

Resolution to Amend the Student Government Association Constitution
 Commission on Student Affairs
 Resolution CSA2001-2002E

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Note: Additions are in *italics*. Deletions are in ~~strikethrough~~

Executive Branch

1a. Executive Branch: Appointed Executive Offices

Whereas, The SGA Constitution enumerates four elected executive officers (President, Vice-President, Secretary, and Treasurer), but does not mention the power to appoint other executive officers, and

Whereas, The four executive officers have traditionally created other executive positions and filled them through appointments, and

Whereas, The Constitution does not currently mention any rules for creating executive appointments, therefore let it be

Resolved, That the Constitution be amended as follows:

Article IV,/1: The *elected* executive officers of the Student Government Association shall be President, Vice President, Secretary, and Treasurer.

Article IV,/2: *The appointed executive officers of the Student Government Association and a method for their appointment shall be enumerated in Article I of the Bylaws. Appointed offices not enumerated in the Bylaws may be created for a period of one year, after which they must be enumerated in the Bylaws to remain an executive office.*

1b. Executive Branch: Membership of the Executive Committee

Whereas, The Executive Committee, as currently enumerated, does not include the appointed executive officers, and

Whereas, The Constitution needs to be updated to reflect this practice, therefore let it be,

Resolved, That the Constitution be amended as follows to include the appointed executive officers in the executive committee:

Article V,/2: The Executive Committee shall consist of the President, who shall be the Chairperson, Vice President, Secretary, Treasurer, *the appointed executive officers*, the Speaker of the House, the Chairperson of each Standing Committee, and the Co-Chairpersons of each Standing Legislative Committee, as well as the House Recorder, who shall serve in a non voting capacity. The Executive Committee of the Student Government Association shall have the following, powers and duties:

Legislative Branch

2a. Legislative Branch: Spring Elections for Speaker of the House

Whereas, The Constitution currently calls for the Speaker of the House to be elected at the first meeting of the fall semester, and

Whereas, House Representatives who have sat for the preceding year, witnessing the accomplishments of candidates throughout that year, would be able to make a more informed decision as to who to elect for this position than those coming in for the first time in the fall, and

Whereas, Electing the Speaker in the spring would also allow that individual to participate in the tremendous amount of planning and work that goes on over the summer, therefore let it be

Resolved, That the Constitution be amended to allow for the Speaker to be elected at the last meeting of the spring semester:

Article VI, /4, #7: The Student House of Representatives shall, at ~~its first meeting of the fall semester~~ *its last meeting of the Spring semester*, by majority vote, elect a representative to serve as Speaker of the House for a period of one year, whose powers and duties are prescribed belowÉ

Article VI, /4, #9: ~~For the first meeting of the fall semester, the previous year's Speaker of the House, if available, shall preside over the Student House of Representatives. If unavailable, the newly elected Vice President shall chair the first meeting.~~

2b. Legislative Branch: Inclusion of Umbrella Organizations in the House

Whereas, Currently, ~~Umbrella~~ Organizations sitting on the Commission on Student Affairs are excluded by the Constitution from participating in the House, and

Whereas, This provision distances SGA from some of the most influential and important organizations on campus, some of whom include SGA in their deliberative bodies, and

Whereas, This provision does not reflect current practice, whereby SGA encourages all organizations to participate in the House, therefore let it be

Resolved, That the Constitution be amended to strike the proscription on ~~Umbrella~~ Organizations in the House:

~~Article VI, /11: In order to prevent double representation, all 'umbrella' organizations which sit on the Commission on Student Affairs, shall not have a seat in the House of Representatives, as their constituent organizations all have a seat.~~

2c. Legislative Branch: Quorum in the House

Whereas, Quorum in the house is currently set at a majority of the membership, and

Whereas, Membership is broadly defined as one member from every registered student organization, and

Whereas, With 500 student organizations, no more than 50 of whom regularly attend the house, this ambiguous definition sets our quorum at an unreasonable 250 students, and

Whereas, A distinction between groups to whom membership is offered, and those who choose to send a representative, as reflected by a roll sheet established by the house recorder, would allow the House to set a more reasonable quorum governed by a roll of participating organizations, therefore let it be,

Resolved, That the Constitution be amended to offer membership to all organizations, but set quorum at a majority of those who exercise their right to membership, as indicated by the roll sheet:

Article VI, /4: ~~The membership of~~ *Membership in* the Student House of Representatives ~~consists of~~ *is open to* one member from every registered student organization at Virginia Polytechnic Institute and State University.

