

Majority Opinion

Chen and Penukonda v. Board of Elections

April 7, 2014

Associate Justice William F. Giles, V
Associate Justice Jonathan Z. Chapman, III
Associate Justice Catherine Y. Fei
Associate Justice Zachary D. Fuchs
Associate Justice Dana A. Raphael

The petitioners, Mr. Chen and Mr. Penukonda, are both candidates for the office of Vice President of the Class of 2016 Class Council. Both petitioners duly filed the requisite signatures in order to be placed on the ballot and were initially notified that they were both eligible. However, on April 5, 2014, the Board of Elections notified Mr. Chen that he had been ruled ineligible to run for the aforementioned position on the grounds that he was planning to study abroad in the fall of 2014, and thus would not be physically present at Duke University during the first semester of the Vice Presidential term. Mr. Penukonda, although not initially notified by the Board of Elections that he was disqualified, is also planning to study abroad in the fall of 2014. Mr. Chen and Mr. Penukonda are petitioning the Judiciary to be reinstated on the ballot.

Let it be noted that the Judiciary issued an injunction on April 6, 2014, that allowed the petitioners to remain on the ballot pending decision of this case. This injunction has now been lifted.

The Board of Elections based its decision upon the following criteria:

1. Article XI of the DSG Bill of Rights states, *“Every undergraduate student, enrolled in Duke University and subject to the Student Activities Fee, is a student within the meaning of this Bill, a member of the student body, and a constituent of Duke Student Government.”*
2. Title IV, subsection A, of the 2014 Duke Student Government Election By-Law states that *“All undergraduate students attending Duke University are eligible to run for DSG Senate or Executive office. Candidates for class offices must be a member of the class for which they are running. Visiting students are eligible if they will be enrolled the entire term of the office for which they are running.”*

The respondent argues that Mr. Chen and Mr. Penukonda are in violation of Article XI of the DSG Bill of Rights due to the fact that, as students who are studying abroad (i.e. not physically at Duke University), they are not paying the Student Activities Fee, and are therefore not defined as “students” under Article X. The petitioners then cannot be considered “students” under Title IV, subsection A, of the 2014 Duke Student Government Election By-Law.

The respondent further contends that under Title IV, subsection A, of the 2014 Duke Student Government Election By-Law, the student must be *“attending Duke University [to be] eligible to run for DSG Senate or Executive office.”* The respondent claims that since the petitioners will not be “attending” (physically present) at Duke University, the petitioners are ineligible to run for the office of Vice President of the Class of 2016 Class Council.

Opinion

The Judiciary finds in favor of the petitioners, Mr. Chen and Mr Penukonda, and vacates the decision by the Board of Elections to declare the petitioners ineligible to run for the office of Vice President of the Class of 2016 Class Council. The Judiciary orders the Board of Elections to reinstate the petitioners on the ballot.

The Judiciary's rationale is based on Title IV of the DSG Election By-Law. The By-Law states that "*All undergraduate students attending Duke University are eligible to run **for DSG Senate or Executive office.***" This is not applicable in the petitioners' case because they are running for neither DSG Senate nor an Executive office, which are defined as the following:

1. The DSG Senate "*shall consist of sixty senate positions to be either popularly elected or appointed at large to yearlong terms*" per Article IV Section 2, of the DSG Constitution.
2. The Executive Office "*shall be composed of the Executive Board and the Presidential Cabinet*" per Article III, Section 1, of the DSG Constitution with the Executive Board being further classified as being "*composed of the DSG President, Executive Vice President, and the seven Vice-Presidents of DSG's standing committee*" per Article III, Section 2, of the DSG Constitution.

The office of Vice President for the Class of 2016 Class Council does not fall under this constitutional definition. Class Councils are considered to be affiliates of DSG. The **only clause** that lists the eligibility of qualifications for class offices is the following under Title IV of the DSG Election By-Law: "*Candidates for class offices must be a member of the class for which they are running.*" As this is the only applicable clause defining the qualification to be eligible to run for class offices, this renders the respondent's claims regarding the enrollment and attendance of the petitioners moot.

The Judiciary finds that Mr. Chen and Mr. Penukonda are members of the Class of 2016, thus satisfying Title IV, and therefore declares the petitioners to be eligible to run for the office of Vice President of the Class of 2016 Class Council.

It is so ordered.