

December 9, 2011

FROM: Donald Garrett [REDACTED]
TO: The Elections and Disputes Commission
RE: Bill 24 Grievance

Good Morning!

There is no standard form for submitting grievances pursuant to 4CSG § 2.203. Please accept the attached grievance and motion to disqualify for consideration in the Disputes Board. If you have any questions, please feel free to contact me. I do request a hearing on the grievance. However, since it is the end of the semester, I do completely understand if the hearing cannot be held until the Spring Semester.

DIG

Enclosures

Grievance Questioning the Constitutionality of Bill 24 (32nd Student Senate)

Pursuant to 4CSG § 2.203, I request a hearing on the constitutionality of Bill 24. Bill 24 is in violation of Article II, Section 4 and Article II, Section 6 of the Student Body Constitution and the First Amendment to the United States Constitution. This grievance is against the author of the bill.

Violation of the Senatorial Rule-Making and the Veto Clauses

Bill 24, in part, states:

§ 403 Bills to Amend the Code of Student Governance

Bills to amend the Code of Student Governance shall be drafted to conform to the structure of the Code of Student Governance of George Mason University, as provided in chapter 3. Such Bill shall require a two-thirds vote of the Senate.

Bills to amend the code of student governance should only have to require a majority vote. Article II, Section 4 states, “The Student Senate shall establish uniform rules for Student Governance.” In keeping with the principle of Lex Majoris Partis, the majority shall decide unless it is stated elsewhere.

I would like for the EDC to define what exactly an amendment is. If you amend the code of student governance, is it nothing more than repealing the current statute then establishing a new one?

Furthermore, this clause conflicts with Article II, Section 6 and the separation of powers guaranteed by the Student Body Constitution. This article states, in part:

Every bill which shall have passed the Student Senate, shall, before it become a Statute, be presented to the Student Body President of George Mason University; if the President approves, the bill shall be signed, but if not, the bill shall be returned with any objections to the Senate which shall...proceed to reconsider it. If after such reconsideration two thirds of the body shall agree to pass the bill, it shall become a statute.

This provision of the constitution provides that two thirds Student Senate can override the veto of the Student Body President. By requiring that certain bills pass the Student Senate with a two-thirds vote, this usurps the influence and power of the President to veto bills. The Elections and Disputes Commission in the decision on Grievance 2001-008 highlighted that a single branch of Student Government could not usurp the roles and responsibilities of another. Bill 24 does just that.

Free Speech Violation

Bill 24, in part, amends the Code of Student Governance to read the following:

Chapter 4: Amending the Code of Student Governance

§ 401 Quarterly Calendar of Amendments to the Code of Student Governance

The Speaker of the Student Senate shall at the beginning of the Academic year, break the year up into quarters. These quarters shall match up with the established Financial

Quarterly Calendar as established in Title V Chapter 1 §102.1. At the end of these quarters, the Code shall have the opportunity to be amended. These four times shall be the only times in the Academic Year that the Code of Student Governance can be amended, with the exception of cases that apply to §404.

§ 402 Process to Amend the Code of Student Governance

The process for amending the Code of Student Governance shall go as follows:

- (1) Three weeks before the end of each Quarter, the Speaker of the Student Senate shall ask the Chair of the Government & Academic Affairs Committee to offer a bill for amendments to the Code of Student Governance, which shall then be open to any senator for any submitted changes.*
- (2) Senators shall have until noon on Tuesday of the second week before the end of the Quarter to submit any changes and amendments to the Code, to the Chair of the Government & Academic Affairs Committee to add to the Bill. If no amendments are submitted by the established time, then the bill will not proceed.*
- (3) The Chair of the Government & Academic Affairs Committee, on behalf of the Government & Academic Affairs Committee, shall submit the Bill for First Reading to the Clerk of the Student Senate by 4:30pm on Wednesday of the second week before the end of the Quarter.*
- (4) The Bill shall then, at the discretion of the Speaker of the Student Senate, be sent to the Government and Academic Affairs Committee to be approved for Second Reading during the last week of the Quarter but before the Senate meeting in that last week.*
- (5) Upon passage of the Bill in the Government and Academic Affairs Committee, the Student Senate shall vote on the Bill on the Thursday of the last week of the Quarter.*

§ 403 Bills to Amend the Code of Student Governance

Bills to amend the Code of Student Governance shall be drafted to conform to the structure of the Code of Student Governance of George Mason University, as provided in chapter 3. Such Bill shall require a two-thirds vote of the Senate.

§404 Emergency Amendments to the Code of Student Governance

If an emergency, which shall be determined at the discretion of the Speaker, arises, then the Speaker may ask the Chair of the Government & Academic Affairs Committee, on behalf of the Government & Academic Affairs Committee, to write a bill to address the emergency amendment. The bill will then be submitted to the Clerk of the Student Senate at the next opportunity to do so, for First Reading. The Bill, at the discretion of the Speaker, shall then be sent to the Government & Academic Affairs Committee to be approved for Second Reading. If approved by the Government & Academic Affairs Committee, the Bill shall be reported back to the Senate at the following Senate meeting to be voted on by the entire Senate.

This severely limits the rights of Student Senators to free speech and being able to represent constituents. During the debate in Senate on Bill 24, Matthew Short said that this provision would prohibit individual Senators from submitting bills to amend the code and that only the committee could do it. He also went along by suggesting that this was added in so that no one

person can claim credit for a code change and only the committee could claim it amends the Code of Student Governance.

This is an unreasonable limitation to Senators' ability to legislate. First of all, this portion of Bill 24 makes it so that Senators can only submit bills to amend the Code at certain portions of the year. While the Senate is in session, it has the authority to exercise its power to "establish uniform rules of Student Governance" (Article II, Section 4). A Senator's ability to submit legislation can only be limited if the Senate votes to recess or adjourn.

Secondly, this portion of Bill 24 makes it so that all bills to amend the Code must be combined to one big, omnibus bill. This is another unreasonable limitation to the Senator's ability to legislate. By forcing bills to one big omnibus bill, it forces the Senate to accept riders and unwanted portions of legislation.

This is detrimental to the fundamentals of deliberative democracy. Each Senator should have the right to submit his bill without having it changed and altered to fit to someone else's. What happens if two opposing Senators submit competing changes to the same section of the Code of Student Governance? How will they be combined together to the same bill? This portion of Bill 24 is not feasible.

Finally, this portion of Bill 24 ruins the basis of Representational Democracy. By limiting Senators from submitting their own bills and ideas, they cannot be held accountable to the Electors. The Electors elect Senators to do work on their behalf. If the Senators cannot claim credit for their ideas that they championed, the Electors cannot distinguish between which Senators they should elect or reject.

Miscellaneous

Please receive a copy of Bill 24, as signed, from the Student Government Advisor as I do not possess an engrossed copy.

Motion to Disqualify

Pursuant to 4CSG § 105, the petitioner, Donald Garrett, moves to disqualify Commissioner Santiago from considering the constitutionality of Bill 24.

Background

On March 10, 2011 Commissioner Santiago was a member of the Student Senate. At the Senate meeting that day, the Senate voted on Bill 34. Bill 34 of the 31st Student Senate originally amended the Code of Student Governance to require that Bills to Amend the Code require a two-thirds vote. I question his impartiality for his vote is a statement he has made on part one of this grievance.