

**A Bill to Amend the Code of Student Governance
B. #40**

39th STUDENT SENATE
1st Session
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A Bill to Amend the Code of Student Governance

**IN THE STUDENT GOVERNMENT
OF GEORGE MASON UNIVERSITY**

February 14th, 2019

Sponsored by: Speaker Pro-Tempore Price
Co-Sponsored by: Chairwoman Bates

Bill #40

Be it enacted by the Student Senate of George Mason University –

A. That Title IV: be amended to read the following in the Code of Student Governance:

Title IV: The Election & Disputes Commission
Chapter 1: General Provisions

§ 101 Membership

There shall be no more than nine Commissioners serving on Elections & Disputes Commission, and no fewer than five Commissioners. If there are fewer than five commissioners, the Elections and Disputes Commission will not be allowed to meet until there are at least five commissioners.

§ 102 Publication of Rulings and Other Records

The decisions of the Elections & Disputes Commission under Student Government shall be printed and distributed as soon as practicable after rendition. This shall apply to all other Commission documents. Annually they shall be bound and published in the Reports of the Student Government. All decisions shall be posted to the Student Government website within 24 hours since they have been released.

§103 Public Access to Commission

The Elections & Disputes Commission and its agencies shall be open to the public and all hearings by said commission shall be conducted openly, unless otherwise specifically restricted by statute. All commission hearings shall, upon request, provide the public access to the Commission documents.

§ 104 Deliberations

All deliberations of the Elections & Disputes Commission and its agencies shall be conducted in secret as per judicial tradition, but the ~~record of such deliberations~~ **decision and its justification** shall be made public as soon as practical after the rendition of a decision.

§ 105 Disqualification

Any Commissioner shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. A petitioner or respondent shall have the right to make a motion to disqualify a commissioner, which shall require a 2/3 votes of the Commission or its Agencies to be adopted.

§ 106 Oath of Office

Commissioners shall be bound by an oath of office, pursuant to Article IV, Section 2 of the Student Body Constitution.

SUBTITLE I: ORGANIZATION OF THE ELECTIONS & DISPUTES COMMISSION

Chapter 2: Elections & Disputes Commission

§ 201 Number of Commissioners and Quorum

The Elections & Disputes Commission of George Mason University shall consist of a Chairman of the Elections & Disputes Commission and Associate Commissioners. ~~The Elections & Disputes Commission shall not consist of an even number of Commissioners.~~ Quorum shall consist of no less than the Chairman of the Elections & Disputes Commission and four Associate Commissioners.

§ 202 Terms of Commission

The Elections & Disputes Commission shall hold term commencing on the first Monday in May each year. The Commissioners shall hold Office as long as their tenure at George Mason University.

§ 203 Selection of the Chairman of the Elections & Disputes Commission

At the opening of the first term, a quorum of the new Commission shall elect among their number a Chairman of the Elections & Disputes Commission until the end of his tenure or until a successor is elected.

§ 204 Duties and Powers of the Chairman of the Elections & Disputes Commission

The Chairman of the Elections & Disputes Commission shall have the following duties and powers:

- (1) The duty to preside over sessions of the Elections & Disputes Commission and to see to it that the rules and regulations of the Elections & Disputes Commission are properly executed;
- (2) The duty to see to it that all cases it hears are properly and thoroughly investigated;
- (3) The duty to see to it that all parties have counsel if so desired;

(4) The power to represent the Elections & Disputes Commission in an official capacity to the other branches of the Student Government, and to the public.

§ 205 Vacancy or Disability in the Office of the Chairman of the Elections & Disputes Commission

Whenever the Chairman of the Elections & Disputes Commission is unable to perform the duties of office or the office is vacant, the powers and duties of the office shall devolve upon the associate commissioner next in precedence who is able to act, until such time as the disability is removed or the Commission elects another Chairman of the Elections & Disputes Commission.

§ 206 Precedence of Associate Commissioners

Associate Commissioners shall have precedence according to the seniority of their commissions. Commissioners whose commissions bear the same date shall have precedence according to seniority in class standing.

§ 207 Qualifications for Office

Commissioner shall be qualified electors, meaning that they must be a student at George Mason University, and must not be otherwise disqualified from voting in a general or special election. Commissioners shall be qualified to continue in office provided they are considered in good academic standing with the University Registrar.

§ 208 Appointment and Term of Commissioners

- (1) The applicant must be chosen, by the Student Body President, from any student in good standing at George Mason University;
- (2) Once chosen the Student Body President must submit the name of the Applicant, in writing, to the Speaker of the Student Senate;
- (3) The Student Senate, at its next meeting, must deliberate and may, by a two-thirds vote of the Senate, appoint the Applicant as an Associate Commissioner of the Elections & Disputes Commission;
- (4) Commissioner shall serve until their date of graduation from the University.

§ 209 Vacancies

If a Commissioner shall have resigned, graduated, or been removed from office, a new Commissioner will be selected concurrent with 4 CSG §208.

