

SLC Complaint Procedure

Students' Legislative Council (71.27)

Approved: February 25, 2014 (71.58)

Amended: November 4, 2014 (72.31); June 21, 2016

(74.06); January 26, 2017 (PDRC);

June 13, 2017 (75.05); April 10, 2018 (75.62),

January 15, 2019 (76.33)



Definitions

Complaint – A formal written expression of dissatisfaction regarding the conduct of an Elected Official in accordance with these procedures.

Complainant – One or more Active Members, corporate bodies or associations that the SU is a member of, members of the University of Calgary community, or official representatives of the Government of Alberta who has made a formal complaint against an Elected Official.

Reprimand – A formal written statement of disapproval by SLC Resolution specifying the nature of a complaint and the reason for disciplinary action

Respondent – One or more Elected Officials against whom a complaint has been made.

Investigation – A process in which the Speaker collects information and evidence pertaining to a complaint for the purpose of evaluating the complaint's validity, or deferring it to SLC for review and consideration.

Warning – A written notice issued by SLC Resolution that an Elected Official's conduct is not appropriate and could result in further consequences. A warning shall not include details regarding the nature of a complaint.

Purpose

- 1 (1) The disciplinary process in the Union Bylaw serves to establish and promote a code of ethics and standards for professional practice by Elected Officials.
- (2) This complaint procedure provides a means for Active Members, corporate bodies and associations of which the SU is a member, members of the University of Calgary community, and the Government of Alberta to hold Elected Officials accountable to the policies and procedures that govern their conduct and outline their responsibilities.
- 2 (1) This procedure endeavors to ensure that:
 - (a) Review of complaints is consistent with principles of procedural fairness and natural justice;
 - (b) Review of complaints is fair, impartial, and respectful of all parties;
 - (c) Complaints are dealt with promptly and resolved as quickly as possible;

- (d) Complainants are advised of their options to escalate complaints if they are dissatisfied with the process or outcome;
- (e) Complainants are provided with clear and understandable reasons for decisions relating to complaints; and
- (f) Complainants are provided with updates throughout the review process.

Authority

3 (1) The Union Bylaw states that SLC may make procedures to establish complaint and disciplinary procedures and to further define terms related to the discipline of Elected Officials.

(2) This procedure shall only apply to Elected Officials as defined in the Union Bylaw.

Initiating a Complaint

4 (1) In accordance with the Union Bylaw, individuals may make a formal complaint to the SU regarding the conduct of Elected Officials by submitting a formal written complaint to SU Main Office.

(2) Formal written complaints should include:

- (a) The name of the complainant(s);
- (b) The name of the intended respondent(s);
- (c) The reason for the complaint;
- (d) An explanation of the complaint;
- (e) Evidence of the basis for the complaint; and
- (f) Documentation of prior informal attempts to resolve the complaint, if applicable.

5 (1) Complaints shall be received, reviewed, and investigated by the Speaker in consultation with the General Manager or designate.

- (a) If the Speaker declares or is determined to have a conflict of interest, the receipt, review, and investigation of a complaint shall be conducted by the Deputy Speaker in consultation with the General Manager or designate.
- (b) If both the Speaker and the Deputy Speaker declare or are determined to have a conflict of interest, the receipt, review and investigation of a complaint shall be conducted by an SU Executive who does not have a conflict of interest, in consultation with the General Manager or designate.

(2) Once a complaint is received, the Speaker will contact the complainant within two business days to acknowledge receipt of the complaint and provide an initial response regarding how the complaint will be reviewed and investigated.

(3) Upon receipt of a complaint, the Speaker, in consultation with the General Manager or designate, shall engage in a review of the complaint. At any point during the review of a complaint the Speaker may:

- (a) Dismiss the complaint as detailed in sections 6-8;

- (b) Engage in further investigation of the complaint as detailed in sections 9-11; or
- (c) Refer the complaint to SLC as detailed in sections 12-15.

Dismissing a Complaint

- 6 (1) The Speaker may decide to dismiss a complaint for the following reasons:
 - (a) The complaint is frivolous;
 - (b) The complaint is vexatious; or
 - (c) There is not sufficient evidence to warrant review by SLC.
- 7 (1) The Speaker must notify the complainant of intent to dismiss the complaint, unless the complainant can demonstrate good cause to consider the complaint valid and warrant additional investigation or review by SLC. If the complainant cannot demonstrate good cause within five business days, or the complaint shall be dismissed.
- 8 (1) Upon dismissing a complaint, the Speaker shall:
 - (a) Provide the complainant with a clear and understandable explanation for dismissing the complaint;
 - (b) Make referrals or provide alternative resources to assist the complainant in resolving the issue at hand; and
 - (c) Provide the complainant with information regarding how to appeal the decision.
- (2) The Speaker shall report to SLC regarding dismissed complaints.

Investigation of a Complaint

- 9 (1) When investigating a complaint, the Speaker shall:
 - (a) Establish the precise nature of the complaint;
 - (b) Seek additional evidence through interviews with the complainant and the respondent;
 - (c) Seek additional evidence through supplementary research;
 - (d) Assess the evidence to determine:
 - i. If the evidence presented has weight and reliability to demonstrate that there is substance to the complaint;
 - ii. The circumstances and context of the complaint;
 - iii. The credibility of parties involved;
 - iv. Consistency in the evidence; and
 - v. Absence of evidence where it should logically exist; and
 - (e) Determine relevant Union Policy.
- 10 (1) While investigating a complaint, the Speaker shall provide notice to the respondent and request additional evidence related to the complaint. The respondent shall have a minimum of five business days to provide the Speaker with evidence in support of their position. The respondent may receive an extension to provide evidence upon request at the discretion of the Speaker.

