

LEGISLATIVE STEERING COMMITTEE

BILL SP 2022-004

SPRING 2022 SESSION

Bylaw

Legislative Action:

Introduced by: David C. Saavedra

1st Reading: LSC Chair

Referred To: LSC

2nd Reading: LSC

Committee Action: Approved

3rd Reading: Council

Council Action: _____

Executive Action:

Approved Vetoed

GPSA President

Date

Unsigned by the President on this ____ day of ____ 2022. Bill automatically becomes law.

Legislative Response:

Veto override vote taken: _____ Council Action: _____

Summary of key points:

This proposed legislation addresses the GPSA President's priority of assessing GPSA to modernize and improve the functionality and overall structure of the organization. Updated verbiage/titles.

Updates within this Bill:

- *Instituting the stipend position of Attorney General to the Judicial Branch.*
- *All Chair titles are renamed to Director titles and Vice-Chair to Associate Director.*

Found in GPSA Bylaws:

Article VI. Judicial Branch

Section 1. Appellate Jurisdiction

A. In addition to the Court's original jurisdiction as stated in the GPSA Constitution, the Court shall also have appellate jurisdiction to hear:

1. All matters arising from Council activity, including, but not limited to, review of any award of GPSA funds to an organization or individual for consistency with the GPSA Constitution and Bylaws.
2. All matters arising from activities of any Executive, Legislative, and Judicial Standing or Ad Hoc committee.

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44 3. All acts of the President, Council Chair, or GPSA member acting on behalf of
45 GPSA when and which the Court would not otherwise have original
46 jurisdiction to hear.
47

48 **Section 2. Judicial Oath of Office**

49 A. No Justice shall assume the duties of that office until the Judicial Oath of Office
50 (Oath) has been administered. The Oath must be administered within ten (10)
51 academic days of confirmation by Council.

53 1. The Oath shall be administered to the Chief Justice by the President or, in the
54 President's absence, the Council Chair and must be witnessed by a
55 representative of either the Executive or Legislative branch, so long as the
56 witness is not a member of the branch that is administering the Oath.

58 2. For all other Justices, the Oath shall be administered by the Chief Justice,
59 and must be witnessed by a representative of either the Executive or
60 Legislative branch.

62 3. In the case that the Chief Justice is unavailable to administer the Oath, the
63 President shall administer the Oath. In the case that the President is unavailable
64 to administer the Oath, then the Council Chair shall administer it. In any case,
65 the administration of the Oath must be witnessed by a member of either the
66 Executive or Legislative branch so long as the witness is not a member of the
67 branch that is administering the Oath.

69 4. The Oath will be administered with the right hand uplifted and the
70 following words said aloud:

72 a. "I, (name), do solemnly swear that I will uphold the laws of the Graduate and
74 Professional Students Association of the University of New Mexico, the
75 State of New Mexico, and the United States of America; that I will judge
76 fairly and with no previous bias the evidence and proceedings before me,
77 and that I will otherwise fulfill the duties and obligations of the GPSA
78 Judiciary to the best of my ability."

79 5. Upon affirmation of the Oath, an affidavit will be filed attesting to the
80 authority of the Justice. The Justice shall then assume office.
81

82 **Section 3. Code of Conduct**

83 A. All Justices shall establish, observe, and maintain high standards of conduct so that
84 the integrity and independence of the judiciary may be preserved.

- 86 B. Justices shall respect and comply with the law and shall conduct themselves at
87 all times in a manner that promotes public confidence in the integrity and
88 impartiality of the judiciary.
- 90 C. Justices shall not allow their family, social, or other relationships to influence
91 their judicial conduct or judgment.
- 93 D. Justices shall not permit those under their control to convey the impression
94 that they are in a special position to influence the decisions of the Court.
- 96 E. Justices shall be faithful to the law and remain unbiased and nonpartisan.
97 F. Justices shall maintain order and decorum in proceedings before them.
- 99 G. Justices shall be patient, dignified, and courteous to those with whom they deal
100 in an official capacity, and shall require similar conduct of those subject to their
101 direction and control.
- 103 H. Justices shall accord to every person who is involved in a proceeding, or their
104 counsel, a full right to be heard according to law.
- 106 I. Justices shall abstain from public comment about a pending proceeding in the
107 Court. This does not prohibit Justices from making public statements in the course
108 of their official duties or from explaining for public information the procedures of
109 the Court.
110

