

**A RESOLUTION TO BE ENTITLED ACT TO:**

**An Amendment to Simplify and Clarify the Impeachment Process in the Bylaws**

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**Short Title:** Simplifying the Impeachment Process

**Authored by:** Tristan Benson & Assistant General Council TJ Eaves

----- *Below for Senate Leadership* -----

**Resolution Number:** F19-03

**First Reading:** September 16, 2019 **Second Reading:** September 23, 2019

**Referred to:** Rules and Judiciary Committee

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1 **WHEREAS,** The current impeachment process is unclear and even contradictory in parts; and,

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3 **WHEREAS,** There was a lot of confusion in regards to the process last semester; and,

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5 **WHEREAS,** The current process provides no specific guaranteed rights of the accused; and,

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7 **WHEREAS,** The Rules and Judiciary Committee did not have a clear definition of their level of  
8 involvement in the Impeachment Process; and,

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10 **Therefore, Be It Resolved That:** The proposed amendment will provide a process that is clear  
11 and specific

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13 **Be It Further Resolved:** That the proposed amendment should alleviate further confusion when  
14 it comes to the Impeachment process

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16 **Be It Further Resolved:** That the proposed amendment guarantees that the accused will have  
17 rights during their Impeachment proceeding

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19 **Be It Further Resolved:** That the proposed amendment will clearly outline how the Senate  
20 Rules and Judiciary Committee are involved in the Impeachment process

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22 **Be It Further Resolved:** That Bylaws Article X Impeachment be replaced with the following:

23 **Article X: Impeachment**

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25 1. All members of the Student Government Association shall be subject to impeachment  
26 proceedings for any one of the following reasons:
- 27 a. Abuse of Power. Execution of an official power in a manner inconsistent with its  
28 just purpose or fair use, to the detriment of the Student Body, the Student  
29 Government, or the University.
  - 30 b. Neglect of Duty. Cases in which an official willfully failed to execute a specific  
31 duty to the best of their ability.

- c. Fraudulent Misrepresentation. Cases in which an official files an official document, or makes a statement in their official capacity, under false pretense or containing maliciously untrue information.
- d. Conduct Unbecoming. Any official, or unofficial, act that is so unethical, unsuitable, or detracting from one's character or reputation that the official is no longer fit to hold office.

2. Impeachment protocol:

- a. Given the potential for exposing confidential/protected information, all motions for impeachment proceeding must be submitted in writing to a SGA Advisor. Motions for impeachment may be presented by any student, faculty, or staff member.
- b. The motion shall be forwarded to the Judicial Branch Advisor. The Advisor shall review the motion to determine if there are reasonable grounds for impeachment to move forward within three (3) business days of receiving the motion. If it is determined there are not reasonable grounds for the motion to move forward then the motion shall be dismissed and the process will end. If it is determined that there are reasonable grounds for the process to move forward the Advisor will redact information as necessary and forward the motion to the Chief Judicial Justice. If no decision has been made within three (3) business days, the impeachment will move forward.
- c. The Rules and Judiciary Committee of the Senate will review the motion and decide whether there are reasonable grounds for impeachment to move forward within four (4) business days of receiving the motion. Any member who has a conflict of interest shall not participate in this review. If it is determined there are not reasonable grounds for the motion to move forward then the motion shall be dismissed and the process will end. If it is determined that there are reasonable grounds for the process to move forward the Chief Judicial Justice shall notify the Senate of the need for Impeachment Hearings. If no decision has been made within four (4) business days, the impeachment will move forward.
- d. Impeachment Hearings must take place no later than the second regularly scheduled senate meeting after the Senate is notified of the need for Impeachment Hearings. Impeachment Hearings may be during a special session so long as all other requirements and rights set forth in this Article is honored. Impeachment Hearings shall take precedent over any and all other agenda items.
- e. At Impeachment Hearings the Chief Judicial Justice shall present the motion for impeachment and call witnesses and present evidence as they deem necessary, in accordance with these by-laws. In the event of a conflict of interest the Associate Judicial Justice shall assume the responsibilities of the Chief Judicial Justice in this process. The respondent to the motion also shall have the right to call witnesses and present evidence they deem necessary, in accordance with these by-laws.
- f. At Impeachment Hearings the Vice President shall preside as a neutral gatekeeper to ensure compliance with the Student Code, the SGA Constitution and By-Laws, and general professionalism. In the event of a conflict of interest, or the appearance of a conflict of interest, the Senate Pro-Tempore will be the first

78 replacement. If the issue is so deeply rooted that a determination is made that  
79 neither the Vice President nor the Pro-Tempore are appropriate to serve then the  
80 Dean of Students, or their designee, shall serve as the neutral gatekeeper. The  
81 Dean of Students shall not have any voting power or influence the Senate.

