

## *A Policy Book for the Judicial Register*

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### IN THE Twelfth UNDERGRADUATE SENATE

20 NOVEMBER 2016

Speaker of the Twelfth Undergraduate Senate Noah Glen Wills

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American University Student Government  
The Judicial Register  
2016-2017

#### Article I. The Judicial Board

##### *Section I.1 Responsibilities and Powers of the Judicial Board*

- (a) The Judicial Board shall exercise the duties and powers prescribed in Article III of the Constitution of the Student Government, Article VIII of the Bylaws of the Student Government, and any relevant Acts of the Undergraduate Senate which include:
  - 1. Oversight and coordination of the Judicial and Elections Branches of the Student Government.
  - 2. The final adjudication of issues of constitutionally sound policies or actions taken by member of the Student Government.
  - 3. The final appellate authority for decisions of the Speaker and Parliamentarian within the meetings of the Undergraduate Senate.
  - 4. The final adjudication of all election-related violations and inquiries.
  - 5. The administering of Acts of the Judicial Board.
  - 6. The creation of recommendations to the Legislative and Executive Branches on disciplinary action pertaining to a submitted inquiry.
  - 7. The final authority for direct oversight of the entire Judicial Branch pursuant to relevant Student Government Policies.
  - 8. Any other necessary and reasonable powers not in conflict by the Governing Documents or Acts of the Senate.
  
- (b) The Judicial Board shall be empowered to investigate situations provided in and around the submission of an inquiry, including but

not limited to the issuance of subpoenas and contempt of court charges.

## *Section I.2 Meetings of the Judicial Board*

### (a) Regular Business

1. The Board shall meet as necessary at the call of the chair to conduct administrative and judicial business before the Board.
2. The Board may conduct business in any manner deemed appropriate to the Chair, including but not limited to email or other electronic communication.
3. Quorum for a meeting, or a sufficient number of votes for electronic action, shall be defined as a majority.
4. All meetings of the Judicial Board shall be documented via minutes by the Clerk of the Judicial Board.
5. All elected and appointed officers and the Advisor(s) of the Student Government shall have full speaking rights during meetings intended to address administrative business, but may not vote, make motions or serve as a proxy for a member of the Board. The Judicial Board, by majority vote, may grant speaking rights to any individual.

### (b) Extra Guideline for Formal Proceedings

1. Formal Hearings, Deliberative Conferences, Conferences with the Prosecutor, Mediations and Formal Mediations shall only be open to Members of the Board, parties to the case, declared and accepted representatives, and the Clerk of the Judicial Board. Exceptions to this rule may be request via motion to the Board or by invitation of the Chair.

## Article II. Officers of the Board

### *Section II.1 The Chair of the Judicial Board*

1. The Chair of the Judicial Board shall serve as the chief spokesperson for the Board and head of the Judicial Branch. He/she shall preside over all meetings of the Board.
2. The Chair shall act as the chief judicial officer of the Student Government and shall exercise oversight authority over the

collective actions and procedure of the Judicial Branch of the Student Government.

3. The Chair of the Judicial Board shall be empowered to create any positions or departments deemed necessary to advance the business of the Board.
4. The Chair of the Judicial Board, Speaker of the Undergraduate Senate and President shall meet twice monthly to coordinate the activities of the Student Government.
5. The Chair of the Judicial Board or designee shall be responsible to present any reports or opinions to the Undergraduate Senate.

## Section II.2 *The Vice Chair*

1. The Vice Chair of the Judicial Board shall be an Associate Member of the Judicial Board, and shall serve in this role at the pleasure of the Chair.
2. The Vice Chair shall preside over the meetings of the Board in the absence of the Chair.
3. The Vice Chair shall serve as Interim Chair, with all the rights and privileges entitled to the Chair, should the Chair become incapable of fulfilling the duties of the office.

## Section II.3 *The Prosecutor of the Student Government*

1. The Prosecutor shall serve as the chief investigative authority of the Judicial Board.
2. The Prosecutor may, with the authorization of no fewer than two members of the Judicial Board, subpoena for written records or official Student Government emails related to the submission of an inquiry, as defined below.
3. The Prosecutor is empowered to create any positions or departments deemed necessary to the purpose of the Office, with the advice and consent of the Chair of the Judicial Board.
4. The Prosecutor, and any relevant positions created in accordance with Paragraph 3 of this section, serve at the pleasure of the Judicial Board and may be removed by simple majority vote of the Board.
5. The Prosecutor, and any positions created in accordance with Paragraph 3 of this section, may not participate in elections while serving in their role.
6. The Prosecutor, and any positions created in accordance with Paragraph 3 of this section, may serve in other Student Government positions, with the approval of the Chair and at

least one of the Speaker of the Undergraduate Senate or  
President of the Student Government.