111 **Section 4. Responsibilities**

- 112 A. Determine questions of constitutionality and adherence to GPSA law as a
113 result of official complaints
- 115 B. Create a written record of all decisions and actions of the court to be maintained
116 in the GPSA Office.
- 118 C. Create an annual written report of the court to be included in the annual GPSA
119 report.
- 121 D. The court may, at its discretion, decline to hear cases that it deems are not
122 appropriate under the Bylaws.
- 124 E. Justices shall neither initiate nor consider communications from only one party of
125 a pending or impending proceeding.
- 127 F. Each Justice is charged with the duty of carefully reading and analyzing the
128 pertinent submitted material on each case in which he or she participates.
- 130 G. Justices shall abstain from public comment about a pending proceeding in the
131 Court. This does not prohibit Justices from making public statements in the course

132 of their official duties or from explaining for public information the procedures of
~~134~~ the Court.

135 H. Justices of the Court shall dispose promptly of the business of the Court.

136 I. Each Justice of the Court shall take or initiate appropriate disciplinary measures
137 against any other Justice for unprofessional conduct of which they become aware.

138 J. All official decisions and opinions of the Court shall be made in writing, made
139 available to GPSA officers, Representatives, and members, as well as the public upon
140 request. Written opinions must become part of the official Court Record and shall be
141 made available to the President, Council Chair, Council Representatives, and upon
142 request to GPSA members and the public.

143 K. Other duties as assigned by the GPSA Constitution.
144

~~145~~ **Section 5. Disqualification**

147 A. A Justice is disqualified and shall announce recusal in any proceeding in which:

148 1. The Justice has personal knowledge of disputed evidentiary facts concerning the
~~150~~ proceeding.

151 2. The Justice or the Justice's spouse/domestic partner, or a person related to the
152 Justice within the third degree, by blood, marriage, or other relationship to
~~154~~ either the Justice or the Justice's spouse/domestic partner:

155 a. Is a party to the proceeding, or an officer, director, or trustee of a party;

~~156~~ b. Is acting as legal counsel in the proceedings;

158 c. Is known by the Justice to have an interest that could substantially affect or
~~160~~ be affected by the outcome of the proceeding;

161 d. Is to the knowledge of the Justice likely to be a material witness in the
162 proceeding;

~~164~~ 3. A party to the proceeding is an employee of the Justice.

165 B. Any Justice announcing recusal from any proceeding shall notify the Chief Justice of
~~166~~ the recusal in writing.

168 C. If the Chief Justice must announce recusal from any proceeding, the Chief Justice
169 shall notify the full Court of the recusal in writing.
170

171 **Section 6. Non-judicial Activities**

172 A. Justices may appear at a public hearing before an executive or legislative body, and
173 may consult with an executive or legislative body official, but only on matters
~~174~~ concerning the administration of justice.

- 176 B. Justices shall not act as arbitrators or mediators except in the performance of
~~178~~ judicial duties.
- 179 C. Justices shall not accept any gift, bequest, favor, or loan other than ordinary social
180 hospitality, if the source of said gift, bequest, favor, or loan could imply or give the
181 appearance of influencing the decisions of the Court or otherwise give the
182 appearance of impropriety.
183

184 **Section 7. Resignation & Seniority**

- 185 A. Should the Chief Justice resign from the Court for any reason or be the subject of
186 impeachment proceedings, the Senior Associate Justice shall assume the duties of
187 the Chief Justice until the President appoints and Council affirms a new Chief
~~188~~ Justice.
- 190 B. Seniority of the Associate Justices shall be determined by the date of approval of
191 appointments, the vote order by Council, and the seniority assigned during a block
~~193~~ vote.
- 194 1. Seniority of the Associate Justices shall be assigned prior to sending the
~~195~~ appointments to the LSC.
- 197 C. Nothing in this section shall be construed to mean that the Court may operate with
~~198~~ less than three sitting Justices.
- 200 D. Members of the Court of Review shall not serve on any GPSA Standing Committee.
201

