

Utah State University Student Association

USUSA Hearing Board Bylaws

These bylaws shall specify the policies, and additional operating procedures for the USUSA Hearing Board (the Board) not otherwise enumerated in the USUSA Constitution and/or the USUSA Elections Bylaws. These bylaws are ancillary to the Utah State University Student Association Constitution. These bylaws and all activities thereunder are the responsibility of USUSA and the students involved therein.

Section 1. Purpose and Jurisdiction

- A. The Board shall be established for adjudicating disputes and charges of misconduct under the USUSA Constitution. To this end, the Board is established to:
 - a. Interpret the USUSA Constitution.
 - b. Interpret the current applicable USUSA bylaws and the constitutionality of those bylaws.
 - c. Hear and rule on charges against a candidate regarding a violation(s) of the USUSA Elections Bylaws.
 - d. Hear and rule on charges of USUSA Student Government officer misconduct and/or incompetence.
- B. The USUSA Hearing Board shall operate according to the processes outlined in these bylaws and with the goal of transparency wherever possible. Respondents will be considered innocent until the Hearing Board determines otherwise through a preponderance of the evidence. Anyone involved in the Hearing Board process should strive to conduct themselves with civility and an ultimate goal of equity for all.

Section 2. Amendments

- A. Changes to these bylaws must be proposed in the form of a bill and must be approved by a majority vote from Executive Leadership Board.
- B. All approved amendments to these bylaws shall go into effect immediately unless otherwise stated in the legislation.

Section 3. Hearing Board Roles

- A. USUSA Student Advocate Vice President (Student Advocate)

The Student Advocate shall serve as the executive secretary of the Board. They will be responsible for all communication, scheduling, and general coordination of Board activity. Any responsibility not expressly delegated to another role within the Board shall fall on the Student Advocate.

If the Student Advocate is unable to serve due to a conflict of interest on a single complaint, then they must select a willing and able judicial officer to complete these responsibilities.

1. Selecting a Judicial Officer

- a. A judicial officer can be any member of the Hearing Board pool. Once selected as the judicial officer they may no longer serve on the Hearing Board.

B. Hearing Board Pool Members

Pool members shall potentially serve on; the screening panel, full hearing boards, and/or as a hearing board chair. Pool members will be placed into one of these roles based on interest and availability.

C. Training

Every member of the USUSA Hearing Board must complete an annual training.

D. Conflict of Interest

Members of the Hearing Board shall recuse themselves from any role or hearing where they have any conflicts of interest. Conflicts of interest exist where a member of the Board cannot be impartial, including where a member has a significant personal or other relationship with an involved party. Any decisions pertaining to whether a conflict of interest exists will be determined by the Hearing Board Screening Panel.

Section 4. Hearing Board Pool

- A. The Logan Executive Council and Statewide Campuses Executive Council shall be responsible for nominating Hearing Board pool members by November 1. The Executive Leadership Board will confirm the nominees, by a vote of the members, by December 1. Any vacancies shall be filled through the aforementioned process.
- B. The pool shall consist of no less than twelve members with a minimum of two members representing the Statewide Campuses system.
- C. The Hearing Board Screening Panel shall consist of three randomly selected members of the Hearing Board Pool. The Screening Panel will be used to determine if a Complaint has merit, if a conflict of interest exists, and if a Complaint may be considered a disqualifiable offense.
- D. The Elections Committee is a body of individuals who applied and were selected by the USUSA Elections Co-Chairs. This committee is responsible for administering and promoting elections on campus. This includes monitoring and enforcing elections rules and guidelines.
- E. The Hearing Board for each case shall consist of either five or seven student members of the Hearing Board Pool. If the Respondent is a student at a statewide campus, there must be a minimum of one student from a Statewide Campus on the assembled Hearing Board.
- F. The Hearing Board Chair shall be appointed by nominations and a majority vote of the assembled Hearing Board prior to each hearing and will be a voting member.
- G. Hearing Board members serve a one-year term commencing January 1, although members can be appointed to serve more than one term.
- H. Subject to bylaws, Hearing Board Pool members not serving on the Hearing Board may be eligible to serve as a Judicial Officer.
- I. The members of the Hearing Board shall be subject to the same eligibility requirements as the USUSA officers (USUSA Constitution Article III. Section 3).

