Hearing Board Membership Clarification Resolution

Description: The USUSA Academic Senate proposes amending the USUSA Constitution to clarify that the USUSA Hearing Board membership

1. WHEREAS the Utah State University Student Association is responsible for the execution of fair and open USUSA elections,

2. WHEREAS these elections must adhere to USUSA Election Bylaws to ensure all candidates have a fair opportunity to seek student votes while not overly burdening the student body,

3. WHEREAS these Election Bylaws can be violated, resulting in a grievance against the candidate or campaign that violated them,

4. WHEREAS the USUSA is responsible for the organization of a hearing board which acts as a judicial body in the resolution of accusation against sitting USUSA officers and in the resolution of grievances against USUSA candidates and campaigns,

5. WHEREAS the neutrality of this body is crucial for a fair elections process,

6. WHEREAS there can be conflicts of interest with candidates if a member of the USUSA Hearing Board has a personal or prior relationship with the candidates or campaigns involved in a grievance,

7. WHEREAS the USUSA Constitution does not explicitly state the expectation that USUSA Hearing Board members recuse themselves in a significant conflict of interest, despite this being a crucial expectation to ensure impartiality,

BE IT THEREFORE ENACTED THAT the USUSA Academic Senate proposes amending Article V, Section 3, Subsection B of the USUSA Constitution to “The Chair shall convene the Hearing Board within seven days of receiving a statement, excluding days when no classes are held. If the case presents a significant conflict of interest to a particular Hearing Board member that could affect the neutrality of the Board, that member is expected to recuse themself or be removed by the Chair and have a neutral party from the Hearing Board Pool appointed in their place.”

8. WHEREAS the USUSA President is responsible for the organization and selection of the student members of the USUSA Hearing Board, and can have significant influence on the mentality and makeup of the Board,

9. WHEREAS the USUSA President is the only member of the USUSA Executive Council with the ability to appoint individuals to the USUSA Hearing Board Pool, and the participation of the USUSA President
on the USUSA Hearing Board could have significant undue influence on the thinking and decision of the Board,

WHEREAS the USUSA is responsible for the ensuring the proper execution of fair and open USUSA elections, and the Constitution does not explicitly state the USUSA President should not be an active participant in the procedures and deliberations of the USUSA Hearing Board,

BE IT FURTHER ENACTED THAT the USUSA Academic Senate proposes amending Article V, Section 1, of the USUSA Constitution to add subsection G, which reads “The USUSA President (or any other individual not explicitly appointed and approved to the Hearing Board or Hearing Board pool) shall not be a member, alternate, or other kind of participant in the procedures and deliberations of the USUSA Hearing Board unless otherwise stated in the USUSA Constitution.”

WHEREAS the USUSA Regional Campus has proposed a more extensive definition of conflict of interest procedures, but there is an immediate need to address conflict of interest issues in the USUSA Constitution,

BE IT FURTHER ENACTED THAT the 2018-2019 USUSA Academic Senate requests that the incoming 2019-2020 USUSA officers adapt the RC conflict of interest procedures into the USUSA Constitution to better address conflicts of interests in the USUSA.

Tags: Hearing Board, Elections, Constitution, Amendment

Sponsors: Erik B. Olson, USUSA Engineering Senator - Senate Pro Tempore;

Co-sponsor: Dexton Lake, USUSA College of Agriculture and Applied Sciences Senator;
Policy Paper

Committee: Academic Senate

In Attendance: VP Allie Smith, Senator Kristin Hall, Senator Dexton Lake, Senator Cameron Pitt, Senator McKenna Allred, Senator Mason Kemp, Senator Abigail Service, Senator Erik Olson, Assistant Brooke Jorgensen

Absent: Senator Sierra Wise, Senator Deidra Thomas

History: In the 2019 USUSA Elections, there was an anomaly in the hearing of grievances against a USUSA President candidate. Due to troubles with arranging a quorum necessary to hold grievance proceedings, the sitting USUSA President filled in and participated in the grievance hearing and the decision process. This posed a significant conflict of interest, and gave the appearance of impartiality of the USUSA Hearing Board, because this candidate was the roommate of the USUSA President. Given controversy surrounding the decision of the Board in this case, and the violation of norms associated with the Hearing Board, it was deemed necessary to make explicit the assumption that the USUSA President should not participate in the USUSA Hearing Board once organized. This protects the USUSA President from being accused of influencing the Board and USUSA from criticism of the elections process. The USUSA President position is unique due to its sole ability to nominate and organize the Hearing Board, and introduces a conflict of interest not present with other USUSA Executive Council Members.

Purpose: The purpose of this legislation is to clarify the USUSA Constitution Hearing Board procedures to prevent the USUSA President from being an active part of the board. It also adds a clause stating that Hearing Board members are expected to recuse themselves (or be removed by the Hearing Board Chair) if there is a potential conflict of interest.

Pros: Clarifies USUSA Constitution to align with standard practices of the USUSA Hearing Board, makes explicit the expectation that conflicts of interest should be avoided whenever possible

Cons: No specific conflict of interest recusal process, reduces flexibility of USUSA President to step in for Hearing Board as needed