



**General Counsel Opinion
GC 2025–005
October 24, 2025**

Questions Presented

- 1) Does the SGA Constitution require that Dean Search Committee (“Search Committee”) nominees go through an advice and consent process?
- 2) Does the current procedure for nominating Dean Search Committee members count as “advice and consent”?

Brief Answers

- 1) Yes, the SGA Constitution, Article IV, Section 4, requires the advice and consent of the legislative branch for Dean Search Committees unless the Court overrules *Monlux v. SGA*, SC 2017-001.
- 2) The current procedure for nominating Dean Search Committee members counts as “advice and consent” because SGACA Title III, Chapter 2, Section 1.a.ii should be interpreted as an exception to SGACA Title II, Chapter I, Section 6.a.

Factual Background

A prior General Counsel opinion, GC 2025–003, addressed concerns about the advice and consent procedure for Search Committee positions. Specifically, the issue was that the Board of Regents often requests Search Committee nominees on short notice, while the standard advice and consent process for most SGA positions can take up to two weeks or longer. This delay occurs because the standard process requires the passage of a bill at meetings of both the Undergraduate Student Congress and the Graduate Student Senate, which meets every other week. If the SGA fails to provide nominees within the Board of Regents’ timeline, the Board of Regents may move forward without student representation.

GC 2025–003 proposed and endorsed a possible procedure designed to preserve the Legislative Branch’s advice and consent authority while allowing for the faster selection of Search Committee nominees. Under the GC 2025–003 procedure, all students would have the opportunity to complete a general application to serve as candidates for their respective college’s Search Committee or

similar committees. These candidates would undergo the standard advice and consent process in advance, allowing SGA to call upon these candidates as needed by the Board of Regents.

However, for this procedure to take effect, the Legislative Branch must formally enact it. To date, the Legislative Branch has not done so. This inaction is largely due to the difficulty of predicting which Search Committees the Board of Regents will need ahead of time as well as the significant effort required to recruit and evaluate candidates for positions that may never be needed.

Since then, the Superior Court has decided to hear arguments on this issue. We believe that this matter is best addressed through a General Counsel opinion instead of a hearing, as there is currently no identifiable plaintiff. This opinion is binding on the SGA unless a student appeals it, in which case the issue would proceed to a hearing before the Superior Court.¹

Constitutional and Statutory Provisions Relied Upon

Article IV, Section 4(1) of the SGA Constitution provides that “[t]he Student President shall have power, with the advice and consent of the Legislative Branch, to nominate and appoint all officers of the SGA not otherwise provided for.”

SGACA Title II, Chapter I, Section 6(a) provides that “[a]dvising and consenting bills are Acts of Legislation. The advice and consent process follows the same procedure as any other legislation and the bills are binding.”

SGACA Title III, Chapter 2, Section 1(a)(ii) provides that “[r]epresentatives to Search Committees shall be nominated by the SGA President and approved by the Chair of the Undergraduate Student Congress and the Chair of the Graduate Student Senate. This can be approved through email or an in-person meeting.”

Analysis

Constitutional Interpretation

The SGA Constitution does not explicitly mention Search Committees. Based on this reasoning that Presidential Search Committees were not mentioned in the SGA constitution, *Monlux* concluded that Presidential Search Committee nominees were “officers of the SGA not otherwise provided for.”² Dean Search Committees should be considered analogous to Presidential Search Committees because all Search Committee nominations are governed by the same Board of Regents and SGA rules and considered to be specialized committees which include faculty, staff, and students.

¹ SGACA tit. IV, ch. 5, § 3(b).

² *Monlux v. SGA*, SC 2017-001.

However, there is good reason to question this conclusion of *Monlux*. The absence of language mentioning Search Committees indicates that the framers of the SGA Constitution did not intend these positions to be considered within the ordinary framework of SGA offices or appointments. The structure of the SGA Constitution divides power among the Executive, Legislative, and Judicial branches. Each branch governs the internal affairs of SGA and executes functions on behalf of the student body, within the confines of their branch.

The Board of Regents maintains ultimate authority over Search Committees, including their formation, composition, and purpose. Search Committee appointees serve to assist the Board of Regents in carrying out institutional duties—such as selecting a President, Dean, or other University official—not to execute the functions of SGA. Therefore, these appointees should not be considered officers of the SGA, but rather representatives of the Board of Regents whose selection is facilitated by SGA.