Section 5. USUSA Hearing Board Process Overview

The Hearing Board shall operate via procedures (USUSA Constitution Article VI) outlined in a flow chart that can be found at the end of this document

Section 6. Elections Bylaw Violation Procedures

A. Complaint Submission

Any charges of violations of Election Bylaws will be submitted via the USUSA Complaint Form (UCF) within 24 hours of the concerned party's learning of the alleged violation. Complaints will not be accepted beyond 7 days after the corresponding final elections announcement.

1. Complainants may withdraw a Complaint at any point in the process at their discretion. Withdrawing a Complaint does not limit other parties right to file a Complaint for the same alleged violation.

B. Jurisdictional Review

The Student Advocate shall review all complaints and determine if the case is within the Hearing Board's jurisdiction. If the complaint falls within the scope of the Hearing Board's jurisdiction, the complaint will be moved forward to the Screening Panel

C. Screening Panel Review

If two or more members of the screening panel believe a complaint has merit based on a preponderance of the evidence from the information provided in the UCF, it will be moved to a full hearing. If the complaint does not have merit, it will be considered resolved and the screening panel will complete the summary.

For all complaints moved forward, the Elections Committee will then be tasked with creating a evidentiary record related to the alleged violation(s). This may include interviewing potential witnesses and compiling documentation (photos, social media posts, etc.) of the violation.

D. Elections Committee

The Elections Committee, via the Elections Commission, is responsible for impartially compiling all information relevant to the complaint and submitting it to the Student Advocate.

E. Hearing Board Convenes

The Student Advocate shall convene the Hearing Board immediately following the close of polls after both the Executive Leadership Board election and the Region and Senate election to hear all complaints determined by the Screening Panel to have merit. The Student Advocate may convene the Hearing Board at any time prior to these scheduled meetings if the Student Advocate and Screening Board determine that a complaint rises to the level of possible candidate disqualification.1. If the screening panel determines a Complaint may rise to the level of being disqualifiable a hearing will be held as soon as is reasonably possible, no more than 10 business days from the complaint being submitted. The Student Advocate will identify the

parties involved to the Hearing Board members. Any member of the Hearing Board must recuse themselves if they have any conflicts of interest in a hearing.

The Hearing Board will review the report summary compiled by the Elections Commission. The report will also be sent to the Complainant and Respondent prior to the hearing.

F. Hearing Board Listens to Relevant Parties

The Hearing Board may call relevant parties to testify throughout the deliberations. In all cases the Hearing Board shall extend the opportunity for the Respondent and Complainant to present information prior to, or at the hearing. Hearings will be held electronically via Zoom. Hearing Board meetings are open and public. A permanent link will be posted on the election's website.

G. Vote by Hearing Board

Based on the evidence collected and provided, the Hearing Board will render a decision and assess a penalty if necessary. Decisions will be based on a majority vote by the Hearing Board. Hearing Board deliberations are closed meetings. Hearing Board rulings will be compiled in a uniform manner and made public.

Election results for the office(s) in question will not be made public until the Hearing Board has heard all complaints, ruled upon them, assessed penalties associated therewith, and notified the Candidate(s) of the USUSA Hearing Board's decisions.

H. Sanctions and Violation Classes

The USUSA Hearing Board may decide to impose sanctions on Candidates found to violate the Elections Bylaws. Any sanctions imposed may not restrict the Candidate's access or ability to campaign. The USUSA Hearing Board may impose the following sanctions or others as they deem appropriate.

1. Warning or reprimand
2. Corrective action or remedy to address the violation
3. Written apology
4. Fine¹
5. Order a new election for a particular office, coordinated by the Elections Committee and occurring within a week of the final election announcement
6. Disqualification

When determining sanctions, the Hearing Board members should evaluate the nature of the offense based on the below criteria. Candidates who display clear intention to repeatedly violate the Election Bylaws should be considered for disqualification.

Frequency – The Hearing Board should consider whether the misconduct is an isolated event or involved repeated violations. The Hearing Board should also consider whether the misconduct

¹ Any fines levied against the Candidate and/or Campaign Committee Members either by a university or city entity do not count towards the Candidate's Campaign Expenditures.

was the action of one person from the candidate's committee or a coordinated action on behalf of the committee.