202 **Section 8. Pro Tempore Justice Appointments**

- 203 A. In the event that one or more Justice(s) announce recusal from any proceeding,
204 or in the event that any Justice is the subject of an impeachment proceeding
205 before Council, the Chief Justice shall notify the President and Council Chair of
206 such an occurrence within three (3) academic days of receiving written
~~208~~ notification of a Justice's recusal.
- 209 B. Within three (3) academic days of receipt of such notification from the Chief
~~210~~ Justice, the President shall recommend a Pro Tempore Justice to Council.
- 212 C. Within three (3) academic days of receiving the President's recommendation, the
213 Council Chair shall schedule a Special Meeting of Council in accordance with TPNR
214 in order to consider the
215 President's recommendation.
216
- 217 D. Following recusal, a Pro Tempore Justice must be approved by Council within
218 twenty (20) academic days of receipt of notice from the Chief Justice that a
~~220~~ Justice has announced recusal from a proceeding before the Court.

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- 221 E. The Chief Justice shall stay the effected proceeding(s), informing all parties of
222 the stay, until such time as:
- 224 1. The President has recommended to Council a Pro Tempore replacement for
225 each recused Justice, and Council has approved that recommendation;
- 227 2. The Pro Tempore Justice has taken the Judicial Oath of Office; and
228 3. An affidavit attesting to the Pro Tempore Justice’s authority has been filed.
- 230 F. All Pro Tempore Justice appointments, once made, shall expire upon the
231 termination of the matter before the Court. For the purposes of this section,
232 “termination” means any final ruling by the Court of the matter before it, including
233 dismissal for any reason as well as a determination of the matter on its merits.
- 235 G. With the exception of those cases in which a Justice has announced recusal
236 because impeachment proceedings have been brought against the Justice, the
237 appointment of a Pro
238 Tempore Justice shall not limit the recused Justice’s authority to hear other matters
239 before the Court.

240

241 **Section 9. Attorney General**

- 242 **A. Issuing advisory opinions concerning the law, legislation, or any other act of**
243 **GPSA.**
- 244 1. **Copies of the Attorney General’s opinions will be distributed to the**
245 **President, Council Chair, and all Council Representatives. The opinions**
246 **are also to be made available to all other GPSA officials and on the GPSA**
247 **website.**
- 248 2. **All requests for the Attorney General to issue advisory opinions must be**
249 **made in writing except those made during a Council Meeting.**
- 250 i. **The Attorney General shall be required to publish any**
251 **amendments made to the GPSA Bylaws within five (5) days**
252 **following approval by University Counsel.**
- 253 **B. Providing a current copy of the Constitution and Bylaws.**
- 254 1. **Updating and distributing the Constitution for the purpose of**
255 **engrossing any Amendments as passed by GPSA and approved by the**
256 **UNM Board of Regents.**
- 257 i. **The Attorney General is designated the responsibility to publish**
258 **current editions of the GPSA Constitution.**
- 259 2. **Updating and distributing the Bylaws for the purpose of engrossing any**
260 **amendments as passed by GPSA and approved by University Legal**
261 **Counsel.**
- 262 i. **The Attorney General is designated the responsibility to publish**
263 **current editions of the GPSA Bylaws.**

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- 264 3. **When requested, providing a paper copy of the governing documents to**
 265 **any student or student group.**
 266 i. **Individuals or groups of individuals requesting Bylaws are**
 267 **responsible for incurring the cost of duplication of all documents.**
 268 **C. Assisting the President in the execution of their duties.**
 269 **D. Serving as an ex-officio, non-voting member of Council.**
 270 1. **Attending Council meetings.**
 271 2. **Serving as the parliamentarian of Council.**
 272 **E. Providing advice and counsel concerning all acts of student government**
 273 **legislation.**
 274 1. **Providing counsel for the government in all suits against that**
 275 **government.**
 276 **F. Holding office hours weekly during which time they will be present in the**
 277 **GPSA office.**
 278 **G. The Attorney General is designated the responsibility to correct any**
 279 **grammatical mistakes within the GPSA Bylaws.**
 280 1. **Any grammatical changes made by the Attorney General shall be**
 281 **presented to Council and signed off by the Council Chair and President**
 282 **within six (6) days of the Council Meeting.**

