ASSOCIATED STUDENTS OF ASU

GPSA ASSEMBLY

NINTH LEGISLATURE

OCTOBER 21, 2011

ASSEMBLY BILL # 10

INTRODUCED BY

THE GOVERNMENT OPERATIONS COMMITTEE

AN ACT Adopting the Code of Discipline

THE GRADUATE AND PROFESSIONAL STUDENT ASSOCIATION,

WHEREAS there is currently no well-defined procedure for discipline and impeachment issues;

NOTING THAT this lack of procedure can lead to confusion and unfairness,

THEREFORE THE ASSEMBLY ADOPTS the “Code of Discipline”, to apply to the entire Graduate and Professional Student Association:

“Article I: Purpose and General Guidelines

A. The purpose of the Code on Discipline is to ensure a well-defined and fair process for GPSA members and officers accused of wrongdoing that merits rebuke, warning, punishment, or removal from office. The Code also seeks to define types of wrongdoings and incorrect actions, and implications and repercussions thereof.

B. This Code is a legal instrument that is on the same level as, although separate from, the Bylaws. It seeks not to define offenses, but rather to define the process for disciplinary hearings and the punishments/warnings that may be adopted.

C. The right for the Assembly to punish and/or dismiss members is established within the ASASU Constitution and GPSA Bylaws. As such, all operations concerning member discipline and removal shall be conducted through the auspices of the Assembly.

D. Though processes for discipline and dismissal are to be conducted in a fair, transparent and reasonable manner, they are inherently not judicial proceedings; as such, specific legal tests, standards of proof, levels of culpability, issues of intent, and other jurisprudence—American or otherwise—are not applicable. As a result, individuals are free to bring about disciplinary proceedings for any
reason they see fit, and the Assembly has the right to convict, warn, punish and
remove based upon the opinions and votes of members of the Assembly, without
regard to the judicial standards mentioned above.

Article II: Levels of Wrongdoing and Incorrect Actions, and Implications Thereof

A. There are no specific tests adopted here to determine which classification listed
below should be applied to a given scenario. Rather, it is a deliberative issue left
to the Assembly. The warnings and punishments below are the only ones that the
Assembly may adopt, and adopting one of them connotes that the Assembly
believes that the disciplined individual acted with the level of incorrectness or
wrongdoing associated with the classification.

B. Sanctions.
   a. A notice is defined as a formal notice or formal warning; a punishment is
defined as a censure, a strong censure, or conviction upon impeachment.
   i. A formal warning warns the receiving party that his or her
      conduct is wrong, and must improve at once. A formal warning
      must be affirmatively approved by a majority vote of the Assembly.
   ii. A censure is imposed when an individual has acted with
      negligence, fault, malfeasance or guilt, but insufficiently so as to
      merit removal from office. A censure serves to specifically rebuke,
      condemn and express strong disapproval towards the individual’s
      conduct and character. The censure must be affirmatively
      approved by a 2/3 vote of the assembly.

C. Note on Impeachments:
   a. Impeachment and the process regarding its execution shall be considered
      within Article V of the Discipline Code.

Article III: The Discipline Committee

A. The Committee on Discipline, a committee within the Assembly, is established to
consider matters of discipline in accordance with this Code.
   a. All matters concerning notices and punishments as listed in Article II of
      the Code will be handled by the Committee in accordance with Article IV
      of the Code.
   b. The Committee will manage the impeachment process as described in
      Article V of the Code.
   c. The Committee will handle issues of expulsion of members of the
      Assembly as described in Article VI of the Code.
B. Membership- The Committee on Discipline shall have five regular members and one ex-officio member.
   a. Regular members-
      i. 1 member from the Government Operations Committee, appointed by that committee.
      ii. 1 member from the Assembly Operations Committee, who is not the Assembly President, appointed by that committee.
      iii. 3 members elected by a majority vote of the Assembly; only one of these 3 additional members may be from either the Government Operations or Assembly Operations Committee. None of these 3 additional members may be the Assembly President.
   b. Ex-officio member-
      i. The Assembly President, who shall have the right to attend meetings, sit on the committee and partake in discussions. The Assembly President may make no motions and may not vote. The Assembly President may not sit on the committee when it is considering charges brought by the Assembly President him/herself.

C. The committee shall elect a Chairman from amongst its regular members.

D. The Assembly shall have the right to remove a regular member from the Committee with a 2/3 vote of all present and voting members of the Assembly during an Assembly meeting.

