

Memo



The University of Mississippi

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Associated Student Body
Division of Student Life
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Resolution 15-14
Legislation Number: Amendment 15-102-05 / RS 11 15-15-16
Date Routed: November 17, 2015

The attached legislation was passed by the Associate Student Government Senate Body on November 5, 2015 and is being routed to you for your review and comment as you deem appropriate.

After your review, please pass the legislation along to the next person on the routing list. The legislation should be returned to the Office of the Dean of Students, Union 401, after the last reviewer on the routing list has completed their review.

Your signature indicates that you have read the legislation. It is *not* an endorsement of the content of the legislation. If you have questions or desire to discuss the legislation, please contact John Brahan at jwbrahan@go.olemiss.edu or Austin Spindler at ajspindl@go.olemiss.edu.

ROUTING LIST

Staff Name & Department	Action	Signature	Date	Comments
1. Melinda Sutton Dean of Students	<input checked="" type="checkbox"/> In Signature	Melinda Sutton	11/19/15	
2. Brandi Hephom LaBare Vice Chancellor for Student Affairs	<input checked="" type="checkbox"/> In Signature	[Signature]	11/19/15	
3. Morris Stokes Interim Chancellor	<input checked="" type="checkbox"/> In Signature	[Signature]	11/25/15	
4.	<input type="checkbox"/> In Signature			

CC:

1. _____

2. _____

3. _____

A BILL OF THE ASSOCIATED STUDENT BODY SENATE TO AMEND TITLE V OF THE ASB CODE, WHICH CURRENTLY READS:

Section 119. Elections Review Board Hearing Procedure.

- A) All concerned parties shall have the right to twenty-four (24) hours notice prior to the hearing date and time. Notice may be waived by the parties in a written or oral waiver taken by the Deputy Attorney General of Elections or the Attorney General. If an oral waiver is taken, the person receiving said waiver shall document the time and substance of the communication for the record.
- B) Notice shall comprise informing all parties involved of the time, date, and place of the hearing. All parties concerned shall be advised as to the nature of the charges levied against them and specific grounds thereof, and shall be provided with a copy of the complaint filed.
- C) The candidate shall be informed of his or her right to have legal counsel present at the hearing, to bring witnesses on his or her behalf, and to bring physical evidence on his or her behalf.
- D) No violation shall be heard by the Elections Review Board unless in the physical presence of the complainant listed on the violation form. If the complainant was not a witness to the alleged violation, a witness must be produced for testimony and questioning.
- E) The Attorney General, or one of the Deputy Attorneys General other than the Deputy Attorney General of Elections or the Deputy Attorney General of the Code and Constitution, shall serve as prosecutor in the case of violations concerning expense forms and any cases brought before the Elections Review Board by the Attorney General's Office charging a candidate or nominee with violating any section of this Title. In cases where the Attorney General serves as prosecutor, he or she shall not be allowed to serve as an ex-officio member of the Elections Review Board as stated under "duties of the Attorney General."
- F) In complaints filed by parties outside of the Attorney General's Office, those parties shall serve as prosecution. The Attorney General and/or his Deputies may be present at the hearing in an advisory capacity and may be present in that capacity while the Elections Review Board hears the case. The complainant shall have the burden of proof in the hearing, and must prove by a preponderance of the evidence that the violation occurred. Preponderance of the evidence is that which is defined for the purpose of the hearing as being more likely than not to have occurred. The hearing shall be held by the Elections Review Board, including the vote, reasons, and causes thereof, and shall be reported by the Deputy Attorney General of Elections with the Attorney General within twenty-four (24) hours following its determination.

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to
ASB*

No candidate may be disqualified unless the violations are found to be flagrant and intentional.

Proceedings of the Elections Review Board on said cases of disqualifications shall not be made public until the full range of appeals has been waived or exhausted. If said hearings result in the disqualification of a candidate before a primary or run-off election, his or her name shall be removed from the ballot.

In all cases, all parties shall be presumed innocent of the charges levied against them, until a hearing is held and the Elections Review Board finds the party to be guilty. On appeal to the Associate Student Body Judicial Council, the facts shall be taken as decided at the Elections Review Board hearing and only the legal issues of intent, interpretation or other related legal issues shall be in question. Appeal of any hearing shall be the responsibility of the candidate and said appeal must be filed with the Associated Student Body Judicial Council in writing within twenty-four (24) hours of written notification of the findings to the parties involved.