This interpretation aligns with an analogy to the Student Legal Services (SLS) attorney, who, although referenced in the SGACA and financially supported by SGA, is not considered an officer of any branch of SGA and not subject to the advice and consent process.³ In both cases, the individuals represent external entities that collaborate with SGA but operate outside of its constitutional structure. Their appointments are aided by SGA, but the SGA does not have the final say.

Statutory Interpretation

Since the SGA Constitution only requires the advice and consent of the Legislative Branch but does not specify what is considered “advice and consent,” we look to statutory definitions. Notably, there is no provision in the Constitution that requires that the advice and consent process works the same way for all positions. Therefore, the SGACA could require a lengthy advice and consent process for most positions while requiring only an abbreviated advice and consent process for some positions.

We find that this is exactly what the SGACA has done. The general rule, set out in SGACA Title II, Chapter I, Section 6(a), is that advice and consent needs to be passed as a bill for most officers, which would require a meeting of the Undergraduate Student Congress and Graduate Student Senate and approval by both houses. However, the SGACA acknowledges that the advice and consent process can look different for different positions. For example, the SGACA requires only some subjects of advice and consent legislation to be present at the relevant meetings.⁴

³ See generally, SGACA tit. XI, ch. 3.

⁴ SGACA tit. II, ch. 1, § 6(c).

Similarly, by creating a special procedure to nominate representatives to Search Committees under SGACA Title III, Chapter 2, Section 1(a)(ii), the Legislature intended to create a streamlined way to seek the advice and consent of the Legislative Branch for such time-sensitive nominations. This streamlined procedure still meets the constitutional requirement that the Legislative Branch has a say in who is appointed because it requires the chairs of the Undergraduate Student Congress and Graduate Student Senate to approve of the SGA President's nominee. This maintains the separation and balance of powers between the executive and legislature and also preserves the traditional process utilized by Search Committees.

A canon of construction known as *lex specialis non derogat legi generali* (“*lex specialis*”) supports this conclusion. A canon of construction is a way to resolve a dispute between two statutes. *Lex specialis* means that a more specific law governs over a more general law because the Legislature clearly thought about the more specific situation, indicating that the Legislature's intent was for the more specific law to govern the specific situation. Unless the Legislature includes words like “notwithstanding” or “subject to” or otherwise indicates a clear legislative intent for the general law to control, *lex specialis* applies to this conflict between statutes. The more specific statute is SGACA Title III, Chapter 2, Section 1(a)(ii), which governs over SGACA Title II, Chapter I, Section 6(a). This means that Dean Search Committee nominees can use the special advice and consent procedure instead of the general procedure.

Policy

The SGA's mission to “prioritiz[e] student voices”⁵ supports the conclusion that the current expedited advice and consent process for Dean Search Committees is appropriate. Without a quicker procedure, students would lose their opportunity to participate meaningfully in the Board of Regents' hiring process, as the standard advice and consent timeline would likely exceed the Board's deadlines.

The Board of Regents serves as a higher authority over the University, above the SGA and its Constitution. When the Board of Regents requests student participation on Search Committees, failing to provide nominees would undermine the Board's intent and the SGA's responsibility to ensure student representation in University decision-making.

Accordingly, there is a strong policy rationale for the SGA to fulfill its mission of representing student interests while simultaneously respecting the authority and procedural requirements of the Board of Regents. The current expedited advice and consent process effectively balances these two objectives.


⁵ SGACA tit. I, ch. 8, § 1.

Caveats

This opinion is limited to finding that the current Dean Search Committee advice and consent procedures are constitutional under the SGA Constitution. This opinion should not be construed as an endorsement or disapproval of the procedures that the Superior Court is following regarding this issue. This opinion should not be construed to prevent future legislative or constitutional amendments to any existing advice and consent procedures. The current procedures establish the minimum standard for the nomination and vetting of Dean Search Committee candidates, unless the Superior Court overturns *Monlux* or the SGA passes a constitutional amendment.

The Legislative Branch retains authority to amend the existing statutes to create a new solution that increases their advice and consent powers over such nominations. However, in doing so, the legislature should make all efforts to preserve the SGA's central mission to ensuring student representation in University governance and avoid any outcome that diminishes student participation in the Search Committee process.

This is the opinion of the General Counsel.


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