GENERAL MOTION 03

A MOTION
To Amend The East Carolina University Student Government Association Constitution Article Defining Impeachment And Removal Processes

Primary Sponsor: Senator Heft
First Reading: 11/24/2014
Referred to: Rules and Judiciary
Second Reading: 12/08/2014

Be it enacted by the Undergraduate Senate of the East Carolina University Student Government Association,

SECTION 1. IMPEACHMENT AND REMOVAL

WHEREAS, the Constitution of the East Carolina University Student Government Association is the foremost governing document for the association; and,

WHEREAS, Article VII of the ECU SGA constitution, which outlines the censure and removal process, is written in a way which, when followed, violates the Family Educational Rights and Privacy Act; and,

WHEREAS, most recently when the current process was used to investigate complaints against the Student Body President, the hearings were dismissed due to the unconstitutionality of the process; and,

WHEREAS, to function efficiently as an organization, its governing documents must be clearly written in accordance with local and state law; now, therefore, be it

ENACTED, article VII of the East Carolina University Student Government Association constitution be stricken and replaced with the following:

“ARTICLE VII

Impeachment and Removal

I. East Carolina University Student Government Association members shall be removed from office on impeachment for, and conviction of, the inability to perform official duties, any violations of the SGA Constitution or By-Laws, any violation of the University code of conduct and/or honor code.
These charges include, but are not limited to:

a. Neglect of Duty
   i. The charge of Neglect of Duty shall apply to cases in which an official
      willfully failed to execute a specific duty to the best of his or her ability.

b. Abuse of Power
   i. The charge of Abuse of Power shall apply to cases in which the execution
      of an official power has been in a manner inconsistent with its just purpose
      or fair use, to the detriment of the Student Body or the Student
      Government.

c. Fraudulent Misrepresentation on Official Documents
   i. The charge of Fraudulent Misrepresentation on Official Documents shall
      apply to cases in which an official files an official document on false
      pretense or containing maliciously untrue information.

d. Improper Qualifications to Hold Office
   i. The charge of Improper Qualifications to Hold Office shall apply to cases
      in which a student government official lacks one or more qualifications to
      hold the office in which they serve.

e. Acts of Discrimination
   i. The charge of Acts of discrimination shall apply to cases in which a
      Student Government Official commits any act of discrimination as outlined
      throughout Title IX. The Attorney General shall consult the Associate
      Vice Chancellor for further information.

II. Any elected or appointed SGA official may be removed from office.

III. Any East Carolina University student may file a grievance/complaint with the Attorney
      General via the link to the OrgSync form on the Judicial Branch page of the SGA
      website (www.ecu.edu/SGA).

IV. In order for the complaint to be valid, it must have the name of the accused
      officer, the reasoning behind the complaint and the name of the complaining
      student.

V. The Hearing Process shall be as follows:

   i. The Attorney General will schedule a meeting with the accused officer to inform them
      of the complaint, their student rights, and an explanation of the judicial hearing
      process."

   ii. The Attorney General shall, after receiving the complaint, call for a Student Review
        Committee to be formed within 7 days, comprised of the following members with
        alternates listed in parenthesis in the case of clear conflict of interest:

        a. Two Judicial Justices (other Judicial Justices)
        b. The Parliamentarian of the Undergraduate Senate (The Sergeant at Arms of the
           Undergraduate Senate)
        c. The Chairperson of the Rules and Judiciary Committee (The Secretary of the
           Rules and Judiciary Committee)
        d. The Student Body Vice President (The Student Body Treasurer)
        e. The Executive Director of Student Affairs (The Executive Director of Academic
           Affairs)
iii. The Attorney General shall chair all meetings of the committee. The Attorney General shall have no voting privileges within the committee.

iv. The Student Review Committee shall have the following powers and responsibilities to:
   a. subpoena any evidence related to the development of the case;
   b. hear witnesses for both sides; and,
   c. develop a written statement to be approved by a two-thirds majority stating all the findings of the committee. Dissents to the findings may be included in the final report.

v. The SGA Advisor shall be present at meetings of the Student Review Committee to act solely in an advisory capacity.

vi. The Attorney General shall provide the accused officer the opportunity to view all information that will be presented to the Undergraduate Student Senate;

vii. The Attorney General will notify the accused officer of the hearing date which shall be no later than the first senate meeting 14 days following the formation of the Student Review Committee;

viii. The accused officer may submit a written defense to the Attorney General no later than two (2) calendar days prior to the hearing in order for the defense to be considered by the Undergraduate Student Senate;

ix. The written defense may be presented to the Undergraduate Student Senate by the accused officer;

x. The committee shall present to the Senate in executive session the report of all findings of the committee with the report being presented in the following manner:
   a. Favorable. Favorable committee report indicates that it is the decision of the committee that there is overwhelming evidence substantiating impeachment proceedings.
   b. Unfavorable. An unfavorable committee report indicates that there is insufficient evidence supporting the impeachment proceedings. An unfavorable report shall result in dismissal of the motion to impeach and only by a two-thirds majority vote of the Senate may the dismissal be overturned and the impeachment proceedings continue in the Senate.
   c. Non-Prejudicial. A non-prejudicial committee report indicates that there is not enough evidence on either side to support or dismiss a motion to impeach.

xi. The Attorney General shall read the accused officer’s written defense in the event that the accused officer is absent;

xii. A two thirds (2/3) majority vote from the Undergraduate Student Senate is needed before an officer can be formally impeached and removed from office;

xiii. If the accused officer is removed from office, the Attorney General will serve the officer in person with a copy of the removal resolution. If the Attorney General is unable to serve the accused officer with the removal resolution, the copy will be delivered to the affected officer by certified mail.

xiv. Judgment in cases of impeachment shall not extend further than removal from office, suspension of stipend, and disqualification to hold any office of honor, trust, or profit within the East Carolina University Student Government Association.

VI. In the event that any officers from the Judicial Branch are called into question, the SGA Vice President will serve in the capacity of the Attorney General to carry out the Hearing process.”; and be it further
ENACTED, a copy of this motion shall be sent to The East Carolinian and The Daily Reflector.

SECTION 2. DATE EFFECTIVE.

This General Motion shall be effective upon its passage by a majority vote of the East Carolina University Undergraduate Student Senate.

Respectfully introduced by Senator Aaron Heft

November 24th, 2014