## Section II.4 *Clerk of the Judicial Board*

1. The Clerk of the Judicial Board shall be appointed by the Chair to take minutes of all meetings and hearings of the Board.
2. The Clerk shall serve at the pleasure of the Chair.

## Section II.5 *Chair-In-Waiting*

1. The Speaker and President may, with the advice and consent of the Senate, appoint a Chair-In-Waiting.
2. Such individual would become the Chair upon the absence of the sitting Chair.
3. Either the Speaker or President may request that the Chair-In-Waiting position be vacated by a two-thirds vote of the Senate.
4. Nomination for the Chair-in-Waiting may only be heard at the last regular meeting of the Undergraduate Senate in any given academic year.

## Article III. Judicial Ethics

### Section III.1 *Members of the Board*

1. This section shall be the sole authority governing the ethical conduct of members of the Judicial Board.
2. The Judicial Board shall, at all times, hold itself to the most professional and helpful standard, and shall take care to provide efficient, competent answers to all inquiring parties.
3. All issues relating to the in-progress business of the Judicial Board, including but not limited to complaint/respondent files, shall be kept confidential, unless otherwise indicated herein.
4. The Judicial Board shall take care to follow all prescribed policies, and render verdicts in accordance with said policies.
5. Opinions of the Board must provide clear and scholarly guidance.
6. All members of the Judicial Board shall be expected to attend all regular meetings and all hearings, and sit impartially on all matters presented.
7. Board members are expected to recuse themselves in any case whereby they will be unable to render a fair and equitable judgement.

8. Judicial Board members may not stand for elections during either the Spring or Fall election cycles.

### *Section III.2 Judicial Ethics, General*

1. Members of the Student Government shall show due deference and respect to the Judicial Board and its decisions, and shall take care to follow and apply the opinions rendered.
2. At no time should any Student Government member attempt to interfere in the proceedings of the Judicial Board, except as part of the normal proceedings of the Board.
3. Members of the Student Government are prohibited from using the Judicial Process inappropriately, including but not limited to intentionally harassing another member or the filing of false inquiries.

## Article IV. The Judicial Process

### *Section IV.1 Jurisdiction of the Board*

1. The Judicial Board shall be empowered to hear all questions related to the Governing Documents, procedures, and policies of the Student Government.

### *Section IV.2 Types of Actions of the Board*

#### (a) Non-Binding Decisions

1. **Advisory Inquiries.** These inquiries shall provide guidance to members of the Student Government in carrying out their duties under the Governing Documents. Upon receipt of an Advisory Inquiry, the Board shall meet to discuss review. Review shall be granted by an affirmative vote of no less than two members. Cases granted review shall be decided by a majority vote. Standing shall not be required for parties submitted an Inquiry under this subsection. No hearing shall be held for Advisory Inquiries, but the members of the Judicial Board may request the input from any individual or ask further questions of submitting parties. Advisory Inquiries may not nullify any act of the Student Government. Opinions issued under this paragraph shall be classified as Advisory Opinions.
2. **Judicial Notice.** Any member of the Judicial Board may publish notices on the Governing Documents. These notices

are intended to provide clarification where it may be needed. These notices do not need to be solicited, but it is preferable to publish a notice rather than respond to individuals in private. These notices are non-binding but may be cited in future judicial actions.

(b) Binding Decisions

1. Parliamentary Inquiries. These inquiries shall be those that cover the exercise of parliamentary procedure and the correct application of legislative power within the context of the meetings of the Undergraduate Senate and its committees. In these instances, the Board serves as the final appellate authority over parliamentary rulings of the Speaker, Parliamentarian, and the Committee on Rules and Privileges. If the inquiry seeks to reverse a ruling or action of any officer of the Senate, they are required to demonstrate standing. Opinions issued under this subsection shall be classified as Parliamentary Opinions.
2. Judicial Inquiries. These inquiries shall be those that cover issues concerning executive orders, acts of the Senate, legislative orders and other official acts of the Student Government. Opinions under this subsection shall be classified as Judicial Opinions and have the force of law. Those who have submitted a Judicial Inquiry may be required to demonstrate standing, or have their case tried by the Prosecutor.
3. Election Inquiries. These inquiries shall be those that cover enforcement of elections policy, as determined by the Joint Committee on Election Policy and those passed by the Senate. The Judicial Board shall have the power to convict campaigns and individuals of elections violations and to determine the punishment, and shall have oversight and the final authority over all bodies that convict and/or punish election violations. Opinions issued under this subsection shall be classified as Election Opinions.

*Section IV.3 The Parliamentarian of the Student Government*

1. The Parliamentarian shall have initial jurisdiction over all issues of constitutional and parliamentary nature. Inquiries that are received by the Judicial Board may first be remanded to the Parliamentarian for review and ruling. The official judicial rulings of the Parliamentarian shall be

binding upon being signed, published in writing and distributed.

