



GRADUATE & PROFESSIONAL STUDENT ASSOCIATION

## **Graduate and Professional Student Association Governing Documents**

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## **JUDICIAL BYLAWS**

### **ARTICLE I: SCOPE AND STATEMENT OF PURPOSE**

#### *Section I: Purpose*

The purpose of these bylaws is to define the procedures for removal, with cause, of officers, Council representatives, and appointed committee representatives of the Graduate & Professional Student Association of the University of California, San Diego (GPSAUCSD) and ensure that the proceedings are fair and balanced. These bylaws also define the purpose and scope of the Judicial Board.

#### *Section II: Scope of Personnel*

These bylaws define policies and procedures for the removal of individuals who fulfill the following roles for GPSAUCSD:

1. Committee Members
2. Appointed Officers
3. Elected Officers
4. Council Members

Some individuals may hold more than one of these positions for GPSAUCSD. In this case, based on recommendations made by the Judicial Board, Council may choose to remove them from a single position or multiple positions. Should Council choose to pursue removal of an individual from multiple positions at once, it must follow the removal procedures for the highest numbered appointment on the above list from which the individual is being removed.

In cases where Council determines that violations of UCSD policy or illegal activity have occurred, or are outside the jurisdiction of Council, it may opt to contact the relevant enforcement entities in addition to or instead of internal processing.

#### *Section III: Scope of Complaints*

These bylaws outline the processes for judicial deliberations. Issues arising within GPSAUCSD regarding the Governing Documents may be submitted as complaints, including but not limited to:

1. Failure of responsibilities
2. Interpersonal disputes that delay or impede completion of tasks
3. Interpretation of bylaws
4. Elections grievances



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Complaints may be submitted by any member of the GPSAUCSD, as defined in the Constitution, and should reference the specific bylaws in contention, to be directed to the Judicial Board for review and deliberation.

The Judicial Board will hear issues relating to GPSAUCSD Constitution, Bylaws, Code of Conduct, or permanent GPSAUCSD Committee charges. Any complaints submitted beyond this scope may be referred to other relevant bodies within or external to the GPSAUCSD.

## **ARTICLE II: SANCTIONING**

### *Section I: Procedures for Judicial Deliberation Including Removal of Any Position*

If a report resulting from any Judicial Board review process has been submitted to Council with recommendations, the presentation of this report must be listed in the agenda for that meeting as "Report from the Judicial Board". The presentation of the report and any evidence, subsequent deliberation and vote will be done in closed session. If any party of the complaint is not a member of Council, they may be permitted to be present during a closed session. The complainant and respondent may both give three minute statements after the Judicial Board has presented the case to Council. Council may ask that all parties in the case leave the meeting during part of the deliberation and Council vote.

Council may adopt and implement the recommendations of the report of the Judicial Board by a simple majority vote. Public meeting minutes will only note the results of the deliberations (whether to censure or remove any individual from their position) and vote count. Full closed meeting minutes, including the Judicial Board report itself, should be kept as a record for Council only.

If the removal procedures take place in a special meeting of Council, the special meeting cannot be held within 3 days of any other meeting and the agenda must be sent to Council no less than a week before. All other requirements for calling a special meeting and performing a removal must also be followed.

### *Section II: Censure*

A motion to censure may be made against any member of Council, Elected or Appointed officer, or Committee member, following an investigation by the Judicial Board, for an infraction which is not sufficient by itself to warrant a removal. Censures must meet the following conditions:

1. Censure is applied by a majority vote of Council.
2. Only one censure may be applied to an individual in one meeting.
3. Only one censure may be applied for one infraction.



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If an individual has accrued two censures within a quarter, the Judicial Board must conduct a judicial review to assess whether removal should be pursued.

*Section III: Infractions that Warrant the Recommendation of Removal of any GPSAUCSD Member*

The Judicial Board may recommend removal for any GPSAUCSD member under the following criteria:

1. Misuse of Funds
2. Failure to perform duties
3. Improper or unethical use of authority
4. Willful violation of GPSAUCSD rules, policies, or procedures
  - a. This may include a respondent's refusal to participate in a Judicial Board Misconduct Review but this should be assessed on a case by case basis
  - b. This includes retaliating against the members of the Judicial Board. Retaliation is defined as an adverse action made against a person based on their participation on the Judicial Board. An adverse action is conduct that would discourage a reasonable person from serving on the Judicial Board.
5. Willfully tampering with or destroying evidence related to an ongoing Judicial Board Misconduct Review

*Section IV: Removal of Committee Members* Committee members may be removed by Council at a meeting with a  $\frac{2}{3}$  majority vote. The committee member and appointing officer, if existing, will be notified in writing of the pending removal no less than one school week prior to the meeting. During the removal deliberation, the committee member and appointing officer will be allowed to voice their opinions, as well as any other person voicing a complaint.