All Elections Review Board decisions shall be by majority vote of a quorum of the Elections Review Board. A quorum shall be defined as seven (7) or more members of the Elections Review Board.

TO READ:

Section 119. Elections Review Board Hearing Procedure.

- A) All concerned parties shall have the right to twenty-four (24) hours notice prior to the hearing date and time. Notice may be waived by the parties in a written or oral waiver taken by the Deputy Attorney General of Elections or the Attorney General. If an oral waiver is taken, the person receiving said waiver shall document the time and substance of the communication for the record.
- B) Notice shall comprise informing all parties involved of the time, date, and place of the hearing. All parties concerned shall be advised as to the nature of the charges levied against them and specific grounds thereof, and shall be provided with a copy of the complaint filed.
- C) The candidate shall be informed of his or her right to have legal counsel present at the hearing, to bring witnesses on his or her behalf, and to bring physical evidence on his or her behalf.
- D) No violation shall be heard by the Elections Review Board unless in the physical presence of the complainant listed on the violation form. If the complainant was not a witness to the alleged violation, a witness must be produced for testimony and questioning.
- E) The Attorney General, or one of the Deputy Attorneys General other than the Deputy Attorney General of Elections or the Deputy Attorney General of the Code and Constitution, shall serve as prosecutor in the case of violations concerning expense forms and any cases brought before the Elections Review Board by the Attorney General's Office charging a candidate or nominee with violating any section of this Title. In cases where the Attorney

General serves as prosecutor, he or she shall not be allowed to serve as an ex-officio member of the Elections Review Board as stated under "duties of the Attorney General."

- F) In complaints filed by parties outside of the Attorney General's Office, those parties shall serve as prosecution. The Attorney General and/or his Deputies may be present at the hearing in an advisory capacity and may be present in that capacity while the Elections Review Board reviews the case.
- G) The prosecuting party shall have the burden of proof in the hearing, and must prove by a preponderance of the evidence that the violation occurred. Preponderance of the evidence is an evidentiary burden that is defined for the purpose of the hearing as being more likely than not that the violation occurred.
- H) The decision of the Elections Review Board, including the vote, reasons, and causes thereof, shall be filed in writing by the Deputy Attorney General of Elections with the Attorney General within twenty-four (24) hours following its determination.
- I) No candidate may be disqualified unless the violations are found to be flagrant and intentional.
- J) Proceedings of the Elections Review Board on said cases of disqualifications shall not be made public until the full range of appeals has been waived or exhausted. If said hearings result in the disqualification of a candidate before a primary or run-off election, his or her name shall be removed from the ballot.
- K) In all cases, all parties shall be presumed innocent of the charges levied against them, until a hearing is held and the Elections Review Board finds the party to be guilty. On appeal to the Associate Student Body Judicial Council, the facts shall be taken as decided at the Elections Review Board hearing and only the legal issues of intent, interpretation or other related legal issues shall be in question. Appeal of any hearing shall be the responsibility of the candidate and said appeal must be filed with the Associated Student Body Judicial Council in writing within twenty-four (24) hours of written notification of the findings to the parties involved.
- L) All Elections Review Board decisions shall be by supermajority (defined as 2/3) vote of a quorum of the Elections Review Board. A quorum shall be defined as seven (7) or more members of the Elections Review Board.

WHEREAS, the current disqualification minimums are too low;

WHEREAS, an added minimum to a voting standard will prevent the level of evidence from being disputed; AND

WHEREAS, this change in voting standard will create a more fair hearing for the Election Review Board.

THEREFORE, BE IT ENACTED THAT THE ASSOCIATED STUDENT BODY SENATE AMEND TITLE V TO CREATE A JUST HEARING PROCESS.

Government Operations Blake Hambree 11/03/15
Committee Committee Chair Date
11/03/2015 passed ASJ
Date of Introduction Action of Student Senate Clerk Initials

Approval of Associated Student Body Elected Administration:

[Signature] 11/10/15 [Signature] 11/10/15
John Brahan Date Rod Bridges Date
ASB Vice President ASB President

Acknowledgement of Campus Administration:

[Signature] [Signature]
Melinda J. Sutton, Ph.D. Brandi Hephner LaBanc, Ed.D.
Dean of Students Vice Chancellor for Student Affairs
[Signature]
Morris H. Stocks, Ph.D.
Interim Chancellor