- (2) Notice to the respondent shall include the opportunity to review the evidence being considered by the Speaker. The Speaker shall have the discretion to exclude frivolous, vexatious, or irrelevant information.
- 11 (1) If the Speaker finds that there is sufficient evidence to suggest that an Elected Official may be subject to discipline on the grounds outlined in the Union Bylaw, the complaint may be referred to SLC for review and a decision regarding disciplinary action.
- 12 (1) The Speaker shall provide an update on the progress of an investigation to all relevant parties within ten business days of initiating an investigation or upon referring a complaint to SLC, whichever comes first.

SLC Review of a Complaint, Special SLC Meeting Hearing Procedures and Disciplinary Action

- 13 (1) Upon reviewing and investigating a complaint, the Speaker may refer a complaint to be heard at a Special SLC Meeting. The Speaker shall provide SLC with a summary of the complaint, supporting evidence, and an analysis of relevant Union Policy.
 - (a) Complainants, respondents, and witnesses shall not be permitted to provide SLC with additional written supporting evidence that was not provided to the Speaker during the investigation of the complaint.
 - (b) The Speaker may exclude any evidence collected during the course of the investigation that they believe is frivolous, vexatious, or irrelevant.
- (2) Special SLC Meetings held for the purpose of hearing complaints:
 - (c) Shall be held within ten business days of the date the President receives the request. Reasonable effort must be made to notify the complainant, the respondent, and any relevant witnesses of the date, time, place and purpose of the meeting in writing at least three business days in advance of the Special SLC Meeting; and
 - (d) Shall be composed of three sessions:
 - i. A session that is closed to the public to allow the complainant and respondent, and any relevant witnesses identified by the Speaker and General Manager or designate an opportunity to represent themselves to SLC;
 - ii. An In-Camera session for the purpose of deliberating upon the evidence presented, determining if a respondent has violated Union Policy, and determining options for appropriate disciplinary action; and
 - iii. An open session for the purpose of discussing a hearing's findings and deciding on possible disciplinary action.
- 14 (1) Complainants and respondents shall have the opportunity to represent themselves to SLC during the closed session of a Special SLC Meeting:
 - (a) The complainant and the respondent shall each state their position for 10 minutes or less;
 - (b) The complainant and the respondent shall each have the opportunity for a maximum five minute rebuttal;

- (c) SLC may ask questions of both parties for a period of no longer than 30 minutes total;
 - (d) The complainant and the respondent shall each have the opportunity to make a closing statement of two minutes or less.
- (2) Notwithstanding section 14(1), when reasonable and necessary, the Speaker may extend speaking times at their discretion.
- 15 (1) If SLC finds that a respondent should be subject to discipline, SLC shall impose one of the following sanctions by resolution as appropriate:
- (a) Warning;
 - (b) Reprimand;
 - (c) Removal or suspension of remuneration and benefits;
 - (d) Temporary or permanent revocation of powers and privileges; or
 - (e) Impeachment.
- (2) SLC shall take the following into account when considering possible disciplinary action:
- (a) The respondent's past record;
 - (b) Probable intent;
 - (c) The frequency and repetition of an offense;
 - (d) The impact of the offense on the Students' Union;
 - (e) Precedent; and
 - (f) Presence of an admission and apology.

Offenses at Law

- 16 (1) If an Elected Official has been found guilty of an offence under federal, provincial, or municipal law, SLC, acting reasonably and with due regard to the severity of the offense and the implications for upholding the good reputation of the Students' Union, may impose further sanctions under this procedure on the grounds of Professional Misconduct, as outlined in the Union Bylaw.

Review Board

- 17 (1) If at any time under this procedure SLC finds that it is unable to form quorum due to Conflicts of Interest or that the matter brought forward pertains to the interpretation or validity of the Students' Union Constitution, bylaws, policies, or procedures, it shall refer a complaint to the Review Board to hear the matter within ten business days of determining its inability to make a decision.
- (2) Notwithstanding sections 9-11 and 13-15, the Speaker or SLC may refer a complaint to the Review Board at any point, if they believe that a hearing could result in the respondent's impeachment under the Union Bylaw.

Decisions

- 18 (1) All decisions of SLC regarding disciplinary action shall require a Super Majority vote.

- (2) Motions for impeachment shall require a Special Super Majority Vote Resolution as outlined in the Union Bylaw. If SLC decides, as the result of a hearing conducted at a Special SLC Meeting, that impeachment is the most appropriate form of discipline, SLC shall motion to recommend a Special Super Majority Vote Resolution for discussion and first reading at the subsequent regular SLC meeting.
 - (a) Neither the complainant nor the respondent shall have the additional opportunity to represent themselves in the course of a Special Super Majority Vote Resolution for impeachment.
 - (b) In the event that a Special Super Majority Vote Resolution fails, SLC may impose another sanction by a Super Majority vote.
- (3) The complainant and respondent shall be notified by the Speaker regarding the outcome of a hearing and a decision of SLC within 24 hours following the adjournment of the Special SLC Meeting.
- (4) An SLC decision under this procedure shall come into effect:
 - (a) Once the time period for appealing a matter to the Review Board has passed;
 - (b) In the case of an application for an appeal, at such time when the Review Board denies the application for appeal; or
 - (c) In the case of an appeal, when the Review Board upholds SLC's original decision.

Appeal

- 19 (1) In the event that the Speaker dismisses a complaint, a complainant may bring a complaint directly to SLC by initiating a Petition in accordance with the Union Bylaw.
- 20 (1) Any party to a complaint decided by SLC may appeal that decision to the Review Board by submitting a written application to the Review Board within ten business days of receiving the decision.