283 **Section 9 10. Additional Duties Required**

- 284 A. **General Duties of the Court**
~~285~~ 1. **The Court shall conduct monthly meetings throughout each semester.**
 287 2. **The Chief Justice shall preside at all meetings of the Court, or be responsible for**
 288 **assigning a Justice to preside when the Chief Justice cannot attend or has**
~~289~~ **announced recusal.**
 291 3. **The Chief Justice is responsible for publishing all rulings and decisions of the**
~~292~~ **Student Court within eleven (11) academic days of decision.**
~~294~~ B. **Advice to the President, Elections ~~Chair~~ Director, or Council as requested**
 296 1. **The President, Elections ~~Chair~~ Director, or Council may seek the advice of the**
 297 **Court for any matter, including, but not limited to, the constitutionality of any**
 298 **provision of the GPSA Bylaws, codes or rules, or the constitutionality of any**
 299 **act of any GPSA officer or member acting on**
 300 **GPSA's behalf.**
 301
 302 2. **The President or Elections ~~Chair~~ Director may request the advice of the**
 303 **Court by submitting a question in writing to the Court with a copy to the**
 304 **Council Chair.**
 305 3. **Council may request the advice of the Court upon a majority vote of the**
 306 **Representatives present at any regular or special meeting where a**

307 quorum is present. The question shall be submitted to the Court in
308 writing with a copy to the President.

310 3. When advice of the Court is sought, the Court may follow procedures it
311 determines in its discretion that are suitable to effectively research and address
312 the question presented. The Court may ask the presenter of the question for
313 clarification of the issue.

315 4. The Court may determine that the question presented is beyond the scope of
316 the Court's authority, in which case it shall so inform the President and
317 Council Chair of such a determination.

319 5. In any event, the Court shall issue a written Advisory Opinion to the President
320 and Council Chair within twenty (20) academic days of receipt of the written
321 question.

323 C. Appellate Procedure

324 1. Jurisdiction

326 a. The Court shall determine if it has personal jurisdiction over all parties in
327 hearings before the Court, whether under the Court's original or appellate
328 jurisdiction.

330 b. Should the Court determine it does not have jurisdiction over a particular
331 party for any reason, the Court shall dismiss the action without reaching the
332 merits.

334 c. This section does not apply to the Court's proceedings when it has been asked
335 to issue an
336 Advisory Opinion.

337 2. Hearing Procedures and Informal Dispute Resolution:

339 a. The GPSA Court of Review encourages disputants to resolve their disputes
340 outside of this Court. This Court is available to assist in informal proceedings
341 should both parties' consent to such dispute resolution. Procedures for
342 informal dispute resolution are to be determined by the Court.

344 b. Parties wishing to seek resolution to their dispute in a more formal setting
345 may bring an action before the Court by following the established Hearing
346 Procedures.

348 3. Complaint Limitations Period

350 a. In general, all actions alleging violations of the GPSA Constitution or Bylaws
351 must be brought within twenty (20) academic days from the date of the
352 alleged infraction. However, if the Plaintiff is unaware of the alleged
353 infraction at the time it occurs, the Plaintiff must file the claim within eight