*Section V: Removal of Appointed Officers*

Appointed officers may be removed by Council at a meeting with a  $\frac{2}{3}$  majority vote.

The appointed and appointing officer will be notified in writing of the pending removal at least one academic week prior to the meeting.

During the removal deliberations, the appointed and appointing officer will be allowed to voice their opinions, as well any other person voicing a complaint about the committee member.



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### *Section VI: Removal of Elected Officers*

If the elected officer is recommended for removal by the Judicial Board following a judicial review, the individual may be removed with a single  $\frac{2}{3}$  majority vote during a regularly scheduled Council meeting. The removal must be included in the agenda of the meeting. If the Judicial Board is recommending removal, they must notify the elected officer of this decision at least one school week prior to the Council meeting in which the Judicial Board recommendation is presented and no later than one business day after the Judicial Board has made this decision. During the Council meeting in which the Judicial Board recommendation is presented, the elected officer being recommended for removal is allowed to present their own case.

### *Section VII: Removal of Council Members*

Council members are appointed by their department and may not be removed by GPSAUCSD unless the council member has accrued two censures in a quarter and the Judicial Board has conducted a judicial review. A council member may be removed with a simple majority vote at Council meeting. Additionally, GPSAUCSD Council may, with a  $\frac{2}{3}$  majority vote and a recommendation by the Judicial Board, request that the appointing department recall their representative.

## **ARTICLE III: JUDICIAL BOARD BYLAWS - REPLACES “ACADEMIC JUDICIAL COMMITTEE BYLAWS”**

### *Section I: Purpose*

The purpose of this article is to outline the powers and responsibilities of the Judicial Board. The Judicial Board is charged with serving as the investigative and deliberative body regarding issues arising within the GPSAUCSD related to the Governing Documents. The Judicial Board may recommend actions to Council, but has no direct authority except in an investigative capacity. The members of the Judicial Board will act collectively to act on all GPSAUCSD judicial matters.

### *Section II: Membership*

The rules governing membership of the Judicial Board shall consist of the following:

1. The five (5) voting board members shall be appointed and approved by Council.
  - a. GPSA Administration is permitted to act as non-voting members.
2. Council shall attempt to appoint members who represent a diversity of programs and departments within the graduate student population.
3. Members of the Executive Committee are not eligible for appointment to the Judicial Board.



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4. The standard term of appointment shall be from the fourth Council meeting of the academic year through the fourth Council meeting of the subsequent year, though appointments may be made throughout the year as necessary.
5. The board members shall elect a Chair from the membership of the Judicial Board during the first meeting of the academic year, according to the procedure outlined in these bylaws, subject to approval by Council.
6. The GPSAUCSD Parliamentarian shall act as Clerk for the Judicial Board and shall be referred to as such for the remainder of the Judicial Bylaws.

### *Section III: Powers and Responsibilities*

The Judicial Board will have the following powers and responsibilities:

1. The Judicial Board shall meet with the GPSAUCSD Administration and Parliamentarian at least once in Fall quarter, following any new appointments, to review the Judicial Bylaws and the role and responsibilities of the Judicial Board.
2. Quorum for full Judicial Board meetings shall consist of the Chair and at least 2 other committee members.
3. Members are disqualified to sit on any case in which they are named as a witness, complainant, respondent, or presents a conflict of interest..
4. All members of the Judicial Board must declare prior to each case that they have no conflicts of interest beyond those outlined in Section 3, Subsection 3.
  - a. A majority of members may vote to formally recuse a member from a case. Justification for the recusal should be presented in the final report.
5. The Chair of the Judicial Board shall be a member appointed to the committee, elected by a simple majority of the committee members.
  - a. Any member may be nominated by another Judicial Board member, or themselves for the position of Chair.
  - b. Each nominee who accepts may give a brief statement on their qualifications and goals for the position. During this time committee members may ask questions of the candidates.
  - c. All voting committee members will cast their votes in a closed ballot for any candidate or “none”, to be tallied by the Clerk.
6. The Chair will only vote on Judicial Board decisions in the case of a tie.
7. The Judicial Board shall review all complaints submitted and make recommendations to Council based on their investigations.