Article VIII, /8, #3: The quorum for the conduct of business shall be a majority of the members of the Student House of Representatives, *as indicated by the roll established by the House Recorder.*

2d. Legislative Branch: Readings in the Legislative Branch

Whereas, By tradition, the House and Senate have, except under exigent circumstances, two readings before taking action on legislation, and

Whereas, Neither this requirement nor the methods for suspending it are codified by the Constitution, and

Whereas, Insofar as it is the responsibility of the elected to make informed decisions by seeking the opinion of their constituents, such a rule is vital to the success of the legislative branch,

Whereas, Simultaneously, the House and Senate need not be constrained from acting during exceptional circumstances when there is a strong consensus that the conditions warrant such swift action, therefore let it be

Resolved, That the Constitution be amended as follows:

Article VI, /8: Except in certain circumstances enumerated below, the house and senate shall be required to conduct two readings, each during a different meeting, before voting on legislation or bills. If the legislation or bill is presented under emergency circumstances where it would be without effect if not voted on until after the second reading, the house and senate may make that determination by a 2/3 affirmative vote on a motion to suspend this rule. This does not apply to a suspension of a second reading for changes to the constitution or bylaws, which can only be done by unanimous vote.

2e. Legislative Branch: Orientation by the Committee on Credentials & Elections

Whereas, The Constitution currently calls for the Committee on Credentials and Elections to conduct an orientation for the House and Senate, and

Whereas, In practice, this orientation is managed by the leadership of those bodies, therefore let it be

Resolved, That the Constitution be amended to remove this obsolete requirement:

~~Article V, /3, #7: To conduct an orientation for all new Legislative Branch members on the responsibilities, obligations, and expectations of said members.~~

Other Matters

3a. Other Matters: Executive Session

- Whereas, Currently, there exists several different and extremely high standards (5/6 Senate & House, 3/4 Executive and other committees) for deliberative bodies to go into executive (closed) session¹, and
- Whereas, There is no justification for different standards for the deliberative bodies, and
- Whereas, Having a high standard such as 5/6 or 3/4 disproportionately empowers respectively 1/6 or 1/4 of an assembly to obstruct business that requires consideration in closed session, therefore let it be
- Resolved, That the sections of the Constitution codifying the four different rules for executive session be amended as follows:

Article VIII,/1, #5: The Executive Committee may go into Executive Session upon a ~~three-fourths~~ *two thirds* vote of its members present.

Article VIII,/2, #5: Every Committee may go into Executive Session upon a ~~three-fourths~~ *two thirds* vote of its members present.

Article VIII,/3, #5: The Student Senate may go into Executive Session upon a ~~five-sixths~~ *two thirds* vote of its members present, subject to the restrictions of the Virginia Freedom of Information Act of the Code of Virginia.

Article VIII,/8, #5: The Student House of Representatives may go into Executive Session upon a ~~five-sixths~~ *two thirds* vote of its members present, subject to the restrictions of the Virginia Freedom of Information Act of the Code of Virginia.

3b. Other Matters: Advisor

- Whereas, The constitution erroneously states that the advisor is elected by the House & Senate, when in fact, the advisor is selected by the university, and
- Whereas, The advisor cannot simply be ~~replaced~~ *replaced* by a vote of the legislative branch, as stated in the constitution, and
- Whereas, The assembly is still free to voice an opinion of no confidence in the advisor and should be made aware of this remedy, and
- Whereas, Because of the devastating impact that a vote of no confidence would have on an advisor, it should be held to a higher standard, requiring approval from more than just a simple majority, therefore let it be
- Resolved, That the Constitution be amended as follows, removing the incorrect statements about the selection and replacement of an advisor, and requiring 2/3 approval for a statement of no confidence in the advisor:

Article VI,/7: The Student Government Association shall have a Faculty Advisor from the staff at Virginia Polytechnic Institute and State University. ~~who shall be elected each year by a majority vote of both the Student Senate and the Student House of Representatives.~~ *The Student Senate and House of Representatives may issue a*

¹ Executive session, also known as closed session, ~~is~~ a meeting open only to members of the assembly in which sensitive or confidential matters may be discussed or acted upon ~~and~~ for which minutes may not be released to the public except with the consent of the assembly. Sturgis, Alice. The Standard Code of Parliamentary Procedure, 4ed. New York: McGraw-Hill, 2001, pp 108-9.

statement of no confidence in an advisor with a two thirds vote in both bodies. A statement of no confidence expresses a finding that an advisor has been seriously deficient in the performance of his or her duties, and instructs the Speaker of the House and President of the Senate to take appropriate action to search for a new advisor and inform relevant departments of Virginia Tech.