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- 354 (8) academic days from the day on which the Plaintiff learned, or should
355 have learned, of the infraction.
- 357 b. Any challenge to any action on the grounds that it has been brought after the
358 applicable Complaint Limitations Period has run is a matter to be resolved by
360 the Court of Review.
- 361 c. Extensions of the Complaint Limitations Period may be granted only to
362 accommodate events deemed emergencies by the Court or for other equitable
364 reasons as determined by the Court.
- 365 4. Complaint
- 367 a. All matters that are not Advisory Opinion Proceedings shall be brought before
368 the Court upon completion of a Complaint form by the Plaintiff, filed with the
370 Court in the GPSA Office within the applicable limitations period.
- 371 b. The Complaint form may be obtained from the GPSA Office.
- 373 c. The Plaintiff shall serve a true and correct copy of the Complaint to any and all
374 Defendants no more than three (3) academic days after submitting a
375 Complaint to the Court. Service of the Complaint may be made in person, by
376 hand delivery, by first-class mail, or any other method by which the Plaintiff
378 reasonably believes the Defendant should receive the Complaint.
- 379 d. The Court has six (6) academic days to review the Complaint and determine if it
380 is within the Court's jurisdiction as defined in the GPSA Constitution and Bylaws,
381 and whether all information required by the Complaint form has been submitted
383 and is fully completed.
- 384 e. If corrections are required, the Plaintiff has three (3) academic days in which to
385 make any corrections, additions, revisions, etc., and submit an amended
386 Complaint to the Court. The Court may grant extensions to any Plaintiff when
388 justice so requires.
- 389 f. The Plaintiff shall serve a true and correct copy of the amended Complaint on
390 any and all Defendants within three (3) academic days of its submission to the
391 Court. Service of the amended Complaint may be made in person, by hand
392 delivery, by first-class mail, or any other method by which the Plaintiff
394 reasonably believes the Defendant should receive the amended Complaint.
- 395 g. The Court will dismiss without prejudice any Complaint over which it lacks
396 jurisdiction. The Court reserves the right to dismiss any Complaint on the
397 grounds that the amended Complaint is incomplete and/or the time for
398 submitting corrections has expired.
- 399 5. Answer
- 400 a. The Answer form may be obtained from the GPSA Office.

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402 b. On or before the fifth (5th) academic day following receipt of the Complaint (or
403 amended Complaint), the Defendant(s) must file a completed Answer on the
~~404~~ Court's Answer form with the Court.

406 c. The Defendant shall serve a true and correct copy of the Answer on any and all
407 Plaintiffs within three (3) academic days of its submission to the Court. Service
408 of the Answer may be made in person, by hand delivery, by first-class mail, or
409 any other method by which the Defendant reasonably believes the Plaintiffs
~~410~~ should receive the Answer.

412 d. If the Court determines that the Answer form is incomplete or inaccurate, it
413 shall be returned to the Defendant(s) who shall have three (3) academic days
~~414~~ in which to amend the Answer form and re-submit it to the Court.

416 e. The Defendant shall serve a true and correct copy of the amended Answer on
417 any and all Plaintiffs within three (3) academic days of its submission to the
418 Court. Service of the amended Answer may be made in person, by hand
419 delivery, by first-class mail, or any other method by which the Defendant
~~420~~ reasonably believes the Plaintiffs should receive the amended Answer.

~~422~~ 6. Pre-Hearing Guidelines

424 a. The Court has three (3) academic days from receipt of the Answer (or amended
425 Answer) in which to schedule a Hearing if the Court finds the case to be within
~~426~~ the Court's jurisdiction.

428 b. The Hearing shall be scheduled no later than seven (7) academic days from the
429 date of the Court's receipt of the Defendant's Answer or final amended Answer,
430 unless the matter is stayed by the Chief Justice because a Justice has announced
431 recusal, in which case a hearing shall be scheduled no later than seven (7)
432 academic days after a Pro Tempore Justice has been appointed, approved, and
~~433~~ assumed the Judicial Oath of Office.

435 c. Extensions of the time allotted for submission of the Complaint (or amended
436 Complaint), the Answer (or amended Answer), and/or scheduling of a hearing
~~437~~ must be granted when justice so requires.

439 7. Witnesses and Evidence

440 a. Parties are responsible for gathering and presenting evidence and other
~~441~~ testimony, including calling any relevant witnesses to support their case.