### *Section IV: Complaints*

The process for submitting formal complaints shall be as follows:

1. All formal complaints of misconduct or breach of bylaws shall be directed to the complaint form on the GPSAUCSD website.



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2. All complaints should include, at minimum: the complainant's name and contact information; the appropriate respondent/s or committee; the specific bylaws in contention; the time, date, and place of the violations, and; any supporting evidence or documentation.
  - a. If any required information is not provided, the Clerk will request the missing information from the Complainant before proceeding
  - b. If the Judicial Board decides a complaint does not fall under the scope of complaints, as outlined in Article I Section 3, then the Clerk should work with the complainant to see if there is an appropriate body within or outside of the GPSAUCSD to which the issue can be directed. The GPSAUCSD Administration may assist in connecting individuals with relevant bodies on campus.
3. After confirming and compiling all the required information, the Clerk will forward the complaint and all additional documents to the Judicial Board Chair.
4. If an accusation is made against a committee or Council, rather than an individual or individuals, the Judicial Board will not be able to make formal recommendations of censure or removal, but should instead report on failures to follow bylaws, or inconsistencies in bylaws that need to be remedied.
5. Within one academic day of confirming the complaint, the Clerk will notify the accused party of the complaint, including a summary of the complaint and bylaws in contention.
  - a. If the accused party is a committee, the Clerk will notify the committee chair.
  - b. If the accused party is the GPSAUCSD Council, the Clerk will notify the GPSAUCSD President and all Council Representatives.
  - c. After the accused party has been notified of a complaint they are no longer allowed to delete any official communication that may be relevant to the complaint.
    - i. If the accused party is found to have tampered with or destroyed evidence relevant to the complaint this is grounds for an additional Judicial Board Misconduct Review and will be elevated to Student Conduct as necessary.

#### *Section V: Withdrawal of a Complaint*

The complainant may withdraw a grievance by notifying the Clerk in writing. Grievances may be withdrawn any time before or during the formal hearing.

#### *Section VI: Misconduct Review*

The Judicial Board process for investigation of formal complaints shall be as follows:



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1. Upon receiving the complaint from the Clerk, the Chair will share the submitted complaint and accompanying evidence with the entire Judicial Board.
2. Any complaint may be dismissed as outside the scope of the Judicial Board or for another reason without further investigation by unanimous agreement of the Judicial Board members within 3 academic days of receiving the complaint.
  - a. Each member must submit a written statement explaining their reasoning, to be recorded by the Clerk and shared to the complainant and accused.
3. A request for a preliminary injunction may be submitted to the Clerk by the complainant at the time of the initial complaint.
  - a. A preliminary injunction, if issued, prevents the accused party from pursuing a course of conduct until after the Judicial Board deliberation. If the accused is an officer of GPSAUCSD, this may include a temporary suspension of their role and/or responsibilities.
    - i. A preliminary injunction will only be issued if the Judicial Board determines there is a clear and imminent threat that one or more individuals, or the GPSAUCSD as a whole, will be harmed if the activities or responsibilities of the accused are not suspended.
  - b. The Judicial Board members, in consultation with the GPSAUCSD Administration, shall determine by a majority vote whether or not a preliminary injunction is necessary within two academic days of receiving the complaint.
    - i. Votes do not need to be tallied in-person, in which case the Judicial Board Chair shall confirm the vote of each board member in writing.
  - c. If a preliminary injunction is issued, the Clerk and the GPSAUCSD Administration will notify all parties involved and will work with the appropriate University constituents to implement the preliminary injunction. The preliminary injunction shall have no impact on the recommendations made by the Judicial Board.
4. The Judicial Board Chair, as early as possible after receiving the complaint from the Clerk, shall notify both parties of the general timeline and process described in the rest of this Section VI.
5. Within 2 weeks after the Judicial Board Chair has received the report from the Parliamentarian, both parties may submit evidence pertinent to the case. Within 24 hours of the scheduled hearing, the Judicial Board Chair will make all submitted evidence available to both parties.
  - a. Evidence may be redacted in compliance with local regulations.
  - b. The Judicial Board may also invite additional witnesses provided that this is completed at least 48 hours before the scheduled hearing.
  - c. The complainant must provide the Clerk and Judicial Board Chair with a comprehensive list of all the evidence and witnesses to be presented at the hearing at least 48 hours before the scheduled hearing.