3c. Other Matters: Amendment Process for the Constitution & Bylaws

Whereas, The current amendment process requires a 3/4 affirmative vote of all members of the house and senate — not just the 3/4 in attendance, and

Whereas, The process requires a 2/3 affirmative vote in the Commission on Student Affairs, University Council, and from the voting members of the undergraduate student population, and

Whereas, This process, laden with good intentions, imposes standards which ostensibly protect the rights of members, but in fact have the potential to disproportionately empower the minority and create an unnecessarily cumbersome amendment process, and

Whereas, The amendment process does not currently contain a provision for notice for Bylaw amendments, therefore let it be

Resolved, That the Constitution be amended as written below, to require

1. 3/4 affirmative vote of voting members present in the House and Senate for constitutional amendments
2. Suspension of a second reading in the House and Senate only by unanimous vote
3. Majority vote in CSA and University Council
4. Notice of proposed Bylaws and a 2/3 affirmative vote of voting members present in the House and Senate

Article XI,/1: Notice of a proposal to amend the Constitution of the Student Government Association shall be given in the agenda and considered at no fewer than two meetings of each House of the Legislative Branch prior to voting. *A second reading may only be suspended by a unanimous vote.* A copy of the proposed amendment shall be made available to each voting member of each House. A three fourths affirmative vote ~~of all members of the Student House of Representatives, and a three fourths affirmative vote of all members of the Student Senate~~ *in both houses* shall be required for approval of the proposed amendment.

Article XI,/2: Proposed amendments to the Constitution of the Student Government Association which have been approved by the Legislative Branch shall be submitted to a referendum vote of the General Undergraduate Student Population. Notice of the referendum shall be given and copies of the proposed amendment shall be made available to the General Undergraduate Student Population at least ~~two weeks~~ one week in advance of voting.

Article XI,/3: Amendments to the Constitution of the Student Government Association become effective upon approval by two thirds majority affirmative vote of the General Undergraduate Student Population voting, *and a majority in the Commission on Student Affairs and University Council.*

Article XI,/4: *Notice of a proposal to amend the Bylaws of the Student Government Association shall be given in the agenda and considered at no fewer than two meetings of each house of the legislative branch prior to voting. A second reading may only be suspended by unanimous vote. A copy of the proposed amendment shall be made available to each voting member of each house.* Amendments to the Bylaws of the Student Government

Association become effective upon the ~~three-fourths~~ *two thirds* affirmative vote of the Student House of Representatives, and the ~~three-fourths~~ *two thirds* affirmative vote of the Student Senate. A referendum need not be held.

Article VI, 5: The Legislative Branch shall ~~establish or amend, by a three-fourths majority vote, the Bylaws of the Student Government Association.~~ amend the bylaws pursuant to Article XI of the constitution.

The Judiciary

- Whereas, The rarely-used judicial branch has essentially been subjugated to an investigatory, rather than adjudicatory body that reports findings to the legislative branch for adjudication, and
- Whereas, When cases involve a member of this evanescent body, the committee on credentials and elections assumes that investigatory function and reports to the house and senate, and
- Whereas, Because members of the judicial branch may not serve in any other position in or branch of SGA, their judgments would presumably be unbiased, yet made without any knowledge of the everyday, *de facto* workings of the organization, and
- Whereas, The fact that there has been no occasion in over two years for the use of the judicial branch forces SGA to recruit individuals who are interested in contributing to SGA, yet cannot actually do anything since their participation is confined exclusively to a branch that never sees the light of day, and
- Whereas, There exists no process for appealing a decision, the right to do so being a fundamental tenet of due process in any adjudicatory proceeding, and
- Whereas, The fundamental right of members in the House and Senate to replace their elected leaders, such as Speaker of the House or Committee Chairs, is currently codified as part of an adjudicatory process requiring the participation of the Judicial Branch, rather than a power vested exclusively in the body whom these leaders represent, therefore let it be
- Resolved, that the current Article VII — Judicial Branch, enumerated below, be replaced with the Article that follows it:**

ARTICLE VII — JUDICIAL BRANCH

Section 1. The judicial power of the Student Government Association shall be vested in a Student Judicial Board.

Section 2. The judicial branch shall have jurisdiction:

1. In cases involving the interpretation of the Constitution and Bylaws of the Student Government Association.
2. Over conflicts between student organizations in cases where the involved student organizations have consented to arbitration by the SGA Judicial Branch.
3. Over alleged campaign violations in Student Government Association Elections.
4. In cases involving impeachment proceedings of the Student Government Association's elected and appointed officials, with the exception of impeachment cases involving a member of the Judicial Branch. In the former, the Judicial Branch shall investigate any and all allegations, and report the results of this investigation back to the SGA Legislative Branch, where the allegations shall be finally resolved through the appropriate vote of the Legislative Branch. Investigation of allegations against members of the SGA Judicial Branch shall be conducted by the Committee on Credentials and Elections in accordance with Article V, Section 3 of this Constitution.