§ 210 Officers of the Commission

~~The Commission shall have the power to hire officials to assist in the execution of its duties established under the Student Body Constitution or this Code, such officers may include a clerk and one or more deputy clerks as needed, and who shall serve at the pleasure of the Elections & Disputes Commission. Clerks shall assist the Commission or the several Commissioners with administrative duties falling under the purview of the Commissions conduct of business.~~

§ 210 General Restrictions

No Commissioner shall assist any candidate for office or participate in any political Student Government campaign having a vested interest in the outcome of any election administered by the Commission;

§ 211 Attendance

Every Commissioner is responsible for attending general pre-scheduled Election and Disputes Commission meetings that are scheduled together by the Commission as a group. After 2 unexcused absences, a commissioner will receive a warning from the Commission. After 3 unexcused absences, a commissioner will be immediately removed from office. Meetings scheduled 72 hours or less in advance, such as grievance meetings, will not count in the attendance policy. The Commission will be required to keep track of attendance and immediately report to the Senate whether a commissioner received a warning or received 3 unexcused absences, which will result in removal from office.

§ 212 Removal from Office

If any commissioner does not adhere to the Attendance policy or does not execute any other responsibilities outlined by the Election Code, the Code of Student Governance, and the Student Body Constitution then they are immediately placed on grounds for removal from office notified of their removal from office by the Chair of the Commission. The removed commissioner may appeal this decision to a meeting of the Elections and Disputes Commission within a week of notification.

§ 213 Reporting

(1) The Commission shall report to the Senate or to the President upon request;

(2) Within two weeks following an election, the Commission shall submit a written report to the Senate assessing the operations of the election. The report shall include conclusions on the effectiveness of election regulations, and recommendations on ways to improve electoral administration.

Chapter 2.1: Election Judicial Board

§ 2.101 Establishment of Election Judicial Board

The Election Judicial Board is established as an agency of the Elections and Disputes Commission.

§ 2.102 Membership

The Election Judicial Board shall consist only of Commissioners. It is lead and moderated by a Chairman who shall only vote in the case of a tie. The Chairman of the Elections and Disputes Commission shall be an ex-officio member of the Board with the power to debate but not vote.

§ 2.103 Original Jurisdiction

The Election Judicial Board shall have the power to investigate and rule on any grievances claiming violation of election regulations and administer any necessary remedies. The Election Judicial Board may decline to hear a grievance, if they determine that the grievance falls outside

of the boundaries of their purpose. Should the Board decline to hear a grievance, they must provide written justification as to why the grievance was declined.

§ 2.104 Hearings of the Election Judicial Board

At least **Three Associate Commissioners** members shall preside over hearings in order to hear any grievance claiming violation of election regulations. The Election Judicial Board shall keep a full and public record of their meetings and any hearings or rulings that they may make.

Chapter 2.2: Disputes Board

§ 2.201 Establishment of Disputes Board

The Disputes Board is established as an agency of the Elections and Disputes Commission.

§ 2.202 Membership

The Disputes Board shall consist only of Commissioners. It is lead and moderated by a Chairman who shall only vote in the case of a tie. The Chairman of the Elections and Disputes Commission shall be an ex-officio member of the Board with the power to debate but not vote.

§ 2.203 Original Jurisdiction

The Disputes Board shall have the power to investigate and rule on any disputes between the Legislative and Executive Branches and to hear disputes that arise over matters of constitutionality of either branch in terms of the **Code of Student Governance**, Student Body Constitution, the Constitution of the Commonwealth of Virginia, or the Constitution of the United States. **The Disputes Board may decline to hear a dispute, if they determine that the dispute falls outside of the boundaries of their purpose. Should the Board decline to hear a dispute, they must provide written justification as to why the dispute was declined.**

§ 2.204 Hearings of the Disputes Board

At least **Three Associate Commissioners** members shall preside over hearings in order to hear any grievance under this chapter. The Disputes Board shall keep a full and public record of ~~their meetings and~~ any hearings or rulings that they may make.

SUBTITLE II: POWERS OF ELECTIONS & DISPUTES COMMISSION

Chapter 3: Powers Generally

§ 301 Authoritative Standing

The Elections & Disputes Commission shall have authority over matters pertinent to the Commission's constitutional purpose **or as any other statute requires.** ~~and those established in accordance with 6 CSG. § 302 Rule Making~~ The Elections & Disputes Commission shall have the power to craft all rules, or determined by statute, that are necessary to their operation, provided said rules do not contravene any provisions of this Title or this Code.

~~§ 302 Rule Making~~

The Elections & Disputes Commission shall have the power to craft all rules, or determined by statute, that are necessary to their operation, provided said rules do not contravene any provisions of this Title or this Code.

§ 302 Referral of Grievances

All grievances or disputes filed with the Elections and Disputes Commission shall be referred to the proper agency with original jurisdiction over the matter.

Chapter 4: Internal and External Rule Creation Appealing an Agency Decision

§ 401 Referral of Grievances

All grievances or disputes filed with the Elections and Disputes Commission shall be referred to the proper agency with original jurisdiction over the matter.

§ 402¹ First Appeal

After an agency of the Elections and Disputes Commission has ruled on a dispute or grievance, the losing party may appeal the decision to the entire Elections and Disputes Commission. The Elections and Disputes Commission shall then have a hearing and decide on sustaining or overruling the ruling of the agency. If the ruling is overruled, the Commission shall either reverse the ruling or determine a new sanction.