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- i. The respondent may waive this right.
    - d. The respondent must provide the Clerk and Judicial Board Chair with a comprehensive list of all evidence and witnesses to be presented at the hearing at least 48 hours before the scheduled hearing.
      - i. The complainant may waive this right.
    - e. Evidence may be submitted via email
    - f. No additional evidence may be submitted prior to the hearing by either the complainant or the respondent after all evidence has been made available to all parties.
  6. If deemed necessary by the Judicial Board a hearing shall be scheduled no later than 3 academic weeks after receiving the complaint. All scheduling will be conducted by the Clerk via email and/or a scheduling platform (ie When2Meet).
    - a. If the respondent fails to appear at the hearing, then the case will be decided based upon the evidence presented at the hearing.
      - i. If the complainant fails to appear at the formal hearing, then the case will be dismissed.

The Judicial Board process for deliberation of and response to formal complaints shall be as follows:

1. Order of Presentation: times are approximate and may be extended as necessary.
  - a. Judicial Board Chair introduces case and presents the Judicial Board's investigation thus far (15 min)
  - b. Complainant presents case, including witnesses (7 min)
    - i. Members of the Judicial Board may then question the complainant and witnesses (7 min).
  - c. Accused presents case, including witnesses (7 min)
    - i. Members of the Judicial Board may then question the accused and witnesses (7 min)
  - d. Judicial Board presents additional witnesses (7 min)
  - e. Closing statements by the complainant (3 min)
  - f. Closing statements by the accused (3 min)
  - g. Judicial Board Chair adjourns hearing and the Judicial Board goes into closed deliberations (no more than 45 min)
- 2.
3. Following the hearing, the Judicial Board shall decide to do one of the following:
  - a. Disregard the complaint
  - b. Recommend censure of the individual or individuals to Council
  - c. Recommend removal of an individual or individuals to Council
4. Following deliberation by the Judicial Board, a report shall be prepared and any recommendations shall be submitted to Council.
  - a. The report and any recommendations shall be agreed upon by a simple majority of the Judicial Board members.



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- b. The report should include a description of the complaint, the Judicial Board's decision pursuant to Section 3.6, reasoning underlying the recommendations, and a brief explanation of any disagreement among board members that may have caused dissenting opinions.
  - i. The report shall be signed by the Judicial Board as a whole.
- c. The Judicial Board may also make comments on any of the existing bylaws relevant to their decision, including their perceived strengths or weaknesses, and recommendations on changes to the bylaws.
- d. For any case where there exists a related, prior Judicial Board decision, the Judicial Board may present the facts of that case and its relationship to their current deliberations.
  - i. Council may choose to amend the report to redact any identifying information before it is approved, if they determine the information may be harmful to an individual in the future.
  - ii. Council may approve an extension to the time allocated to any stage of this process, on request of the Judicial Board, by a majority vote at any Council Meeting prior to the deadline for a decision on the complaint.
- e. The report and any action taken by Council will be published on the GPSAUCSD website for 30 days. Evidence, with sensitive personal information redacted, the Judicial Board report, and any action taken by Council will be held by GPSAUCSD Administration in perpetuity.

### *Section VII: Issues arising from Elections*

Complaints may be submitted to the Judicial Board regarding issues arising from elections procedures. If the complaint regards the eligibility of an individual for an elected position, or the fairness and openness of an election, the Judicial Board may recommend:

1. A delay of the election of one or more positions.
2. The disqualification of a candidate.
3. The removal of an elected individual and subsequent special election.

If the complaint is submitted within 1 week before the election in question, the Judicial Board, by majority vote, may request that Council delay the election to provide enough time for a judicial review to be conducted.

### *Section VIII: Appeals*

An appeal to a decision by Council may be submitted by the party ruled against, if that party can demonstrate that the Judicial Bylaws were not followed in some way. That party must also demonstrate that a different outcome was likely to have occurred if the



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bylaw(s) had been followed. Council, by a  $\frac{2}{3}$  majority vote, may choose to refer the appeal to the Judicial Board for a reevaluation of the complaint.

#### **ARTICLE IV: AMENDMENTS TO THE BYLAWS**

These Bylaws shall take effect after being approved by a  $\frac{2}{3}$  vote of those present at two consecutive GPSAUCSD Council meetings provided that all members of the Council have been sent the text of the Bylaws at least five working days prior to the first meeting. These Bylaws may be amended by a  $\frac{2}{3}$  vote of those present at a regularly scheduled Council meeting after the amendments have been proposed at the previous regular meeting. These bylaws may not be amended while a misconduct trial is being conducted.