Intent – When determining intent, the following questions should be considered:

- Were those involved aware what they were doing was not allowed?
- Have they failed to read and understand the bylaws?
- Was it an honest mistake?
- Did it stem from a misunderstanding or poor communication?

Severity – The severity of the violation will be determined based on the potential advantage gained by the candidate in question, as a result of the violation.

I. Hearing Board submits written explanation of ruling

At the conclusion of the meeting, the Hearing Board will submit a written explanation of their ruling. This written explanation will be sent to the Student Advocate and posted online.

J. Appellate Procedures

If a member of USUSA believes there was a violation of due process they can file an appeal within 24 hours of the initial ruling. Any appeals to Hearing Board rulings must be submitted online via the USUSA Appeals Form.

Appeals will be reviewed by the Student Advocate, a Hearing Board pool member not involved in the initial hearing, and the Executive Director of Student Involvement or their designee.

Appellate rulings are final.

Section 7. Officer Misconduct Procedures

A. Complaint submitted

Charges of officer misconduct will be submitted via the USUSA Complaint Form (UCF) and will be reviewed by the Student Advocate. The form is also received by USUSA Officer Advisors.

For more details on initiating removal of an officer, reference USUSA Constitution Article III. Section 6.

B. Screening Panel Review

A screening panel will be created in the same manner as in Section 6 above. If two or more members of the screening panel believe a complaint has merit based on a preponderance of the evidence based on information provided in the complaint form, it will be moved to a full hearing. If the complaint does not have merit, it will be considered resolved and the Student Advocate or Judicial Officer will inform the Complainant.

C. Hearing Board convenes

The Student Advocate or Judicial Officer shall convene the Hearing Board within ten days of receiving a Complaint determined by the Screening Panel to have merit, excluding days when no classes are held.

The Student Advocate or Judicial Officer will notify the Hearing Board of the identities of the parties involved in the complaint. Any member of the Hearing Board must recuse themselves if they have any conflicts of interest in a hearing.

The Hearing Board chair shall be appointed by nomination and a majority vote of the assembled Hearing Board prior to each hearing and will be a voting member.

D. Hearing Board listens to relevant parties

The Hearing Board may call relevant parties to testify throughout the deliberations. In all cases, the Hearing Board shall extend to the Respondent an opportunity to present a defense. The accused may appear before the USUSA Hearing Board electronically via Zoom or submit a written defense. Hearing Board meetings are open and public.

E. Vote by Hearing Board

Based on the evidence collected and provided the USUSA Hearing Board will render a decision and assess a penalty if necessary. Decisions will be based on a majority vote by the Hearing Board. Hearing Board deliberations are closed meetings. Hearing Board rulings will be compiled in a uniform manner and made public.

The Hearing Board may implement probation, removal from office, acquittal, or dismissal.

When determining sanctions, the Hearing Board members should evaluate the nature of the offense based on the below criteria. Officers who display clear intention to repeatedly violate the USUSA Constitution, Elections Bylaws, Student Code of Conduct, their position description and any other applicable laws and guidelines should be considered for removal from office.

Intent – When determining intent, the following questions should be considered:

Were those involved aware what they were doing was not allowed?

Have they failed to read and understand the bylaws?

Was it an honest mistake?

Did it stem from a misunderstanding or poor communication?

Severity – The severity of the violation will be determined based on the gravity of the foreseeable results of the violation.

Frequency – The Hearing Board should consider whether the misconduct is an isolated event or involved repeated violations. The Hearing Board should also consider whether the misconduct

was the action of one person from the candidates committee or a coordinated action on behalf of the committee.

F. Hearing Board submits written explanation of ruling

At the conclusion of the deliberation, the Hearing Board will submit a written explanation of their ruling and send it to the Student Advocate or Judicial Officer.

G. Appellate Procedures

If a member of USUSA believes there was a violation of due process they can file an appeal within 24 hours of the initial ruling. Any appeals to Hearing Board rulings must be submitted online via the USUSA Appeals Form.

Appeals will be reviewed by the Student Advocate, a Hearing Board pool member not part of the initial hearing, and the Executive Director of Student Involvement or their designee.

Appellate rulings are final.