Section 3. Composition of the Judicial Branch shall meet the following criteria.

1. The Judicial Branch shall be composed of one chief justice and four associate justices.
2. The chief justice shall be elected from the five total justices through a vote of the justices. This election shall take place at least once annually.
3. These justices shall be nominated by the president and approved by a majority vote in each house of the SGA Legislative Branch.
4. Each justice shall remain in office until such time as he resigns, is impeached and convicted, or ceases to be a member of the Student Government Association.
5. No justice shall hold any other elected or appointed position within the Student Government Association for the duration of his tenure as a member of the Judicial Branch.

ARTICLE VII — JUDICIAL BRANCH

Section 1. The judicial power of the Student Government Association shall be vested in the judicial branch.

Section 2. The judicial branch shall have original jurisdiction:

1. In cases involving the interpretation of the Constitution and Bylaws of the Student Government Association.
2. Over alleged campaign violations in Student Government Association Elections.
3. In cases involving impeachment proceedings of the Student Government Association's elected and appointed officials, with the exception of impeachment cases involving a member of the Judicial Branch. Investigation of allegations against members of the SGA Judicial Branch shall be conducted by the Committee on Credentials and Elections in accordance with Article VII, Section 6.

Section 3. Composition of the Judicial Branch shall meet the following criteria.

1. The Judicial Branch shall be composed of three members of the house, three members of the senate, one member of the executive branch, who shall not be the SGA president, and the SGA advisor, who shall serve as a non-voting member.
2. The House and Senate shall choose their justices by the third meeting of the fall semester, to allow time for the membership list to be established in each. Justices shall be nominated in each body and approved by a majority vote. Members shall be instructed to vote for up to three of the nominees. If nominees receive less than a majority and the positions are not filled, a runoff shall be held beginning with the two nominees who received closest to, but less than, a majority.
3. The executive committee shall choose its justice, who may not be the SGA president, by the third meeting of the fall semester. Justices shall be nominated from the membership of the executive committee. The nominee receiving the highest percentage of the vote, and at least a majority, shall be approved as justice. If no nominee receives a majority, a runoff shall be held between the top two nominees.
4. Each justice shall remain in office until the beginning of the following fall semester, or until such time as he or she resigns, is impeached and convicted, or ceases to be a member of the Student Government Association.
5. In the event a vacancy arises before the beginning of fall semester, the body who appointed that justice shall immediately announce the vacancy and conduct proceedings at their next meeting as described above in #2 or #3.

Section 4. Procedure

1. The advisor shall be immediately notified of any matters brought to the attention of or pending investigation by the Judicial Branch, and shall be kept well-informed throughout the process.
2. The judicial branch shall notify parties at least one week in advance of a judicial proceeding and, if applicable, the charges against him or her.
3. The judicial branch shall make a good-faith attempt to schedule a mutually agreed upon time for a hearing.
4. A defendant may be tried in absentia if they fail to appear after two scheduled hearings, or if they refuse to submit to the jurisdiction of the judicial branch.
5. Parties involved shall have the right to bring witnesses, but must notify a member of the judicial branch at least twenty four hours in advance of the hearing.
6. Parties involved shall have the right to question any person giving testimony.
7. Members of the judicial branch shall have the right to question any person giving testimony.

8. Members of the judicial branch shall have the right to set rules and procedures for specific cases, insofar as they do not conflict with the constitution of the Student Government Association, by a 2/3 vote.
9. Majority approval is required to rule on cases involving the interpretation of the constitution or bylaws, or to decide guilt or innocence in cases involving alleged campaign violations or impeachments.
10. A second vote, with 2/3 approval, is required to approve a sanction for a campaign violation or impeachment once parties are found guilty through the first vote.

Section 5. Appeals

1. The executive committee of the Student Government Association shall have appellate jurisdiction over cases before the judicial branch and committee on elections and credentials.
2. When a case is appealed, no executive that sits on the judicial branch or committee on elections and credentials may sit on the executive committee during the appeal process.
3. The executive committee, by majority vote, may choose to hear appeals of the decision and/or sanction in judicial cases.
4. The executive committee, by 2/3 vote, may choose to overturn the decision and/or sanction in judicial cases.
5. The executive committee shall report any appeals to the Vice President for Student Affairs, who may in turn share that information with the Commission on Student Affairs if he or she deems it appropriate.