443 b. Should a party be unable to find or to convince a witness to testify at the
444 hearing, or should a party be unable to access evidence that is critical to its
445 case after reasonable diligence in attempting to secure such witness or
446 evidence, it may inform the Court. The Court may, in its discretion, postpone
447 the hearing or take other remedial measures to allow the party to gather
~~448~~ evidence necessary to its case in the interest of justice and fairness.

- 450 8. Hearing Procedures
- 452 a. The Plaintiff(s), followed by the Defendant(s), shall present Opening
454 Statements, which shall be no more than ten (10) minutes in length per party.
- 455 b. The Court may ask questions of either party, if clarification is needed.
- 457 c. Witnesses for both the Plaintiff(s) and Defendant(s) shall present their
458 evidence and/or testimony. Parties shall have an opportunity to question
459 each witness subject to the restrictions of the Court. The Court may also
460 question the witnesses, if necessary.
- 462 d. The Court reserves the right to recall any Plaintiff(s), Defendant(s), and/or
464 Witness(es) at any time during the hearing.
- 465 e. The Plaintiff(s) and the Defendant(s) shall be asked if they would like to make
466 Closing Statements, and if they so desire, they shall be given no more than ten
468 (10) minutes per party for a closing statement.
- 469 f. The Court shall then recess to deliberate in a closed portion of a meeting.
- 471 g. The Court shall issue a decision no later than fourteen (14) calendar days
473 following the Hearing.
- 474 9. Hearing Guidelines
- 475 a. All Hearing proceedings must be audio recorded.
- 476 b. The Court shall be allowed to recess at any time, for any reason.
- 478 c. The Court may, in its discretion, admonish any Witness or party whose
480 testimony or behavior is inconsistent or harmful to the process of justice.
- 481 d. Consistent with these Procedures, the time allowed for Plaintiff(s),
482 Defendant(s), and Witness Statements shall be decided by the Court at the
484 beginning of the Hearing.
- 485 e. Plaintiff(s) and/or Defendant(s) have the right to appear with an advisor at
486 the Hearing. The advisor may be, but is not required to be, an attorney.
487 However, the Plaintiff(s) and Defendant(s) are responsible for presenting their
488 cases in their entirety. Advisors are therefore not permitted to speak or
490 participate directly in any Hearing.
- 491 f. Circumstances not described above will be resolved at the discretion of the
492 Court.
- 493 10. Procedure Guidelines
- 495 a. Whenever a party is required to do some act (e.g., submit a Complaint, answer a
496 Complaint, etc.), the time for compliance begins to run on the day that the party

497 receives notice of the need to act. If notice is sent by mail, receipt thereof shall
498 be presumed three
499 (3) calendar days after the notice is mailed.
500

501 b. After submission of a Complaint, it shall be kept confidential until the
502 Defendant(s) have been properly served with the Complaint or amended
503 Complaint. Once the Defendant(s) receive, or are presumed to have received
504 notice, the Complaint and other Court records pertaining to the case shall be
505 open to scrutiny, in compliance with the Family Educational Rights and Privacy
506 Act.

507 c. Circumstances not described above may be resolved at the discretion of the
508 Court.

~~509~~ 11. Procedure for Charging a GPSA Official with Misconduct

511 a. Allegations for charging the President, Council Chair, Council
512 Representative, Chief Justice, Associate Justice, or other GPSA officer with
~~513~~ official misconduct shall be made on an official Complaint form.

515 b. Such Complaints, once filed, must be adjudicated by the Court of Review
~~516~~ and are not subject to informal dispute resolution.

518 c. Hearing Procedures for allegations of official misconduct shall be the same
~~519~~ as those for any other Hearing as stated herein.

~~521~~ 12. Fairness and Justice

523 a. If the Court finds that any particular procedure should be amended in the
524 interest of fairness and justice, the Court may amend or modify the
~~525~~ Hearing Procedures so long as due process is afforded both parties.

~~527~~ 13. Further Appeal:

529 a. With respect to the actions of the GPSA, the decision of the Court of
~~530~~ Review shall be final.

532 b. Nothing in the GPSA Constitution or Bylaws shall be construed as an attempt
533 to limit any person's or party's rights under other applicable laws.