E. Miscellaneous:
   a. The Committee requires a quorum of 3 out of 5 regular members to convene, consider business, and vote.
   b. Members of the Committee who accused of wrongdoing and whose case is being considered before the committee may not sit with the committee during the investigation.
   c. The Committee should seek to conduct its business in a cordial demeanor. All involved parties should deliver all information reasonably requested by the committee.
   d. The Committee is authorized to subpoena any document or item produced by or for GPSA, or to subpoena the testimony of any member of the Assembly, Executive Officer, or employee of an Executive Officer. A subpoena can be issued by a majority vote of regular committee members.
      i. The subpoena can be challenged before the Supreme Court, which may quash the subpoena on the grounds that the information requested was not produced by or for GPSA.
      ii. If the subpoenaed party does not comply with the subpoena, and no remedy was issued by the Supreme Court, the Committee may
recommend sanctions be adopted by the Assembly for contempt of
committee (which may be any of the aforementioned sanctions), in
addition to sanctions germane to the issue at hand.

Article IV: Discipline Process for Items Other than Impeachment

A. This article applies only to matters of discipline related to punishments and
   notices in Article II of the Code.

B. The number of members present and voting at an Assembly meeting is
   required to issue a sanction is noted in Article II. Such a notice or punishment
   is not subject to the veto of the President.

C. All efforts that attempt to bring about a notice or punishment to a member of
   the organization must first be referred to the Committee on Discipline for
   review.
      a. Disciplinary issues cannot be voted on in the Assembly before review
         by the Committee on Discipline.

D. Methods for referral to the Committee:
   1. On referral from the Assembly. If the Assembly, with a majority vote,
      refers a matter to the Committee on Discipline, it is required to
      investigate the matter, and report back to the Assembly at the next
      Assembly meeting with a recommendation.
   2. Through command of the Assembly President. If the Assembly
      President so directs, the Committee is required to investigate, and
      present a recommendation to the Assembly at the next meeting.
   3. On motion of at least two members of the Assembly. If two members
      of the Assembly send a written motion to the Committee calling for an
      investigation, the Committee is required to investigate, and required to
      present a recommendation to the Assembly at the next meeting.
   4. Of its own volition. The Committee may investigate matters that have
      come to its attention. It is not required to submit a recommendation to
      the Assembly, but may do so if deemed necessary.
   5. From a tip or accusation from any individual not listed above. The
      Committee must at least perform a cursory investigation to test the
      validity of the claims, and may proceed to a full investigation of
      deemed necessary. The Committee is not required to submit a
      recommendation to the Assembly.

E. The requirement to investigate and report shall be waived if a unanimous vote
   of the committee concludes that the accusations are superfluous and entirely
   without substance.

F. If the committee decides that an investigation is needed, or if it is required to
   undertake an investigation, it will follow these protocols:
1. Notify the accused that he or she has been accused of wrongdoing, and
   the substance of the complaint brought before them.
2. Ask the accuser and the accused to each provide information, both
   written and in the form of testimony, to the committee for
   consideration.
3. The accuser and the accused shall be granted the inviolable right to
   address the Committee.
4. The Committee shall deliberate its findings in Executive Session.
5. A majority vote is needed to forward a recommendation to the
   Assembly for approval.

G. Upon completing an investigation and deliberation, the Committee will refer
   to the Assembly its findings of fact and its recommendation of what sanction,
   if any, should be applied. The Committee may also refer a matter to the
   Assembly with no recommendation.
   a. Recommendations shall be issued with a majority vote of the
      committee. A remedy in subsection g is defined as a notice or
      punishment as defined by this code.
   b. Where the committee is not required to report a recommendation to
      the Assembly, it may dismiss the matter entirely with a majority vote.

H. The Committee’s report shall be presented at the next Assembly meeting, or at
   a special session of the Assembly called for the purpose of considering this
   issue.
   i. The report must be submitted to the Assembly no later than
      three calendar days before the Assembly meeting, and must be
      disseminated electronically to all members of the Assembly
      immediately upon its submission to the Assembly.
   ii. Consideration of this issue shall be in the “New Business”
       section of the agenda.
   iii. If the committee recommends a sanction, it shall draft a
        resolution requiring such.
   iv. If the committee does not recommend a sanction, it shall not
        draft such a bill.
   b. After the Committee issues its report, the accuser (if multiple accusers,
      then only one may present according to this section) and accused shall
      each be given a chance to address the Assembly, each with seven
      minutes afforded to them.
   c. After each party has presented, discussion on the issue shall ensue, and
      be governed by the general rules regulating debate of an Assembly Bill.
d. If the Committee has put forth a resolution as described in section G, part iii of this Article, the Assembly may vote directly upon the resolution as they would any other Assembly Bill. If the resolution is passed, the Assembly member is immediately sanctioned in accordance with the resolution. If the resolution is defeated, the allegation is immediately dismissed with prejudice, and not open to further consideration.
   i. The Assembly may amend the sanction on the resolution per the procedures used for amending main motions.

e. If the Committee did not put forth a resolution as described in section G, part iv of this Article, a member of the Assembly may, during the discussion period, move that the member be sanctioned with a sanction in Article II. This motion shall require a second by at least three other members of the Assembly.
   i. Upon this motion and second, a vote shall be first taken to indicate whether or not the Assembly is ready to vote on the matter. A 2/3 vote in the affirmative of all present and voting Assembly members is required for a vote on the main motion to be taken.
   ii. If the vote passes, a vote shall then be held immediately on whether or not to expel the accused Assembly member. If the required number of present and voting members of the Assembly vote for a sanction, the member shall be sanctioned. If the total number of votes for expulsion is less than the required number of present and voting Assembly members, the motion shall be defeated, and the allegations shall be dismissed with prejudice, and not open to further consideration.

f. If the committee did not put forth a resolution as described in section G, part iv of the Article, a member of the Assembly may, during the discussion period, move that the allegations against the member be dismissed with prejudice. This motion shall require a second by at least three other members of the Assembly.
   i. This motion is not debatable, and requires a majority vote to pass.
      1. If the motion passes, the allegation is immediately dismissed with prejudice.
      2. If the motion fails, discussion shall resume.
1. Executive Officers, and all employees that work for an Executive officer, may be subject to impeachment.
   a. Per the ASASU Constitution, this shall also include the Assembly President.
2. Members of the Assembly are not subject to impeachment.
3. Impeachment Process:
   a. Petition and Initiation of Impeachment:
      i. As per the ASASU Constitution, impeachment shall commence with a petition containing the signatures of twenty-five percent (25%) of the membership of the Assembly.
      1. Twenty-five percent of the Assembly shall be calculated from the membership of the Assembly at the time that the petition has been delivered.
      ii. A petition shall be considered delivered when, after obtaining all of its signatures it is given to in a reasonable manner to the President of the Assembly, a member of the Assembly Operations Committee, or the President Pro Tempore of the Assembly.
         1. The petition must be conveyed to the President of the Assembly unless it seeks to impeach the President of the Assembly. In such a case, the petition must be conveyed to the President Pro Tempore of the Assembly.
      iii. Upon receipt of the petition, the President of the Assembly or the President Pro Tempore of the Assembly shall declare the named officer impeached and will notify the following:
         1. the President of the GPSA;
         2. the accused officer;
         3. the membership of the Assembly; and
         4. the public.
         a. Public notification may be achieved by sending an e-mail or other written notification to an editor of the State Press.
      iv. Petitions for impeachment, if successful, shall be made public and are not secret.
   b. The Disciplinary Committee and Pre Hearing Matters:
      i. The Chair of the Disciplinary Committee shall, upon impeachment of any officer, call a meeting of the Disciplinary Committee.
      ii. The Disciplinary Committee shall have the following powers:
         1. to set the date of the Impeachment Hearing no sooner than fourteen (14) calendar days after impeachment and no later than forty-five (45) days after impeachment;
2. to, after consideration of the facts, evidence, and statements made by officers, recommend a procedural course of action of the assembly or recommend the consideration of certain issues regarding the accusation;

3. to, call a special session of the Assembly for the consideration of any preliminary issues regarding the impeachment hearing;

4. to, recommend to the Assembly the consideration of any evidence presented;

5. to appoint and direct a Impeachment Hearing Presiding Officer of the Assembly for the purposes of acting as President of the Assembly during impeachment proceedings provided that the individual is:
   a. not the President of the Assembly;
   b. not the President pro tempore of the Assembly;
   c. not an Executive Officer of the GPSA;
   d. not a director in the GPSA;
   e. not a manager appointed for the purposes of the hearing at hand;
   f. not impeached;
   g. not previously impeached and removed; and
   h. one of the following:
      i. a member of the GPSA as defined by the ASASU Constitution and in good academic standing;
      ii. a licensed attorney able to practice before the Supreme Court of the State of Arizona;
      or
      iii. a professional parliamentary officer holding active certification from professional society for parliamentarians;

6. to, make public statements regarding the nature, and timing of the proceedings; and

7. to enforce the provisions of these bylaws to allow for a fair hearing.

iii. It shall be the duty of the Disciplinary Committee to:
   1. make any meeting preparations for the hearing;
   2. decide preliminary matters before the hearing; and
   3. make a recommendation to the Assembly.
iv. Any member of the Disciplinary Committee who is impeached must recuse themselves and not vote on matters until they are acquitted.

v. Members of the Disciplinary Committee shall not communicate with the accused officer or the manager except as part of official business and in meetings that are open and publically announced.

1. The chair is exempt from this rule for purposes of representing the committee when they are not meeting.

vi. If no charges are listed in the petition to impeach, then the Disciplinary Committee shall present charges after investigating the intention of the petitioning Assembly Members.

c. Hearing before the Assembly

i. No hearing before the Assembly shall be held unless the accused officer has:

1. been given notice of the charges they are called to defend;
2. been given no less than fourteen (14) calendar days to prepare; and
3. been given e-mail or written notification of the time, date, and location of the hearing.

ii. Impeachment hearings are special sessions of the Assembly.

iii. Impeachment hearings will have the following agenda items in order:

1. Call to Order
2. Attendance
3. Reading of the Charges
4. Opening Statements
5. Presentation of Evidence
6. Closing Statements
7. Deliberation on the Charges
8. Motion to Remove
9. Adjournment

iv. Procedure

1. Call to Order

   a. The presiding officer shall call the meeting to order at the specified time and location.

   i. The call to order may be delayed for no more than thirty (30) minutes for the purpose of ensuring quorum.

2. Attendance
a. Attendance of the Assembly membership and the accused shall be taken and recorded in public record.
b. Two-thirds (2/3) of the seated members of the Assembly must be present for quorum.
   i. If there is no quorum the present members, by a majority vote, may take the following actions:
      1. Call the Quorum
         a. This shall have the affect of resolving to contact all assembly members and implored them to attend.
      2. Postpone the hearing for a specified time
         a. The hearing may be postponed for no more than seven (7) days.
      3. Adjourn to Committee of the Whole
         a. The membership may adjourn to committee of the whole and openly engage in discussion and debate on the issues.
         b. Committee of the whole may not take action as an assembly, but may submit motions and legislation to the Assembly for consideration when a quorum is present.
   ii. If the attendance is in excess of the quorum threshold by less than two (2) members in attendance, then the presiding officer shall inform the Assembly of such a condition and implore the members to take care when leaving the room.
   c. If the accused officer or his/her representative is not in attendance, the hearing shall continue nonetheless.

3. Reading of the Charges
a. The presiding officer shall call on the Head Manager and ask for him or her to present the charges.
b. The presiding officer shall then have the opportunity to speak to the nature of the hearing.
c. The presiding officer shall then give the floor to the chair, or a designee, of the Disciplinary Committee to present their recommendation on the issues at hand.

4. Opening Statements
a. Opening statements shall give the manager and the accused officer an opportunity to speak to the nature of the charges.
b. Speaking for each party shall be limited to two (2) minutes and one (1) minute for each charge presented.
   i. The presiding officer may, at his or her discretion, extend this speaking limit by three (3) minutes.
c. The managers shall speak first.
d. The accused officer shall speak last.

5. Presentation of Evidence
a. Both sides shall have an opportunity to present relevant and pertinent evidence to the Assembly as a whole.
   i. The managers shall present evidence first in this section.
   ii. The accused officer shall present evidence last shall speak last in the section.
b. Evidence must be relevant to the charges
c. Witnesses may be called
   i. Officers, Assembly Members, and student staff of the GPSA may be compelled to testify by motion by one of the parties no less than three (3) days prior to the hearing.
   Others may volunteer.
   ii. The party calling the witness shall first have an opportunity to directly question them with.
iii. The party not calling the witness shall have an opportunity to cross question them after the party calling the witness has finished.

6. Closing Statements
   a. Upon both parties resting closing statements may be presented by both parties.
   b. The managers shall be able to speak for two (2) minutes and an addition one (1) minute for each charge presented.
   c. After the manager have presented closing arguments, the accused officer shall have the ability to speak for two (2) minutes and an addition one (1) minute for each charge presented.

7. Deliberation on the Charges
   a. Upon closing arguments being finished, the presiding officer will read the charges again and open the floor to debate on each charge.
   b. Each charge shall be debated individually and shall be subject to normal rules of debate for general Assembly meetings.
   c. When debate is finished for all the charges, each charge shall be voted on with no additional debate.
      i. Members of the Assembly shall be asked to vote either to: convict; or not to convict.
      ii. Members shall not have the right to abstain.
   d. A two-thirds (2/3) affirmative vote of the Assembly on each charge shall be required to convict the officer of each individual charge.