- 82 g. At the conclusion of all the evidence the Senate shall move into closed session to  
83 deliberate and vote whether or not to remove the official from office. No new  
84 evidence shall be presented once the Senate enters closed session nor shall the  
85 respondent or Chief Judicial Justice be allowed to remain present for deliberations  
86 and voting. Voting shall be conducted by secret ballot. If the respondent is a  
87 senator, they are not entitled to vote.
- 88 i. If less than two-thirds of the Senators present concur in the official's guilt,  
89 then the respondent is acquitted and returns to the practice,  
90 responsibilities, and full privileges of their office.
  - 91 ii. If two-thirds of the Senators present believe the evidence proves the  
92 impeached official guilty, then the Constitution allows the Senate to  
93 remove the individual from that specific office.

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95 3. Hearing Rights

- 96 a. If the Rules and Judiciary Committee decides there are reasonable grounds for  
97 Impeachment Hearings, Respondent must be provided a copy of the Motion for  
98 Impeachment within twenty-four hours.
- 99 b. Prior to the convening of the Senate for an Impeachment Hearing, Respondent has  
100 the right to resign and end the process. Respondent shall submit an unequivocal  
101 resignation letter to a SGA Advisor at least five (5) hours prior to the scheduled  
102 start time of the meeting where the Impeachment Hearings are set to be heard.
- 103 c. Respondent has the right to inspect and copy any and all written statements,  
104 documents, videos, recordings, writings, data compilations, drawings which relate  
105 to the Impeachment and are in possession or control of the Chief Judicial Justice,  
106 or the Chief Judicial Justice has knowledge of. Production of said material must  
107 occur forty-eight (48) hours prior to the commencement of the Impeachment  
108 Hearing. This right requires the Chief Judicial Justice to make a good-faith effort  
109 to gather all information in advance of the hearing and comply so that Respondent  
110 is afforded the opportunity to prepare a proper defense.
- 111 d. Once an impeachment hearing has commenced, if the Senate votes not to remove  
112 an official, they may not be subject to additional impeachment hearings for the  
113 same specific facts and events alleged in the motion for impeachment. However,  
114 this provision does not preclude the use of facts and evidence from prior  
115 impeachment hearings for other purposes, such as proof of motive, opportunity,  
116 intent, preparation, plan, knowledge, identity, or absence of mistake, entrapment  
117 or accident.
- 118 e. Respondent shall have the right to waive any notice, timing requirements, or any  
119 other rights afforded in these Articles only by way of doing so in writing or  
120 explicitly in an Impeachment Hearing.
- 121 f. Cell phones and other electronic devices will be prohibited with the exception of  
122 those the gatekeeper deems appropriate.

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**96<sup>th</sup> SESSION, Fall 2019-Spring 2020**

123 g. Respondent shall be informed of the date and time of the Impeachment Hearing.  
124 A good faith effort must be made to accommodate Respondent’s schedule. In the  
125 event Respondent refuses to participate, or after reasonable accommodation is  
126 unable to participate, the Impeachment Hearing may be conducted in absentia of  
127 Respondent. Reasonable accommodations must be made when the Impeachment  
128 Hearing would conflict with academics, Respondent has medical documentation,  
129 or in the discretion of the gatekeeper.

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131 4. Appeal Rights

- 132 a. There is no right to appeal a decision by the Advisor or Rules and Judiciary to  
133 dismiss a Motion to Impeach.
- 134 b. There is no right to appeal a final vote by Senate on the basis of sufficiency of the  
135 evidence.
- 136 c. The only appeal right associated with a vote to Impeach is on the grounds of  
137 Abuse of Process or Failure to Follow the Constitution or Bylaws.
- 138 d. A person impeached has five (5) business days to submit a written appeal to the  
139 Associate Judicial Justice of the Judicial Branch and a SGA Advisor. The appeal  
140 must clearly state the grounds upon which the appeal is based and reasoning.
- 141 e. Upon receiving a properly filed and timely appeal, the Associate Judicial Justice  
142 shall convene a meeting of the Justices. The Chief Judicial Justice shall be  
143 excluded from these meetings given their involvement in the Impeachment  
144 Process and the Associate Judicial Justice shall act as chair of the panel.
- 145 i. The Justices shall have the ability to summon witnesses and inspect all  
146 documents associated with the Impeachment Process.
- 147 ii. Upon review of all necessary information the Associate Judicial Justice  
148 shall author a report which shall include their findings and  
149 recommendation and submit that report to the Vice Chancellor of Student  
150 Affairs.
- 151 iii. The decision of the Vice Chancellor of Student Affairs shall be final. In  
152 the event there is a finding of a violation, the case shall be remanded for  
153 further proceedings consistent with the Vice Chancellor of Student  
154 Affairs’ ruling.  
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Senate Vote: Aye: 38 Nay: \_\_\_\_\_

*Dawson H. Spencer*  
Dawson H. Spencer  
SGA Vice-President

September 26, 2019

Date

Passed:  Failed:

*David Rhode*  
David Rhode  
SGA President

9/26/19

Date

Passed:  Veto:

