

THE PERFORMANCE REVIEW BYLAWS OF THE UNIVERSITY OF SAN DIEGO

PREAMBLE: The purpose of these Bylaws is to provide structures and procedures to implement the Associated Student Government Constitution.

ARTICLE I: GENERAL PERFORMANCE REVIEWS

Section 1 All matters of Performance Review shall be handled by the Judicial Branch.

- A. In the case that a member of the Judicial Branch be the subject of Performance Review, the process shall be handled by the ASG Executive branch.

Section 2 Any member of the Associated Student Government shall be eligible to be put under review.

Section 3 All censures and petitions for Performance Review shall be submitted to the Chief Justice in writing.

- A. In the case that a member of the Judicial Branch be the subject of such matters, all information shall be submitted to the President.

Section 4 All petitions for Performance Review concerning a member of the Torero Program Board shall follow the processes outlined in the Torero Program Board Bylaws. The Torero Program Board Chair, or the relevant Vice Chair, shall inform the Chief Justice of any petitions of Performance Review filed, along with the results of the Performance Review.

ARTICLE II: LETTER OF CENSURE

Section 1 A letter of censure shall only be issued by Associated Student Government branches. Exceptions to this limitation apply to the President, Speaker of the Senate, TPB Chair and Chief Justice, who are only allowed to individually censure members of their respective branches, as well as each other.

A. A majority vote of the relevant Branch is required to formally initiate the censure proceedings.

a. If a member of the vote-making Branch is the subject of this vote, they must abstain from the vote.

Section 2 A letter of censure expresses extreme displeasure with the actions of the person(s) receiving the letter. A letter of censure may be issued if the respective body deems that a(n) individual has acted inappropriately, but not to a degree that requires the review process.

A. The censure shall be written to the individual(s) in question, correcting them for their actions and informing them that any other inappropriate action will result in the automatic start of the review process.

B. The letter shall be signed by the respective Branch/individual issuing the censure.

Section 3 The letter of censure shall then be submitted to the Chief Justice within three (3) business days of the decision to censure.

A. The Chief Justice shall disseminate the letter of censure to the individual(s) censured as well as the rest of the ASG within twenty-four (24) hours of receiving it.

- B. The ASG member shall remain on censure review for one (1) year of Associated Student Government service.
- C. The Chief Justice shall notify the rest of the Judicial Branch of the censure in an official letter. It is then up to the Judicial Branch's discretion if that ASG member shall be eligible to be appointed to an ASG position or run for elected office in the future.

Section 4 Within two (2) weeks of the censure letter being delivered to the ASG member in question, a meeting between that ASG member and their supervising Executive Board member and an Advisor shall take place to discuss the offense.

- A. If the President has been censured, then they shall meet with the Vice President, Speaker of the Senate, the Chief Justice, the TPB Chair, and an Advisor.
- B. If the Speaker of the Senate has been censured, then they shall meet with the President, the Chief Justice, the TPB Chair, and an Advisor.
- C. If the Chief Justice has been censured, then they shall meet with the President, Speaker of the Senate, the TPB Chair, and an Advisor.
- D. If the TPB Chair has been censured, then they shall meet with the President, Speaker of the Senate, the Chief Justice, and an Advisor.

ARTICLE III: REVIEW PROCESS

Section 1 Any member of the Associated Student Government may be placed on status review for failure to faithfully execute their outlined duties, improper professional behavior, or misuse or abuse of power or authority. The process of review shall be as follows:

A. Petition for Performance Review

- a. To file a petition, the complainant must electronically submit to the Chief Justice the following information:
 - i. The complainant's name and contact information
 - ii. The appropriate accused party, and their contact information
 - iii. Time, date, and place of specific violations
 - iv. Summary of relevant supporting evidence
 - v. Statements as to the constitutional, statutory, and/or regulatory provisions allegedly violated

B. Processing the petition will go as follows:

- a. All active members of the Judicial Branch shall review complaints to determine whether there is sufficient evidence to charge a violation and to hold a hearing. Three-fifths ($\frac{3}{5}$) of the Judiciary is required for an individual to be put under Performance Review.
- b. In order to accept a case, the following conditions must be met:
 - i. The case is within its jurisdiction.
 - ii. The factual allegations constitute violations of the Constitution, guidelines and/or bylaws stated on the Petition
- c. Written notification to the complainant(s) must be provided for all dismissed cases, citing the reason for dismissal.
 - i. The Chief Justice shall keep all dismissed complaints for record keeping and historical context.
 - ii. A denied Petition for Consideration may be submitted again if new considerations or merits can be shown, unless specified otherwise by the Judiciary.

- d. If the petition is accepted, the accused individual will be considered under formal Performance Review.

C. Notification of Review

- a. Within seventy-two (72) hours of the petition being accepted, the ASG member placed on review and their advisor shall be notified.
- b. Within one (1) week of being notified, the individual under review may submit any evidence they believe to be contrary to the claims made against them. This evidence shall be sent to the Chief Justice.

D. Meeting About Performance

- a. The Executive Board member in charge of overseeing the duties of the individual placed on review shall arrange a meeting with the individual placed on review no less than one (1) week after the petition has been granted. In this meeting, the Executive Board member and the ASG member placed on review shall discuss the punishable action and develop a set of goals with deadlines that the ASG member in question must complete and focus on during their remaining time in office.
 - i. In the case of the ASG President, Speaker of the Senate, TPB Chair, or Chief Justice, they shall meet with the Director of Student Activities and Involvement at the University of San Diego.

E. Review Procedure

- a. Within one (1) week after the meeting between the Executive board member and the ASG member under review has taken place, the Judicial Branch shall meet with quorum. The Judiciary will discuss the action that precipitated the review process, the goals set forth by the member and their supervising Executive Board member, and the possible benefits or consequences of further action.
 - i. The supervising Executive Board member shall appear at the meeting to provide their opinion on the impending actions. If they cannot appear in person, they may submit their opinion, in writing, to the Judiciary prior to the meeting.
- b. The Judicial Branch will meet again, two (2) weeks after the first meeting detailed in Article III, Section 1, D(a) to vote on further action, taking into account any recent developments. In the case of a long weekend or mid-academic-year break falling during this time, the Judiciary shall meet during the week immediately following. The Judicial Branch may vote to either end the review process or remove the ASG member in question from their position. A majority vote is needed to remove the ASG member.
- c. Should the Judicial Branch vote to remove the ASG member in question, that person must be notified immediately (within 24 hours) following the meeting detailed in Article III, Section 1, D(c) by the Chief Justice, and must leave office immediately.
- d. If the Judicial Branch votes to remove the ASG member under review, it is then up to the Judicial Branch's discretion if that ASG member shall be eligible to be appointed to an ASG position or run for elected office in the future.
- e. In the event that an ASG member is put under Performance Review within the last month of their current term in a year in

which they are not graduating, the Performance Review Process will continue for as long as necessary, even if it goes beyond the academic year.

- i. If, as a consequence of the decision, the Judiciary decides that the ASG member is ineligible for holding office for any period of time, they will be precluded from holding office for the period specified. This is regardless of whether or not the member in question was re-elected or re-appointed to ASG for the upcoming academic year.
- ii. In this instance, all Re-Appeals shall be handled by the Assistant Vice President of Student Affairs. The qualifications for appeals will be the same as those listed in Article III Section 1F.

F. Appeals

- a. Should the ASG member in question wish to appeal the decision of the Judicial Branch under this article, they may appeal to the Associated Student Government Judicial Branch within twenty-four (24) hours. The criterion for an appeal goes as follows:
 - i. To determine whether the hearing was conducted fairly in light of the charges and information presented, and in conformity with applicable procedures. Deviations from applicable procedures will not be a basis for sustaining an appeal unless the deviation resulted in significant prejudice to the Alleged Offender.
 - ii. To determine whether the decision reached regarding the Alleged Offender was reasonably based on the information made available to the hearing Board or hearing officer (ie. whether there were facts in the case that, if believed by the

hearing Board or hearing officer, were sufficient to establish that a violation of rules/guidelines occurred).

- iii. To consider new and significant information that is sufficient to alter a decision because such information was not known to the Alleged Offender and could not have been reasonably discovered at or before the time of the original hearing.
- b. Re-Appeals must be submitted to the Chief Justice with twenty-four (24) hours of being notified of the decision. The Re-Appeal Board shall be composed of the Speaker of the Senate, Speaker Pro Temp, President, Vice President, and Chief Justice. If one of those positions is vacant, then an Advisor of the Associated Student Government may appoint any member of the Associated Student Government to sit on the Re-Appeals Board.

ARTICLE IV: IMMEDIATE REMOVAL

Section 1 In the case of a severe infraction by a member of Associated Student Government, the Associated Student Government Judicial Branch may, with a unanimous vote, discharge the ASG member in question with their discretion. This action may only be taken in the instance of the ASG member in question misappropriating Associated Student Government funds, knowingly and willingly violating the Associated Student Government Constitution, or performing an act that makes his/her/their continued presence in Associated Student Government counterproductive to its mission statement. This measure may not be used in the cases of lack of attendance, not sufficiently performing one's duties or disrespect towards the Judicial Branch. The process for immediate removal shall be as follows:

- A. The Associated Student Government Judicial Branch must decide within seventy-two (72) hours of learning about the ASG member in question's actions to use this provision. (Should the Judiciary learn of the actions one week prior to an official school recess, the proceedings may be postponed until school resumes.)
- B. The Associated Student Government Judicial Branch must inform the ASG member's supervising Executive Board member within twenty-four (24) hours of making his/her decision.
- C. In the case of immediate removal of a member of the Associated Student Government Judicial Branch, the Associated Student Government Executive Board will handle all proceedings. The Associated Student Government President must call a meeting of the Executive Branch. Every active Executive Board member should be present, not including the Chief Justice. At this time, the Executive Board present shall then hold a vote to remove the Judicial Branch member in question. A majority vote is required.
- D. The ASG member in question must be notified by letter or email within twenty-four (24) hours of the vote.

Section 2 In the case of a severe infraction by the Associated Student Government President, the ASG Executive Branch or ASG Senate may vote to initiate the proceedings for the immediate removal of the ASG President by way of a $\frac{3}{4}$ majority vote. This action may only take place if the ASG President misappropriates Associated Student Government funds, knowingly and willingly violates the Associated Student Government Constitution and/or Bylaws, or performs an act that makes their continued presence in Associated Student Government counterproductive to its mission statement or the mission of the University of San Diego. The process for the immediate removal of ASG President shall be as follows:

- A. Any member of the ASG Executive Branch or ASG Senate may make a motion in their respective branch meetings, where every active member is present, to remove the president. If the motion passes by a $\frac{3}{4}$ majority vote, a hearing heard by the ASG Judicial Branch will be organized in a timely manner.
 - a. In the case of the Senate, a vote may be held when a senator is absent only if there is documentation to prove that the absence is excused by the Speaker.
- B. Quorum for the hearing is every active member of the Judicial Branch.
- C. An ASG member who voted in favor of the motion will have 5 minutes to present the complaint to the members of ASG Judiciary. After the presentation, the ASG President must step out of the room while the Judiciary discusses the presentation and poses questions to the accuser. The ASG President will then be asked to reenter the room and will have 5 minutes to defend themselves against the complaint made by the accuser.
 - a. After the President's defense, a voting member of the ASG Judiciary may move to remove or not remove the ASG President. A $\frac{3}{4}$ majority vote is required for the motion to pass.
- D. If removed, the replacement is outlined in the ASG Constitution

Section 3 In the case of a severe infraction by the Associated Student Government President, the USD Student Body may petition to remove the ASG President. This action may only take place if the ASG President misappropriates Associated Student Government funds, knowingly and willingly violates the Associated Student Government Constitution, or performs an act that makes his/her continued presence in Associated Student Government counterproductive to its mission statement or the

mission of the University of San Diego. The process for the immediate removal of ASG President shall be as follows:

- A. Any undergraduate student may submit a petition regarding the ASG President to the Chief Justice. This complaint should include a list of witnesses, a description of the alleged improper conduct, all relevant evidence to support the claim, a petition signed by 500 of the undergraduate students, and the ground for immediate removal. Each member of the ASG Judiciary should be sent an electronic copy to be reviewed in preparation for the formal presentation of the complaint at the impending hearing.
- B. The undergraduate student submitting the complaint must be present at the Judicial Branch meeting following the complaint's submission. Every active voting member of Associated Student Government Judiciary must be present as well.
- C. The undergraduate student submitting the complaint will have 5 minutes to present the complaint to the members of ASG Judiciary. After the presentation, the ASG President must step out of the room while the Judiciary discusses the presentation and poses questions to the accuser. At this time, a voting member of the ASG Judiciary may move to begin the proceedings for the immediate removal of the ASG President. If a second is met, a 3/4 majority vote is required for the proceedings to begin.
 - a. If a 3/4 majority vote is the result, the ASG President will be asked to reenter the room and will have 5 minutes to defend his/herself against the complaint made by the accuser.

- D. After the President's defense, a voting member of the ASG Judiciary may move to remove or not remove the ASG President. A $\frac{3}{4}$ majority vote is required for the motion to pass.
- E. If removed, the replacement is outlined in the ASG Constitution

Section 4 Appeals

- A. An appeal may be made on the basis of those listed in Article III, Section 1, E[a(i-iii)].
- B. All appeals of a motion to remove a member of the ASG Senate shall be heard by the ASG Executive Board. These appeals should be submitted to the ASG President.
 - a. The ASG Executive Board has the right to uphold or overturn any decisions made by the ASG Judiciary with a $\frac{3}{4}$ majority vote of all active members.
- C. All appeals of a motion to remove a member of the ASG Executive Board (that's not the President) shall be heard by the ASG Senate. These appeals must be submitted to the ASG Speaker of the Senate.
 - a. The ASG Senate has the right to uphold or overturn any decisions made by the ASG Judiciary with a $\frac{3}{4}$ majority vote of all active members. A vote may be held when a senator is absent only if there is documentation to prove that the absence is excused by the Speaker.
- D. All appeals of a motion to remove the President made by the ASG Senate shall be heard by the ASG Executive Board. These appeals should be submitted to the ASG Vice President.

- b. The ASG Executive Board has the right to uphold or overturn any decisions made by the ASG Judiciary with a $\frac{3}{4}$ majority vote of all active members.
- E. All appeals of a motion to remove the President made by the ASG Executive Board shall be heard by the ASG Senate. These appeals must be submitted to the ASG Speaker of the Senate.
 - b. The ASG Senate has the right to uphold or overturn any decisions made by the ASG Judiciary with a $\frac{3}{4}$ majority vote of all active members. A vote may be held when a senator is absent only if there is documentation to prove that the absence is excused by the Speaker.
- F. All appeals of a motion to remove the President made by the USD Student Body shall be heard by the ASG Senate.
 - a. The ASG Senate has the right to uphold or overturn any decisions made by the ASG Judiciary with a $\frac{3}{4}$ majority vote of all active members.

Article V: Extenuating Circumstances

- Section 1 In the case of reasons imposed on by nature or the University itself, including but not limited to pandemics and sudden changes to the University's usual on-campus attendance, the Associated Student Government's Elections Committee reserves the right to make temporary changes to these bylaws. Any changes must pass the Elections Committee with a two-thirds ($\frac{2}{3}$) majority, as well as with the approval of an advisor and a two-thirds ($\frac{2}{3}$) majority of all active ASG Executive Board members. All changes made due to extenuating circumstances will last for the duration of the election cycle during

which the changes were made, and shall revert back to the original format upon completion of said election cycle.

Section 2 In the case that the Elections Committee cannot convene due to extraordinary circumstances caused by nature or the University itself, including but not limited to pandemics and sudden changes the University's usual on-campus attendance, the Associated Student Government's full Executive Board will act as the Elections Committee in the following manner:

- A. The President shall convene a meeting including all active Executive Board members.
- B. Each member of the Executive Board will have a vote. To constitute a vote, the vote must be greater than or equal to two-thirds ($\frac{2}{3}$).
- C. Should a vote be held by the Executive Board, the President must announce to the ASG Senate and ASG Judicial branch at the first ASG Senate meeting since the vote.