2. Rulings of the Parliamentarian that take place within the context of a meeting of the Undergraduate Senate shall be documented within the Journal of the Senate, and the Journal shall be the official source of reference for the Judicial Board in the appellate process.
3. Rulings of the Parliamentarian may be challenged by appeal to the Committee on Rules and Privileges.
4. The Parliamentarian, in accordance with duties stipulated in the Constitution and Bylaws may provide advice to any member of the Student Government; however, said advice shall not constitute official rulings, nor can it be a basis for submission on an inquiry.

#### *Section IV.4 The Committee on Rules and Privileges*

1. The Committee on Rules and Privileges shall be the intermediate appellate panel for parliamentary rulings of the Speaker and/or Parliamentarian within meetings of the Undergraduate Senate.
2. Student Government members wishing to appeal the rulings of the Speaker and/ or Parliamentarian shall make such a petition known to the Speaker, as Chair of the Committee on Rules and Privileges.
3. The appeal shall be heard and decided in accordance with extant policies.

#### *Section IV.5 Miscellaneous Orders*

1. Temporary Restraining Order (TRO). The Chair of the Judicial Board shall be authorized to issue an order temporarily prohibiting an action Student Government that restricts the rights or privileges of members of, or candidates for, the same, while a case is pending. Unless renewed by a majority vote of the Board, the TRO shall expire within one week of issuance.
2. Injunctive Relief. Any member of Student Government may petition for injunctive relief as part of a Judicial Inquiry.

### Article V. Hearing Rules and Format

#### *Section V.1 Definitions*

(a) Standing

1. An appellant or complainant shall be determined to have standing if they are a relevant party to the inquiry involved and has an evident connection to the inquiry being raised.
2. They shall only be required to show standing if they seek corrective action.
3. Complainants lacking standing may be represented by the Prosecutor, in his or her discretion.

(b) Other Definitions

1. Relevance. Such a standard shall be defined as the timeliness and specific realm of time in which the inquiry would have an effect. Actions that have not yet happened or are too far removed in the past would be instances of a lack of relevance.
2. The Judicial Board may define any other term as needed during the normal course of business.

## *Section V.2 Submission of an Inquiry*

(a) General Guidelines

1. All inquiries must be submitted via email to either the Clerk, Prosecutor or Chair of the Judicial Board.
2. All submissions must contain questions for consideration, as well as the evidence underlying the petition.
3. The Chair of the Judicial Board shall establish further guidelines in a published Notice prior to the first meeting of the Undergraduate Senate during a calendar year.

## *Section V.3 Informal Dispute Resolution Formats*

- (a) The Chair of the Judicial Board shall be authorized to assign cases to dispute resolution formats. Should either party prefer an alternative dispute resolution format, they may file motion for an alternative with the Board.
- (b) The Board shall have at its disposal the following informal dispute resolution formats.
1. Conference. For cases assigned to a conference, the Prosecutor and Respondent shall meet within 3 business days to discuss a



mutually agreeable outcome. Outcomes must be signed by both the Respondent and Prosecutor, and forwarded to the Board for review. If the sides cannot come to an agreement, or if the Board rejects the agreement, a formal hearing (further defined below) shall automatically be triggered.

2. Mediation. For cases assigned to mediation, both parties sit down with a member of the Board within one week to work out an agreement. The mediating Board member shall forward the results of mediation to the full Board as a “Mediation Report.” The results of a Mediation need not be mutually agreed, but any objecting party must clearly spell out why they object in the report. All parties that accept the result, and the mediating Board member, should sign the report. The Board shall then vote on the report. Rejected reports shall go to a formal hearing (further defined below), and accepted reports shall have the force of law.
3. Summary Judgement. Complainants for cases that are assigned to summary judgement shall submit all evidence to the Board for review. The Chair shall then invite the Respondent and any other relevant parties to submit evidence. The Complainant shall be afforded the opportunity to respond. The Board shall then deliberate and respond within one week. Summary judgement may not be appealed except in extenuating circumstances at the discretion of the Chair.

## *Section V.4 Formal Hearing*

### (a) Requirements

1. A Formal Hearing is a gathering of the Board and all parties to a case.
2. The Chair of the Judicial Board shall preside over the hearing chambers. The Chair shall, subject to override by majority vote of the Board, rule on all motions and enforce decorum as necessary.
3. Both sides to a formal hearing shall be afforded equal time for their case, excluding questions posed by members of the Board, which shall have no time limits.
4. The Clerk of the Judicial Board shall take minutes at the formal hearing.