Section 6. Adjudicatory function of the Committee on Elections and Credentials

1. The Committee on Elections and Credentials shall assume the function of the judicial branch, using the procedures outlined in Section 4, in cases involving a member of the judicial branch.
2. The SGA advisor shall serve as a non-voting member of the Committee on Elections and Credentials during such a time.
3. The decision of the committee on credentials and elections may be appealed, pursuant to Section 5.

Resolved, That the section below be amended to reflect the adjudicatory function of the Committee on Credentials and Elections in a cases involving a member of the Judicial Branch:

~~Article VII,/6, 8. To investigate impeachment allegations against members of the Judicial Branch, pursuant to Article VII, Section 6 of the SGA Constitution. and to report the results of that investigation back to the SGA Legislative Branch for final resolution through an appropriate vote of the Legislative Branch, in accordance with the Constitution and Bylaws of the Student Government Association.~~

Resolved, That the section below be amended to differentiate between the adjudicatory process whereby a leader in the House and Senate may be removed, and the right of members to remove their leaders that is incident to the power of appointment:

Article VI,/3: Impeachment in the Senate

- ~~7. The Student Senate may vote on Articles of Impeachment, in accordance with Article X of the Constitution of the Student Government Association, against any Senator, Justice, or Executive Officer of the Student Government Association. This vote shall require a three fourths majority of the Student Senate.~~
- ~~8. The Student Senate may vote to remove any Senator, Justice, or Executive Officer; in accordance with Article X of the Constitution of the Student Government Association; after Articles of Impeachment have been passed by the appropriate house(s), and the allegations have been investigated as prescribed by the Constitution~~

~~and Bylaws of the Student Government Association. This vote shall require a three-fourths majority of the Student Senate.~~

9. The Student Senate may remove from office the Senate President Pro Tempore, the Chairperson of the Committee on Credentials and Elections or any Senate Standing Legislative Committee Co chairperson who willfully neglects assigned duties by a three-fourths majority vote of the membership of the Student Senate

Article VI, /4: Impeachment in the House

~~5. — The Student House of Representatives may vote upon Articles of Impeachment against any Executive Officer, Justice, or Representative in accordance with Article X of the Constitution of the Student Government Association. This vote shall require three quarters of the membership of the Student House of Representatives.~~

~~6. The Student House of Representatives may vote to remove from office the Speaker of the House, the House Recorder, or any Student House of Representatives Standing Legislative Committee Co chairperson, or any Representative by a three-fourths vote of the membership of the Student House of Representatives. ~~once Articles of Impeachment have been passed and the allegations have been investigated in accordance with Article X of the Constitution of the Student Government Association.~~~~

Resolved, That the following sections of Article X, Election and Replacement of Members, be removed, so as not to conflict with the expanded adjudicatory, rather than investigatory, role of the Judicial Branch

Article X: Election & Replacement of Members

~~Section 2. Any Executive Officer or Justice of the Student Government Association who willfully neglects assigned duties may be removed from office by a three quarters vote of the membership of the Student Senate. This vote will not take place until the following steps are executed:~~

~~1. — Charges have been filed with the appropriate Standing Legislative Committee as prescribed by the SGA Bylaws, and said Standing Legislative Committee has issued a preliminary ruling on the validity of the charges, by majority vote. This Standing Legislative Committee must find that the charges are valid before the impeachment process may continue.~~

~~2. — Articles of Impeachment have been passed by both the Student Senate and the Student House of Representatives.~~

~~3. — The appropriate body, as prescribed by Article X, Section 4 of the Constitution of e Student Government Association, concludes a complete investigation of the allegations, and refers the case to the Student Senate for final determination.~~

~~Section 3. Any Representative or Senator of the Student Government Association who willfully neglects assigned duties may be removed from office by a three-fourths vote of the legislative house that he is a member of. This vote shall not take place until Articles of Impeachment have been passed by the appropriate house, and the allegations have been investigated as prescribed in Article X, Section 4 of the Constitution of the Student Government Association.~~

~~Section 4. Accusations of willful neglect of office by any members of the Student Government Association (with the exception of a member of the Judicial Branch) shall be submitted to the SGA Judicial Branch. Said court shall investigate all accusations, and submit the results of said investigation for final action to the SGA Legislative Branch within fourteen days of receipt of request. In the case of allegations against members of the SGA Judicial~~

~~Branch, the same procedure shall be followed, with the exception that allegations shall be submitted to the Committee on Credentials and Elections for investigation.~~