

**SUPREME COURT OF STUDENT GOVERNMENT
AT TEXAS STATE UNIVERSITY**

No. 01-01

Syllabus

**PETITIONER: HUNTER SCHULER, DIRECTOR OF
RULES AND STANDARDS**

#AO 01-01.

Heard September 19, 2014 – Decided September 19, 2014

Petition for an Advisory Opinion was brought by Director of Rules and Standards, Hunter Schuler concerning the nature of required events and how it relates to absences resulting in impeachment.

The primary question before the Court was for guidance as to whether or not the petitioner should proceed with impeachment proceedings against a Senator who had acquired two absences, one of which was due to not attending a required event.

Attendance was taken at this required event twice. The secondary question asked of the Court was to identify specifically if the event, which occurred over a two day period is to be counted once, twice or not at all.

JUSTICE DESALVO delivered the opinion of the Court, with Justice Tennent, Wan, Morrison, and McKinney concurring. Justice Schultz's' opinion is unregistered.

Advisory Opinion

In relation to the first request by the petitioner to guide him on whether or not to proceed with impeachment; the Supreme Court has decided that whether or not to proceed with impeachment is a question only the Senate can answer. Guidance for the impeachment process can be found in throughout Article VII of the Student Government Constitution, Article III(10)(d), is clear that all procedures for impeachment are to originate in the Senate. Further Article VII(2)(b) states that trials of impeachment for Senators are to be conducted in the Senate.

It is the opinion of the Court that the question; should the petitioner proceed with impeachment is a question only the Senate and the petitioner himself can decide.

On the secondary question related to process, which the Court is prepared to answer, we hope the petitioner will find the answers in our clarification of the process. The Court reviewed all relevant sections of the Student Government Code and is prepared to lay out a clearer understanding so that members and officers of Student Government may be sure to follow required event processes.

The Membership Standards Act under S.G.C. IX. §104.1(3) states that the President may declare any two events sponsored by any component of Student Government as required. It further goes on to say that failure to attend shall count in the same way as an absence to a required meeting.

There are a few areas that are not explicit in this section of the S.G.C., first the "instrument" by which the President makes such a requirement and the definition of a "required meeting" and the exact terms and reasonable limitations of the required event.

It is the opinion of the Court that the "instrument" for making required meeting declaration is provided for under S.G.C. IV. §200.1(2) under executive orders. This power is implied in the Constitution Article 5, Section 3,

which grants the President “all executive powers”. These powers are broadly interpreted by the Court to grant the President the power to issue Executive Orders as the instrument of executing the powers granted to him or her by the S.G.C. and constitution. So long as the constitution and statute grant the President the authority he or she may issue an Executive Order on those subjects.

The Court is hereby establishing a reasonable limitation on the length of these required events. It is the opinion of the Court that no event may exceed two consecutive days, and cannot exceed a reasonable period of time which we limit to no greater than 30 total hours.

It is the opinion of the Court that S.G.C. IX. §104.3 grants the President the power to declare an event required. These required events shall include events which span the length of the aforementioned reasonable period.

In relation to attendance, it is the opinion of the Court that S.G.C. IX. §104.3(4)(b) establishes that in order to be given an excused absence to a required event the absence must meet the standards found in the components *Standing Rules*, in this instance those acceptable absences can be found under S.G.C. VI. §200.7(3).

It is granted and accepted by the Court that if a required event goes on for the maximum reasonable period then attendance should be taken at least twice, especially for events that require members to reconvene at different times or different days.

It is the opinion of this Court that so long as attendance is taken either through roll call, sign in or other accountable form then official attendance is to be considered officially recorded.

It is the opinion of the Court that that an unexcused absence from one event, no matter the length of the event can only constitute one recorded unexcused absence. In effect an absence to any part of the event or the whole event can only equal one recorded unexcused absence. No member may be recorded as absent twice for a single event.

