

IN THE SUPREME COURT)

Action No. 08 SSC 007)

Alyson Culin)
Member, Project Dinah)
PLAINTIFF)

Versus)

Tim Nichols)
Speaker of Student Congress)
DEFENDANT)

ANSWER

Done this the 16th day of February 2009.

- I. Jurisdiction. Admitted in part. The second claim in the complaint fails to state an alleged violation of the Student Code, Student Constitution, or any other applicable authority over which the Student Supreme Court has jurisdiction. See III Student Code §§ 401, 701.
- II. Standing. Denied. No standing exists until the bill in question is signed by the Student Body President, pursuant to Title III, Section 407 of the Student Code.
- III. Necessary Defendants. Admit.
- IV. Relief. Admitted in part. Congress amended the 2009-2010 Annual Budget (SCB 90-086) to remove a provision awarding funding in the amount of one thousand dollars (\$1,000) to Project Dinah and other factual allegations regarding official actions alleged to have been taken, but denied in the following respects based on the law:

1. Denied that conduct on behalf of Congress members was a violation of Title V, Section 108.

The mention of outside funding sources evident in the minutes was a proper criterion for deciding whether to fund the event or not. Title V, Section 202 under the heading “Guidelines for Funding” reads in pertinent part: “B. Vitality. SC should consider how vital a program is to the organization. *Criteria to be considered should be* the priority of the program in relation to other programs sponsored by the organization, *whether or not it is in part a fundraising program*, and how it would affect the morale of the organization.” (emphasis added).

Part D of section 202 lists a further permissible funding criterion: “D. Generated Funds, i.e. *outside income*.” (emphasis added). The minutes reflect that members were concerned whether the group had “outside funding” or would charge admission, which once collected would constitute Generated Funds, a permissible criterion for judging the request.

Alternatively, Defendant argues that the language used in Section 108 is mere guideline or suggestion, not mandate, and that it is a political question whether speculation is excessive (within the discretion of Congress to remedy through objection, ruling by the Speaker, and appeal to the full body). Title V, Section 108 reads: “There should be conscientious efforts made by SC to reduce speculation in regards to an organization’s ability to fund-raise or in regards to what effect partial funding of a program might have.”

Read in the context of the language of the rest of Title V, the Code uses the word “shall” (or other synonyms such as “must”) when it mandates an action. See Sections 102, 103, 104, 105, 106, 109, 201, etc. for “shall” mandates. See Sections 101 and 202 for examples of the use of suggestive terms such as “should”.

Finally, Defendant will produce affidavits sworn by members who voted to defund Plaintiff’s program which will show that any speculation on the group’s ability to fundraise was not the primary factor in their decision on how to vote. Regardless, the decision whether to fund the group was a political question, with a political remedy for excessive speculation (objection, ruling, appeal). It is not the province of the Court to second guess political decisions made based on permissible funding criteria.

2. Denied that reliance on a general funding/budgetary philosophy (referenced in “Title V for Dummies”) was improper.

The Code clearly and specifically prohibits impermissible criteria for judging funding requests. See “Viewpoint Neutrality” Title V, Section 109: “Funding decisions for programs, services or events shall be made without regard to the viewpoints expressed.”

However, the code does not prohibit other legal criteria from being used, especially when dealing with general budgetary philosophy. By tradition, many general principles that are not codified are used when budgeting, such as frugality, fairness and equity, and precedent. Other budgetary rules are used as well, such as the unwritten budgetary rule requiring across the board cuts during annual budget in order to stay out of deficit, and the general (though uncodified) rule that Congress will only fund half of a publication’s issues, plus one extra issue per year.

Congress members are free, and must be allowed to remain free, to vote based on lawful principles. The Code nowhere prohibits the principle in question, that Congress should only fund the same speaker once every four years. Plaintiff alleges no violation of any Code provision in regards to this allegation. Therefore, Plaintiff’s fails to state a valid claim upon which relief can be granted.

V. Demand for Summary Judgment. Defendant prays that the Court grant summary judgment for the defendant on the first claim and dismiss the second claim. The facts are not in dispute. Defendant argues that the conduct of Student Congress members was not a violation of the law on either count. The question before the court is a matter of law. Therefore, Defendant is entitled to summary judgment based on the law.

I do affirm that I have read in full the foregoing complaint and that the allegations contained therein are true to the best of my knowledge and belief.

Respectfully submitted,

DEFENDANT

Tim Nichols
Speaker, Student Congress