

**STUDENT SENATE BILL 2009-1057**

**TITLE: Judicial Ethics and Responsibility Act**

**AUTHORS: Senator Ben Cavataro**

**SPONSORS: Senators Ben Cavataro, Dylan Billiodeaux, Travis Baker, Alan Yanuck, Jonathan Ossip, and Gary Benedix**

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**SECTION 1. REPEAL OF CHAPTER 402**

Chapter 402 of the Student Body Statutes is hereby repealed.

**SECTION 2. CREATION OF NEW CHAPTER 402**

INSERTS Chapter 402 of the Student Body Statutes as follows:

402.0 Any Student Government officer of the Judicial Branch shall disqualify himself/herself in any proceeding in which his/her impartiality might reasonably be questioned.

402.1 Any Student Government officer of the Judicial Branch shall disqualify himself/ herself in the following circumstances:

Where he/she has a personal bias or prejudice concerning a party, a personal interest in the outcome of the case, or a personal knowledge of disputed evidentiary facts concerning the proceeding. This shall include but shall not be limited to family relation to a party in the proceeding, shared membership in a student organization with a party in the proceeding, or current or past residence with a party to the proceeding;

Where he/she has been a personal participant in the matter in controversy;

Where he/she has participated as counsel, adviser, or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy; and

Where he/she knows that he/she, individually or as a fiduciary, or an immediate relative has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding.

402.2 No Student Government officer of the Judicial Branch shall accept from any party to the proceeding a waiver of any ground of enumerated disqualification.

402.3 In any cause before any body of the Judicial Branch, any party to the proceeding or other interested party may at any time before final judgment file a motion requesting a disqualification of a Student Government officer of the Judicial Branch.

## **Highlights and Explanations**

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- The Judicial Ethics and Responsibility Act mandates that SG officials of the Judicial Branch (Student Supreme Court, Elections Commission) not take part in any proceeding in which his or her impartiality might reasonably be questioned.
- The Judicial Ethics and Responsibility Act is adapted from language in the United States Code. It provides a great deal of flexibility but provides that officials must recuse themselves when that would make sense – when they have a personal bias or prejudice, a personal interest in the outcome of the case, or a stake in the proceedings, when they have advised a participant in the case, and in other circumstances.
- Under the current language:
  - An SG officer of the judicial branch could still rule in a case brought by his or her roommate last semester, because the rule right now only mandates recusal in cases of “current residence” with a party in the proceeding.
  - An SG officer of the judicial branch could publicly express a view on the merits of a case or advise a party to the proceeding – and then decide the same case.
  - If the requirements for recusal are met, but no party files a specific complaint requesting recusal, then the officer of the judicial branch can continue to decide the same case.
- The Judicial Ethics and Responsibility Act fills these significant gaps with a workable outline for when SG officers of the judicial branch must not take part in proceedings.