Regarding if missing a required event is cause for impeachment. It is the opinion of Court that an absence from a legally executed, required event coupled with an absence from a "required meeting" or another required event is cause for impeachment. In effect missing a required event is the same as missing a Senate or House meeting. S.G.C. IX. §104.3 provides that absences from required events are to be dealt with in the same way as absences to a required meeting. In accordance with S.G.C. VI. §200.7(1) absences from two "meetings" constitute cause for removal. Absences from a required event shall be recorded on the official roll of attendance for the component of Student Government that the required event applies to.

Summary

In summary, the process for the proper execution of a required event and all related attendance policies is as follows.

The President must first issue an Executive Order or other instrument of a written nature, executing his or her powers under S.G.C. IX. §104.3. The order will specify the date and those who are to be affected as well as any special provisions. The President or other officer shall inform all those who the order applies to of the event's details, including at least the date but preferably the time, and location within the required notification deadline of 30 days as required by S.G.C. IX. §104.3(a). Excused absences should be cataloged in accordance with the components *Standing Rules*. Attendance shall be taken at the event, a maximum of two times during an event which occur over the granted period 2 day, 30 hour period. Absences at any of these attendance points shall constitute one single unexcused absence to the event as a whole, excuses will be registered per the attendance policy found in the components *Standing Rules*. If a person is absent from a required event it shall be recorded in the official roll of the component and count toward any cause for impeachment for missing meetings under the components absence policy.

It is so ordered.

**SUPREME COURT OF STUDENT GOVERNMENT
AT TEXAS STATE UNIVERSITY**

No. 01-01

**HUNTER SCHULER, DIRECTOR OF RULES AND
STANDARDS**

ADVISORY OPINION REQUEST

Received September 6, 2014 – Issued September 9, 2014

NOTICE:

The Supreme Court has decided to review the request for an Advisory Opinion and has issued a case Number of 01-01.

The hearing is Wednesday September 17, 2014 at 6:00 p.m. in the LBJ Student Center, Room 3-8.1.

The petitioner, and any interested parties, may submit to the Court his view on the subject in writing in proper brief format.

Advisory Opinion Request

To: Student Government Supreme Court

From: Hunter Schuler, Director - Rules and Standards Commission

Date: 06SEP2014

Relating to:

S.G.C.. VI. §200.7(1) ABSENCE POLICY - DEFINITION

As the Director of Rules and Standards, I have been informed by the Vice President of the Senate attendance. The VP has said that attendance was taken at the student government retreat during the summer and it is the position of the VP that attendance at the retreat counts toward absence penalties outlined in the aforementioned SGC Absence Policy. I respectfully request an interpretation and court order with guidance on the issue as to whether or not to proceed with impeachment proceedings against senators with 2 absences where one of the absences was accrued at the retreat. I have sent a copy of the email conversation between myself and the VP as well as the attendance record (spreadsheet, column "D" is retreat attendance) to the Chief Justice.

Also, if the Court determines that attendance at the retreat is to be counted, I would like to point out that the VP stated that roll was taken "both days" at the retreat. I request that the court specifically determine whether absence at the retreat is to be counted once, twice, or not at all, and how this relates to the SGC and if such absences are grounds for request for resignation/impeachment.

Respectfully,

Hunter Schuler

Director - Rules and Standards Commission

DeSalvo, Cody Lee

From: Hunter <hds28@txstate.edu>
Sent: Saturday, September 06, 2014 9:21 PM
To: DeSalvo, Cody Lee
Subject: Notice of Complaint #03-740-549
Attachments: form.csv; Advisory Opinion Request.docx

please-prepare-your-request-in-accordance-with-the-example-provided-and-upload-it-here:

Advisory Opinion Request.docx (Attached file)

sendername:

Hunter

last-name:

Schuler

student-id-number-a0:

A04161526

senderemail:

hds28@txstate.edu

unnamed:

Pertaining to whether or not senator absence from the retreat is grounds for impeachment

oath-of-affirmation-of-truth:

I, the filer of this Notice of Complaint, in accordance with Title VII §100.4(3) of the Student Government Code, do solemnly swear – the documents I have provided are truthful and that I will tell the truth, the whole truth, and nothing but the truth – as the laws of Student Government require.

