

Speaker's Ruling
Conduct Complaint: Jurisdiction, Process, Investigation, and Findings

Jurisdiction and Process

In November 2012, a complaint was submitted to the Speaker in regards to the conduct of a member. In accordance with section 6.2.3 of the SOGS Constitution, the Executive exercised its responsibility to act on behalf of Council by striking a committee and mandating it to investigate whether misconduct charges were warranted, and also to determine appropriate disciplinary measures. Bylaw 19 of the SOGS Bylaws outlines disciplinary measures; the measures outlined therein are specific and clear.

Further, in accordance with SOGS bylaws 9.2.4 and 15.1.1, Robert's Rules of Order was consulted to ensure that proper and fair procedures were devised and followed. Disciplinary procedures are covered in the Rules within Chapter 20; section 63, "Investigation and Trial," delineates a number of options and guidelines for discipline. It should be noted that the authority of the Rules is superseded by the authority of the SOGS Constitution and Bylaws.

Thus, in accordance with sections 2.2.1, 2.2.2, and 2.2.3 of the SOGS Bylaws, and after thoroughly reviewing the SOGS Constitution, Bylaws, and Rules of Order, the Speaker determined the most appropriate procedures for disciplinary proceedings. Subsequently, the Speaker's determination was considered and endorsed by the Executive. The Executive-reviewed procedures were then reported to Council in January, 2013. Council accepted the report.

Investigation and Findings

At all times, the process of this investigation was designed to maintain a safe atmosphere for all parties involved, with paramount emphasis on protecting privacy and confidentiality. The University Ombudsperson, who was consulted during the process, about the process only, emphasized the importance of privacy and confidentiality. Indeed, no specifics or names were discussed with the Ombudsperson. The findings of the disciplinary committee were the result of six months of investigation and deliberation. All parties were provided ample opportunity to elaborate on, or respond to, the accusations. The confidentiality of all parties, including the committee members, was of the utmost importance in order to achieve fair representation, fair treatment for accusers and accused, and ultimately as fair a procedure as possible.

The process, which was mandated by the Executive and Council, was not under the control of either the accused or the accusers. In accordance with the SOGS Constitution and Bylaws, and the Council-adopted mandate from the Executive (as recommended by the Speaker), the investigation process was under the jurisdiction of the Speaker and the committee members. On three separate occasions, with reasonable time intervals between them, the accused was asked to respond to the complaint. On all three occasions, the accused refused to respond, but eventually responded after a final request from the committee. While it was the accused's right to refuse to testify to the committee, the accused's refusal meant that there were no reasonable grounds upon which to deny the charges against him.

What is before you are the findings of the committee. It is my strong opinion that the committee acted in good faith with all persons involved in the complaint. The decision of the committee appears before Council for acceptance in accordance with article 4.2 of the SOGS Constitution. That the accused committed wrongdoings is not debatable: these are the findings based upon the evidence presented to the committee, and committee members are bound by a non-disclosure agreement not to divulge the specifics of the complaint. What is debatable is whether or not the sanction is appropriate.

Citations from the Constitution and Bylaws

Article IV - Powers and Jurisdictions

4.2 Government

The governing body of the Society is the Council which is responsible for all matters of policy and for government and regulation of the Society.

Article VI - Government

6.2.3 During the period between meetings, the Executive is empowered to act for Council, except in circumstances which, in the opinion of the President, warrant the calling of a special meeting of Council. All actions taken during this period shall be fully reported at the next meeting of Council.

Bylaw 2 - Duties of Non-executive Officers

2.2 The Speaker

2.2.1 shall be familiar with Robert's Rules of Order and shall inform members of appropriate procedures when necessary.

2.2.2 shall advise the Society on matters of procedure and shall be the final authority in the event of a dispute over the interpretation of the Constitution and Bylaws.

2.2.3 in the event of a dispute over interpretation of the Constitution or the Bylaws, the Speaker will present a written ruling to Council at its next meeting.

Bylaw 9 - Committees of the Society

9.1 Creating and Disbanding

9.1.3 Ad hoc committees shall be created, modified, or disbanded by Council. Each shall accompany its final report with a motion to disband.

9.2 Committee Policies

9.2.4 A Committee Policy document describes any policies used to conduct business in the committee or membership in the committee. Notwithstanding guidelines or restrictions mentioned in Robert's Rules of Order, each committee has the power, via its Committee Policy document, to:

Bylaw 15 - Meetings

15.1 Procedure

15.1.1 The rules contained in Robert's Rules of Order shall govern the Society in all cases to which they are applicable, and in which they are not inconsistent with the Constitution and Bylaws of the Society.

15.1.2 Any written report or oral report presented at a General Meeting or Council Meeting must abide, as if it were debate, by the following sections of Decorum in Debate given in Robert's Rules of Order: Refraining from attacking a member's motives; Avoiding the use of members' names.

Bylaw 19 - Disciplinary Measures

19.0.1 This bylaw lists the totality of disciplinary measures which can be sanctioned by the Society on a member. These disciplinary measures may only be used where disciplinary measures have been found appropriate and where expressly permissible elsewhere in the Bylaws of the Society.

19.0.2 Any specifics required by a disciplinary measure must be expressed at the time a determination of disciplinary measures is given. This includes, but is not limited to, the duration of time for which a member is prohibited from somebody or activity.

19.1 Disciplinary Measures on a Member

19.1.6 A member may be prohibited from holding any position on SOGS committees, Council, and the Executive for a duration not exceeding twelve (12) months.