

Office of the Attorney General of the University of Tennessee at Martin

03-001

April 8, 2003

Question: Was the election of Monday, April 7 and Tuesday, April 08, 2003 for the Student Government Association of the University of Tennessee at Martin unconstitutional?

Opinion

Yes, the election for the Student Government Association of the University of Tennessee at Martin was unconstitutional as it violated Article VII, Sections (2)(D), (2)(F), (3)(A), (4)(A), and (4)(F).

Analysis

Article VII, Section (2)(D) states:

“[The election commission shall] Provide adequate information concerning all elections to the Communications Committee for use in the school newspaper before and after the election; the information released before the election shall include a list of all poll locations.”

The Pacer issue released April 4, 2003 (Volume 25, Issue 26) stated that there would be five (5) positions in the College of Humanities and Fine Arts delegation to the Student Government Association Senate to be filled in the election occurring on Monday, April 7, 2003 and on Tuesday, April 08, 2003.

In a meeting held on April 2, 2003 at 11 o'clock a.m. where Dr. Katie High, Mr. David Belote, Mr. Steve Vantreese, among others were in attendance, the number of students in each school at UTM were discussed. As a result of this meeting, the number of students apportioned for the College of Humanities and Fine Arts was lowered to three (3).

Article VII, Section (2)(F) directs the election commission to “obtain a current copy of all full-time enrolled UTM students from the office of Student Affairs to be utilized in the execution of SGA elections.” This obligation was apparently not done prior to the transmission by the election commission to the Communications Committee and through them, to *The Pacer* of the number of positions for Humanities and Fine Arts. This is a violation of the SGA Constitution by the election commission. Because of the incorrect printing of the number of positions to be filled, students in the College of Humanities and Fine Arts as well as candidates for that school's seats were misled.

Further violations of the SGA Constitution by the election commission included:

- ❑ Article VII, Section (3)(A), which states “[Duties of the Election Commissioner shall be to] Supervise and direct the arrangements of the Election Commission for the proper execution of election.” By improperly informing *The Pacer* of the number of seats to be filled in the College of Humanities and Fine Arts, the Election Commissioner failed to direct the arrangement of the Election Commission for a proper execution of the election.
- ❑ Article VII, Section (4)(A), which states “[Administrative duties of the Elections Commission shall be to] arrange for necessary polling area(s), ballots, and other items necessary for an efficient and legal execution of elections with the approval of the Procedures Committee.” The violation occurred when the election commission provided computerized ballots with a different number of options than what *The Pacer* stated on April 4, 2003, which interfered with the legal execution of the election.
- ❑ Article VII, Section (4)(F), which states “[Administrative duties of the Elections Commission shall be to] Set and announce all dates for all SGA referendums and elections at least four weeks prior to the date. *When announcing date, shall announce those items to be voted on or those positions to be filled by election.* Shall set and announce all due dates for petitions of potential candidates.” Since the information was not announced until April 4, 2003, this section was violated and the election of April 7 and April 8, 2003 was therefore illegal.

It is the opinion of this office that the election held on Monday, April 7, 2003 and on Tuesday, April 08, 2003 for the Student Government Association was unconstitutional and therefore illegal. However, in the interest of expediency and fairness to candidates for the executive council and from schools other than Humanities and Fine Arts, it is the opinion of this office that only the election for the seats in Humanities and Fine Arts should be held invalid and be declared null and void.

Michael B. Baggett, Attorney General of the University of Tennessee at Martin
Tuesday, April 08, 2003