Form location: <http://studentgovernment.dos.txstate.edu/courts/supremecourt/advisory.html>

Confirmation number: 03-740-549

RE: Attendance

Quinones, Sean P

Sent: Friday, September 05, 2014 11:51**To:** Schuler, Hunter D

Yes we took role both days.

SQ

From: Schuler, Hunter D**Sent:** Friday, September 05, 2014 11:47 AM**To:** Quinones, Sean P**Subject:** RE: Attendance

Was Retreat conducted as an official Senate meeting? I.e. was role taken? I've attached the portion of Student Government Code that defines "absence" and gives the authority for removal from office.

ARTICLE VII. ABSENCE POLICY

§1 DEFINITION. A Senator not present at the time of roll call shall be considered absent. Two unexcused absences from Senate meetings in one semester, either from general assembly or committee meetings, shall be just cause for removal of a Senator.

So unless retreat took a 'roll call' and was considered either a general assembly meeting or a committee meeting, I am not sure there is justification for removal just yet.

Not trying to go against the grain on this one but this will be my first action as the Director of Rules and Standards so I want to make sure I have all my "i"s dotted and "t"s crossed.

From: Quinones, Sean P**Sent:** Friday, September 05, 2014 11:30**To:** Schuler, Hunter D**Subject:** RE: Attendance

The absences in column D are from retreat. Retreat was a mandatory event that everyone was made of aware of over a month in advance.

SQ

From: Schuler, Hunter D**Sent:** Friday, September 05, 2014 11:26 AM**To:** Quinones, Sean P**Subject:** RE: Attendance

There are some absences listed on column D; what day was that for?

From: Quinones, Sean P**Sent:** Friday, September 05, 2014 11:20**To:** Schuler, Hunter D

Subject: Attendance

Hunter,

Here is the first week's attendance for Senate, I will be sending you this every Friday.

Have a good one!

Eat Em' Up Cats,

Sean P. Quiñones

Sean P. Quiñones
Student Body Vice President
Vice President of Men Against Violence
LBJ Student Center 4-5.1
Texas State University | Public Administration

We are strong. We are united. We are Bobcats.

Monthly Senate Attendance 2014-2015

Student Name	T = Tardy, U = Unexcused, E = Excused, or P = Present												Totals									
	8/15	8/16	8/25	8/28	9/9	9/15	9/22	9/29	10/6	10/13	10/20	10/27	11/3	11/10	11/17	11/24	12/1	12/8	T	U	E	P
1. Anderson, Austin																			0	0	0	1
2. Bentley, Taylor																			0	0	0	1
3. Burton, Tyler																			0	0	0	1
4. Carhart, Mackenzie																			0	1	0	1
5. Carlson, Christian																			0	0	0	1
6. Dees, Laurel																			0	1	0	0
7. Edstrom, Zachary																			0	0	0	1
8. Downing, Dustin																			0	0	0	1
9. Galo, Anthony																			0	0	0	1
10. Gomez, Blake																			0	2	0	0
11. Gray-Berra, Dominique																			0	0	0	1
12. Grimes, Kent																			0	1	0	1
13. Jackson, Dominique																			0	0	0	1
14. Johnson, Eric																			0	0	0	1
15. Medlin, Travis																			0	0	0	1
16. Mitchell, Joshua																			0	1	0	1
17. Neilson, Russell																			0	1	0	0
18. Pappas, Nicholas																			0	0	0	1
19. Potts, Brady																			0	0	0	1
20. Rady, Nader																			0	1	0	0
21. Schuler, Hunter																			0	0	0	1
22. Solis, Kara																			0	0	0	1
23. Stotler, Lauren																			0	0	0	1
24. Trevino, Anthony																			0	2	0	0
25. Trevino, Lawrence																			0	2	0	0
26. Wyatt, Scott																			0	1	0	1
27. Zavala, Taylor																			0	0	0	1
28. Zavala, Taylor																			0	0	0	1
29.																			0	0	0	0
30.																			0	0	0	0