

STUDENT ASSEMBLY CONSTITUTIONAL ELECTION REQUIREMENT FOR ALL SENATORS

Petitioners: ~~Will Coggin, Class of 2007 Senator~~; Alan Kennedy-Shaffer, SBA member; Joe Luppino-Esposito, Class of 2008 Senator

Respondents: Student Bar Association; Student Assembly Senate; Graduate Council; Arts & Sciences Graduate Student Association; MBA Association; Graduate Education Association; VIMS Graduate Student Association

Summary: Petitioners challenge the Student Bar Association's appointment of Student Assembly senator(s) in violation of the Student Assembly Constitution, which states that the Student Assembly Senate "shall be composed of members chosen in election every year by the students of the College."

Discussion:

The Student Bar Association appoints one or more Student Assembly senator(s) each year following an application and interview process. Last academic year, Marshall-Wythe Class of 2008 student Isaac Rosenberg was appointed to be the senator for the Law School. Mr. Rosenberg attended most meetings in the fall semester, but was absent from all meetings this spring semester. No alternative was appointed, nor did Mr. Rosenberg resign.

Article I, Section 1.2 of the Student Assembly Constitution states that "The Senate shall be composed of members chosen in election every year by the students of the College... There shall be six Senators from the Graduate Schools, apportioned among the Schools as the Graduate Council shall designate, provided every School is represented by at least one Senator."

Student Assembly Code §2.1-2.1 reinforces Article I, Section 1.2 of the Constitution, explaining that "The members of the Senate shall be elected according to the guidelines created by the Elections Committee. The composition shall be in accordance with the structure indicated by Article I; Section I; Clause II of the Constitution of the Student Assembly."

Article V, Section 3.4 of the Student Assembly Constitution, on the other hand, states that "Graduate Senators shall be sent, and Graduate School Officers chosen, as the Graduate Council shall designate, provided that Senators and Officers are selected no later than the last Tuesday of the following September."

The question facing the Review Board is whether the Student Assembly Constitution excludes the six senators from the graduate schools from the explicit Senate election requirement.

Petitioners argue that granting an exception to the Constitutional requirement that all members of the Senate be chosen in election would be inconsistent with the letter and spirit of the Student Assembly Constitution and Code.

While Respondents may argue that Article V, Section 3.4 of the Constitution permits the Graduate Council to decide the manner in which the various graduate school choose their

senators, Article I, Section 1.2 indicates otherwise, guaranteeing graduate representation while restricting the Graduate Council's ability to undermine the election requirement. The apportionment clause grants the Graduate Council the right to decide how many senators each graduate program may send to the Student Assembly while leaving intact the democratic principle that senators must be elected.

Article I, Section 1.2, which appears before Article V, Section 3.4 in the Constitution, reflects the democratic spirit of the Constitution by explicitly requiring annual elections in order to prevent the type of patronage that currently taints the appointment process.

The Graduate Council and the Student Bar Association have the right, pursuant to Article I, Section 5.2 of the Student Assembly Constitution, to elect their own officers, representatives, and council members "as they see fit" and to implement policies "on matters that are internal to the Graduate Schools. Legislation from the Graduate Council may not be inconsistent with that passed by the Senate."

Article IV, Section 1.1 of the Student Assembly Constitution, which states that the "The Constitution of the Student Assembly shall be the supreme law of the Assembly and those under its jurisdiction," takes precedence over any inconsistent regulations propagated by the Graduate Council or the Student Bar Association.

In this case, Petitioners challenges the Student Bar Association's appointment of Student Assembly senator(s) in violation of the Student Assembly Constitution, which states that the Student Assembly Senate "shall be composed of members chosen in election every year by the students of the College."

Because the letter and spirit of the Student Assembly Constitution and Code favor the interpretation that all senators must be elected, including senators from the graduate schools, Petitioners ask the Review Board to direct the Senate not to seat any unelected, graduate senators. Petitioners also ask the Review Board to direct the Student Bar Association to immediately recall any appointed senators and to hold annual Student Assembly Senate elections in accordance with Article I, Section 1.2 of the Student Assembly Constitution and §2.1-2.1 of the Student Assembly Code.

The Student Assembly stands as the umbrella organization for all other student governments at the College of William & Mary and would lose its ability to speak for all students if the election requirement were not enforced in this case. All students, including law students, have a recognized right to elect representatives to the Student Assembly that must not be infringed.

THE CONSTITUTION OF THE STUDENT ASSEMBLY OF THE COLLEGE OF WILLIAM & MARY IN VIRGINIA

ARTICLE I: LEGISLATIVE BRANCH

Section I: Creation of the Senate

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II. *The Senate shall be composed of members chosen in election every year by the students of the College. There shall be sixteen Undergraduate Senators. Chosen, four per Class, by the members of that Social Class. There shall be six Senators from the Graduate Schools, apportioned among the Schools as the Graduate Council shall designate, provided every School is represented by at least one Senator.*

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Section V: Creation of the Class and School Officers

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II. *Each Graduate School shall elect a President, Vice President, Treasurer, Secretary and other such representatives and council members as they see fit. These School Officers, when in meeting, shall be known as the Graduate Council. This Council shall have legislative authority only on matters that are internal to the Graduate Schools. Legislation from the Graduate Council may not be inconsistent with that passed by the Senate. Subsequent legislation passed by the Senate may supersede that of the Graduate Council.*

ARTICLE IV: NON-SPECIFIC REQUIREMENTS

Section I: Authority and Supremacy

I. The Constitution of the Student Assembly shall be the supreme law of the Assembly and those under its jurisdiction.

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Section II: Journals, Records, Bylaws and Carryover

II. *All bodies of the Student Assembly must keep regular journals and records in both physical and electronic archives which shall be provided to an Archivist of the Assembly and be open and publicly available to all students. All Acts of all bodies are to be recorded and saved in archive. Archive information must be kept for a period of at least five years, where after they shall be transferred to the Archives of the College of William and Mary.*

III. *All bodies of the Student Assembly shall maintain By-Laws.*

ARTICLE V: ELECTIONS

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Section III: Senatorial, Class and School Officer Elections

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IV. *Graduate Senators shall be sent, and Graduate School Officers chosen, as the Graduate Council shall designate, provided that Senators and Officers are selected no later than the last Tuesday of the following September.*

THE CODE OF THE STUDENT ASSEMBLY OF THE COLLEGE OF WILLIAM & MARY IN VIRGINIA

TITLE 2: THE LEGISLATIVE BRANCH

Chapter 1: The Bylaws of the Senate

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§2.1-2 Membership

§2.1-2.1 Election

The members of the Senate shall be elected according to the guidelines created by the Elections Committee. The composition shall be in accordance with the structure indicated by Article I; Section I; Clause II of the Constitution of the Student Assembly. (09 Apr 2003, SB 310-005)

§2.1-2.2 Attendance

1. *Each Senator is allowed three absences per semester. After the third absence, the Senator will come before the Senate, at the following meeting, to explain his or her reason(s) for not being present at the missed meetings. The body will then vote on whether or not to remove the officer from the Senate according to Article VI, Section II of the Constitution of the Student Assembly. If removed from the Senate, the seat is then vacant.*

2. *Anomalies (i.e. leaving early) are at the discretion of the Presiding Officer.*

3. *Graduate Senators may appoint an Alternate Senator for their term. Said Alternate Senator shall perform Senate duties for their respective graduate school in the absence of the Senator, but cannot have an additional vote should the Alternate Senator and the Senator both appear at the same Senate meeting. Both the Senator and the Alternate Senator are allowed three absences per semester. (09 Apr 2003, SB 310-005)*