### (b) Hearing Guidelines

1. The Chair of the Judicial Board shall, prior to the first meeting of the Senate for any given calendar year, publish a Notice outlining the guidelines for a formal hearing.
2. This Notice shall outline time limits and format of the hearing, but shall not contradict any aspect of subsection (a) of this section.

## Article VI. Deliberation and Opinions of the Board

### *Section VI.1 Deliberative Conference*

1. Following the receipt of all evidence for summary judgement or the conclusion of a formal hearing, the Board shall meet to deliberate.
2. Should the meeting take place in person, the Board shall have seven (7) days to schedule the conference.
3. Should the conference be held electronically, the Chair shall have the authority to establish deadlines such that the opinion is released within one week and three days.
4. The discussions of the deliberative conference shall be kept confidential, and only open to members of the Board and, if requested, the Student Government Advisor(s).

### *Section VI.2 Opinions of the Judicial Board*

1. The Judicial Board, upon reaching a decision, shall write an opinion which becomes binding to the extent previously defined when it has been communicated to all parties to the case.
2. The Chair of the Judicial Board shall control the assignment power for the writing of the opinion unless the Chair is in the minority. In such cases, the most senior member of the Board shall control the assignment power.
3. The Clerk and Chair shall keep a running document of all opinions available upon request.

### *Section VI.3 Sanctions*

#### (a) Non-Exhaustive List

1. Correction of Violation. Any improper action may be set aside and/or corrected as best as possible.
2. Open and Public Letter of Apology. The Board may order a Student Government official to publically apologize for any

violations. Such letters must, as a minimum, be read at the next meeting of the Senate.

3. Temporary Suspension from Duties. The Board may order a suspension from official duties for up to one semester.
4. Suspension from Duties. The Board may order a suspension from official duties for more than one semester.
5. Removal from Office. The Board may remove any member of Student Government from their current position.
6. Expulsion from Student Government. The Board may remove any member of Student Government from their current position, and any future appointed positions. An expelled member may still seek election at a future date.

(b) Delegation of Authority

1. Affirmative vote of this Judicial Register constitutes the Senate's acknowledgement of a delegation of impeachment authority.
2. The decision to remove a member from Student Government is subject to majority vote of the Committee on Rules and Privileges in closed executive session.

(c) Further Guidance

1. Although it is not required, sanctions 4-6 are best reserved for a formal hearing or conference. Should the Chair perceive a reasonable chance that the intended sanction is one of those, the Chair should strongly consider assigning the case to a formal hearing.

## Article VII. Miscellaneous Provisions

### *Section VII.1 Parliamentary Substitution*

1. In the event of an absence or vacancy in the Office of the Parliamentarian, the most senior member of the Judicial Board present at a meeting shall serve as Parliamentarian Pro Tempore.
2. The Chair of the Judicial Board, or designee, shall serve as the Parliamentarian at the first meeting of every new Undergraduate Senate

## *Section VII.2 Subpoena Authority*

1. Two members of the Judicial Board may authorize the issuance of a subpoena by informing the Chair of the authorizing vote.
2. Subpoenas shall only be considered valid upon receipt of official communication from the Chair.
3. Subpoenas may request official student government emails from any party if there is a reasonable expectation of relevant evidence.
4. Subpoenas may also order attendance of any member of Student Government to any official Board function.
5. Failure to comply with the terms of the Subpoena shall authorize the Chair to refer the member of Student Government that failed to comply to the Senate for impeachment proceedings. In such instance, the requirement for a minimum number of Senators is waived.
6. The Chair shall be granted the jurisdiction to hear motions to quash.

## *Section VII.3 Confidentiality*

1. The agenda of the Board shall be public information, but the specific details are withheld.
2. Confidentiality may be waived by motion to the Board.
3. Except in cases of advisory inquires, all parties to a case must be public record, unless reasonable and demonstrable fear of retaliation can be shown, subject to majority vote of the Board.

## *Section VII.4 Conflict*

1. This document shall be considered a part of the Bylaws for all intents and purposes.
2. In the event of a conflict between this document and another section of the Bylaws, this document shall prevail.

## *Section VII.5 Amendment*

1. The Judicial Register shall be proposed by the Board no later than the third meeting of the Undergraduate Senate
2. The Judicial Register shall be subject to a majority vote by the Senate.

# Policy Book 16-17-003

3. Amendment to the Judicial Register may be originated by either majority vote of the Senate or of the Judicial Board and is subject to majority vote of the other.
4. Until a new copy is in force, the previously approved copy shall be utilized for the Board.

BY A VOTE OF \_\_\_\_\_ TO \_\_\_\_\_ WITH \_\_\_\_\_ VOTES PRESENT ON  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.

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**Noah Glen Wills**  
*Speaker of the Undergraduate Senate*

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**Attesting:** \_\_\_\_\_  
**Title:** \_\_\_\_\_