



## **Allegation 2021-08**

February 25th, 7:50 pm

### **ADVISORY OPINION OF THE JUDICIAL COUNCIL**

In this case, the Judicial Council identified two (2) questions before it relating to the *Constitution of the Undergraduate Student Body of the University of Notre Dame du Lac*. The two questions is as follows:

1. By communicating an endorsement from a former Student Body President with the words, “One of the best minds of stu gov ([former president]) just backed [alleged party],” does a candidate communicate that endorsement such that it could be construed to represent that of “a Residence Hall, Student Union Organization,” or “University department, office, or official” under Article XV, Section 1(g)(6)?
2. Alternatively, does the endorsement in question violate Article XV, Section 1(g)(4)?

When the Judicial Council receives an allegation, the “The Vice-President of Elections along with the Judicial Council President and the advisor to Judicial Council shall decide if the allegation has merit,” and as long as it does, the “Vice-President of Elections must then call together the members of the Election Committee to review the allegation” (Article XII, Section 4(b)). The Vice-President of Elections thus presumes that allegations will be decided by the Election Committee unless, viewing the facts in the light most favorable to the alleging party, there is simply no plausible constitutional argument under which a violation has occurred. In these specific instances, the Judicial Council instead rules that the allegation lacks merit to proceed to a hearing.

Therefore, we now consider whether any such plausible argument exists. The communication in question is an Instagram story which shares a post and adds the original language, “One of the best minds of stu gov ([former president]) just backed [alleged party]. I know how I’m voting tomorrow!” This story came not from either of the candidates in the alleged party, but rather from a member of their campaign team. In order to give the alleging party the benefit of the doubt, as we do in the merit stage of an allegation, we assume that finding a constitutional violation under either Section 1(g)(6) or Section 1(g)(4) would implicate the alleged party’s ticket under Section 1(d), which prohibits the candidates themselves from “involvement in” . . . “unethical behavior.”



We therefore move to the first constitutional question. Could this communication be construed to represent the endorsement of a Student Union Organization, Residence Hall, or University department, office, or official? Clearly, no Residence Hall or University department, office, or official is related to this post. Nor could this communication be construed to represent that of a Student Union Organization. Article I, Section 2(b) lists the Student Union Organizations. None of them are mentioned or alluded to in the post, which only broadly gestures at “stu gov,” or Student Government. However, even if we assume for the sake of argument that the alleged party *did* refer to a specific Student Union Organization—say, Executive Cabinet, for example—no reasonable observer would construe the words “one of the best minds of stu gov” to mean “The entire Student Government,” let alone “The Executive Cabinet.” This is because the member of the alleged party’s campaign team who made the post explicitly identified the endorsement as coming from an individual—“*one of the best minds of stu gov*” (emphasis added)—rather than from the group to which they once belonged. Just as a reasonable observer would not construe an individual described as “one of the best minds of Keough Hall” to represent the entire Hall, a reasonable observer likewise would not construe the individual described as “one of the best minds of stu gov” to represent the entire Student Government or one of its constituent organizations. There is simply no plausible way to stretch Section 1(g)(6) so far that it prohibits the communication in question.

The argument for merit becomes even weaker when one considers the context. In Precedent 1920-02, the Election Committee considered a supposed endorsement—the appearance of a plush toy associated with a Residence Hall—in the context of a video in which it appeared. In the same manner, we now consider the words added to the reposting of an original video in light of the context of that video itself. The subject of the video—a former Student Body President—said they had already graduated from Notre Dame in 2020, that they were now a Master’s student, and that they “served in Student Government in the past.” Given the context, it is clear to any reasonable observer that “stu gov,” as used in the reposting of that video, refers to the service which was explicitly said to have taken place in the past, and is not meant to represent that of the current Student Government.

Clearly, then, there is no plausible constitutional argument that the alleged party or its campaign violated Section 1(g)(6). However, because one reason this communication falls outside of 1(g)(6) is its explicitly *individual* character, we now consider whether the endorsement was prohibited by Section 1(g)(4), which lays out the *individuals* who cannot endorse. This section prohibits “Individuals holding the following offices enumerated in this Constitution” from endorsing: “(A) Student Body President.” Therefore, the individual who holds the office of Student Body President may not make an endorsement. It is equally obvious that past Student Body Presidents, who are not



“holding” the office, may make endorsements. There is no plausible argument that the alleged party or its campaign violated Section 1(g)(4), either.

The Judicial Council does not take the decision to dispose of an allegation without a hearing of the Election Committee lightly. This is why we give the alleging party the benefit of the doubt at every turn—considering the communication in question both with and without context, assuming that the communication of a campaign member implicates the candidates, assuming that “stu gov” refers to a Student Union Organization, and checking whether there was a violation of the constitutional sections pertaining to endorsements both from groups and individuals. But after conducting this exhaustive survey in the light most favorable to the alleging party, we cannot find a plausible argument that a constitutional violation has occurred.

Given the facts as they have been presented to us, the Judicial Council determines that Allegation 2021-08 lacks merit to proceed to a hearing at this time.

*It is so ordered.*