§ 403² Second Appeal

- (1) After the Elections and Disputes Commission has ruled on a dispute or grievance, the losing party may appeal the decision to a Faculty Review Board consisting of the Assistant Director of Student Governance, the Director of the Office of Student Involvement, and another Faculty member of the Office of Student Involvement or Office of University life. The Faculty Review Board must have all three members present in order to reach a ruling. This ruling must be solely based in fact and the Constitution of Student Government, and not the wisdom behind the rule.
- (2) The Faculty Review Board must issue a written ruling within 48 hours.
- (3) The filing of a second appeal must include at least one of the grounds listed in § 404 as the bases for the losing party's filing.
- (4) During the Second Appeal Hearing, the Election and Disputes Commission along with the all involved parties shall both be allowed to present their arguments regarding the ruling on the dispute or grievance at issue. The Election and Disputes Commission shall be represented by the Chairman of the Election and Disputes Commission, or the most senior Commissioner by tenure who sided with the majority.

§ 403 Grounds for a First Appeal

The losing party may appeal a first time if:

- (1) Evidence that was not available at a previous hearing which, had it been available, would in all reasonable likelihood have produced a different finding;
 - A) This evidence must have been completely unavailable at the initial hearing. It cannot simply be evidence that previously existed but was not presented at the initial hearing. The duty of thoroughly and comprehensively presenting information during the initial hearing falls upon the parties, not the agency conducting the hearing.

(2) There is a substantial procedural irregularity in one of the hearings of the Elections and Disputes Commission or one of its agencies;

(3) There was bias, which can be proven, with the Elections and Disputes Commission or one of its agencies resulting in a violation of the standards of fairness used in hearings.

A) If the argument of bias is accepted by the Election and Disputes Commission, then the commissioner(s) being accused of such bias must recuse themselves from the appeal hearing.

§ 404 Grounds for a Second Appeal

The losing party may only appeal a second time if:

(1) Evidence that was not available at either previous hearing which, had it been available, would in all reasonable likelihood have produced a different finding;

A) This evidence must have been completely unavailable at the initial any previous hearing. It cannot simply be evidence that previously existed, but was not presented at the initial hearing. The duty of thoroughly and comprehensively presenting information during the initial hearing falls upon the parties, not the Election and Disputes Commission or the Faculty Review Board.

(2) There is a substantial procedural irregularity in one of the hearings of the Elections and Disputes Commission or one of its agencies;

(3) There was bias, which can be proven, with the Elections and Disputes Commission or one of its agencies resulting in a violation of the standards of fairness used in hearings.

§ 405 Results of Second Appeal

The Faculty Review Board must author an opinion which will then be sent to the Elections and Disputes Commission for reconsideration or a re-trial under fair conditions.

~~§ 406 Creation and Establishment of an Election Code~~

~~At least 4 Thursdays before the release of election packets for the succeeding session year, starting with the Spring Elections, the Elections and Disputes Commission will produce an Election Code and then present it to the Senate. The Election Code will also apply to the Fall Election. The Senate must approve the Election code with a two-thirds vote. If the Election Code is not approved the first time, members of the Senate are allowed to give written suggestions to the Elections and Dispute Commission within 24 hours of meeting. The Election and Disputes Commission will then meet prior to the next Senate meeting to revise their proposed code. A resubmitted code will be presented to the Senate to be voted on. At this point if the Senate does not pass the Elections Code, it is the Senate's responsibility to elect three of its members to sit on the Election and Disputes Commission's Code writing meeting. The third proposed Election Code must be passed by a 2/3 vote of the Senate. If the Election Code does not pass three times the rules for the previous election cycle will be used to administer elections. Refer to Title VI, Chapter 2, §214. The President must approve the final proposal.~~

Chapter 5: Election Code

§ 501 Establishment of an Election Code

The Elections and Disputes Commission has the sole right and responsibility to annually produce and enforce the Election Code.

§ 502 Establishment Process

At least 4 Thursdays before the official announcement by the Elections and Disputes Commission of the Spring Elections, the Elections and Disputes Commission will produce an Election Code and then present it to the Senate. The Election Code will also apply to the Fall Election. The Senate must approve the Election code with a two-thirds vote. If the Election Code is not approved the first time, members of the Senate are allowed to give written suggestions to the Elections and Dispute Commission within 24 hours of meeting. The Election and Disputes Commission will then meet prior to the next Senate meeting to revise their proposed code. A resubmitted code will be presented to the Senate to be voted on. At this point if the Senate does not pass the Elections Code, it is the Senate's responsibility to elect three of its members to advise the Election and Disputes Commission in drafting the proposal. The third proposed Election Code must be passed by a 2/3 vote of the Senate. The President must approve the final proposal. If the Election Code does not pass the Senate or is not approved by the President, the rules for the previous election cycle will be used to administer elections.

Passed the Student Senate: _____

Attest:

Speaker: Claire Olivier

Clerk: Amanda Attiya

President: Rebekah Pettine