SJP met last year to discuss some of the issues raised in your correspondence. During our meeting on May 29, 2013, we discussed the referendum, the applicable statutes and regulations of concern, the Student Government Association's ("SGA") use of student fees to fund the election and ballots, and ways the referendum could have met posting deadlines and avoided possible confusion to the student voters. As we discussed at length, although SGA may use our office as a resource, SGA makes and issues independent determinations with regard to the election and related referendums.

Contrary to the assertion in your correspondence, the General Counsel's office did not "pressure" SGA officials to remove the referendum from the student ballot. As you are aware, the SJP referendum was posted on the Spring 2013 election ballot. Following the ballot, SGA notified students that notice and deadlines may have been missed regarding the SJP referendum and that SGA lacked authority to establish regulations or policies for USF. Also contrary to the argument in your letter, this action in no way violated any of SJP's constitutional rights or was inconsistent with SGA's mission.

With regard to SJP's "game show" event, USF received countless complaints regarding the event. USF also received specific questions regarding whether A&S fees were used to fund a prize or donation, which if true, would have violated SGA funding guidelines. USF reasonably investigated the concerns and responded to the complaints by consistently advising that, in a university setting, students must work together to balance the myriad of rights and responsibilities with regard to freedom of expression. In addition, the University has appropriately confirmed compliance with SGA funding guidelines.

In short, USF categorically denies that it has failed, in any way, to protect the constitutional rights of SJP. USF will continue to work to ensure that the university community enjoys the benefits of freedom of expression and a positive learning environment. You are welcome to contact me at your convenience if you have any further questions.

Sincerely

A handwritten signature in blue ink, appearing to read "Joanne M. Adamchak". The signature is fluid and cursive, with a large initial "J" and "A".

Joanne M. Adamchak  
Associate General Counsel  
813-974-1683