8. Motion to Remove
   a. If the accused officer has not been convicted of any charges, then the meeting shall be adjourned.
   b. If the accused officer is convicted of one or more charges, than the succeeding charges shall be read aloud.
   c. The assembly shall be presented with a motion to remove the accused officer, requiring no giver and no second.
   d. The assembly will then be instructed that they are to accept the convicted charges as true and consider
them in their totality on the question of whether to remove or not.

e. The motion to remove shall be put to debate subject to the normal rules of debate of the assembly.

f. When debate is complete, the motion shall be put to a vote where members of the assembly shall either vote: to remove; or not to remove.

i. A 2/3 affirmative vote of the Assembly shall be required to remove the convicted individual.

9. Adjournment

Article VI: Expulsion of Assembly Members

A. Members of the Assembly may be removed by a 2/3 vote of present and voting Assembly members during an Assembly meeting.

a. Such action is not subject to the President’s veto.

B. A sitting President of the Assembly or President pro tempore of the Assembly may not be expelled from the Assembly.

a. These officers must first be removed from their offices before expulsion from the Assembly.

C. Only members of the Assembly may initiate the process described here in Article VI, Section D.

D. Efforts to expel a member from the Assembly must be conducted according to the following procedure:

a. Efforts to expel a member of the Assembly must begin with the submission of a form signed by at least two members of the Assembly, given to the Committee on Discipline, alleging wrongdoing or malfeasance by a member of the Assembly, and an explanation of why such merits expulsion.

b. The Committee on Discipline shall immediately send a notice to the accused member of the Assembly detailing the allegations against him, and allow for him to submit materials to the Committee in his support.

c. The Committee shall schedule a hearing no later than fourteen calendar days after the form was filed, where both the accusers and the accused may orally present their cases, and answer questions from members of the Committee.

d. The Committee may subpoena information and testimony as is allowed by this Code.
e. The Committee shall deliberate after testimony is given and documents are received, and recommend that the Assembly member be expelled or not be expelled.

f. The Committee’s report shall be presented at the next Assembly meeting, or at a special session of the Assembly called for the purpose of considering this issue.

   i. The report must be submitted to the Assembly no later than three calendar days before the Assembly meeting, and must be disseminated electronically to all members of the Assembly immediately upon its submission to the Assembly.

   ii. Consideration of this issue shall be in the “New Business” section of the agenda.

   iii. If the committee recommends expulsion, it shall draft a resolution requiring such.

   iv. If the committee does not recommend expulsion, it shall not draft such a bill.

g. After the Committee issues its report, the accuser (if multiple accusers, then only one may present according to this section) and accused shall each be given a chance to address the Assembly, each with seven minutes afforded to them.

h. After each party has presented, discussion on the issue shall ensue, and be governed by the general rules regulating debate of an Assembly Bill.

i. If the Committee has put forth a resolution as described in section G, part iii of this Article, the Assembly may vote directly upon the resolution as they would any other Assembly Bill. If the resolution is passed, the Assembly member is immediately expelled. If the resolution is defeated, the allegation is immediately dismissed with prejudice, and not open to further consideration.

j. If the Committee did not put forth a resolution as described in section G, part iv of this Article, a member of the Assembly may, during the discussion period, move that the member be expelled. This motion shall require a second by at least three other members of the Assembly.

   i. Upon this motion and second, a vote shall be first taken to indicate whether or not the Assembly is ready to vote on the matter. A 2/3 vote in the affirmative of all present and voting Assembly members is required for a vote on the main motion to be taken.

   ii. If the vote passes, a vote shall then be held immediately on whether or not to expel the accused Assembly member. If 2/3 of present and voting members of the Assembly vote for expulsion, the member shall be expelled. If the total number of votes for
expulsion is less than 2/3 of present and voting Assembly members, the motion shall be defeated, and the allegations shall be dismissed with prejudice, and not open to further consideration.

k. If the committee did not put forth a resolution as described in section G, part iv of the Article, a member of the Assembly may, during the discussion period, move that the allegations against the member be dismissed with prejudice. This motion shall require a second by at least three other members of the Assembly.

i. This motion is not debatable, and requires a majority vote to pass.

1. If the motion passes, the allegation is immediately dismissed with prejudice.

2. If the motion fails, discussion shall resume.”

STRIKES Title I, Article 1, A-E from the Bylaws;

STRIKES Title I, Article 1, Section F, Subsection C from the Bylaws.

RENUMBERS the Bylaws accordingly.