

RE: SMOB Appeal RE: Removal of Gregorio

From: Fitch, Gene gene.fitch@utdallas.edu
To: Schwartz, Devin Devin@utdallas.edu, Lum, Lydia Lydia.Lum@UTDallas.edu, Olivares Gutierrez, Gregorio Gregorio.OlivaresGutierrez@UTDallas.edu, Huffenberger, Jenni jennib@utdallas.edu, Bainbridge, Avery Avery.Bainbridge@UTDallas.edu, Johnson, Janet Janet.Johnson@UTDallas.edu, Sweet, Kevin James Kevin.Sweet@UTDallas.edu, Romine, Davy Laurence Davy.Romine@UTDallas.edu, Pal, Nikita Nikita.Pal@UTDallas.edu, Thakkar, Yash Bharat Yash.Thakkar@UTDallas.edu, Wu, Sasha Ethan.Wuu@UTDallas.edu, Croom, Maizie Gaia Maizie.Croom@UTDallas.edu, Pescalia, Krista Shannon Krista.Pescalia@UTDallas.edu
Cc: Kesden, Michael kesden@utdallas.edu, Morales, Katherine kmorales@utdallas.edu, Bhattacharya, Debopreeta debopreeta@utdallas.edu
Sent: Tuesday, September 17 at 19:50

All,

I apologize for the multiple emails, but it appears I need to provide clarification regarding this situation.

The Student Media Bylaws do not give authority to Student Government or the Student Government President to intervene in matters related to student media. The appeal procedures to be followed were shared with the involved party in Ms. Lum's memorandum dated September 16th. Those are the procedures that will be followed by Ms. Huffenberger.

It is not necessary to respond to the poll that was distributed. As Ms. Lum explained in a second memorandum, there will be an additional meeting of SMOB to discuss the continued participation of those individuals who have refused to perform the duties required of their roles with the student newspaper. Please watch your email for information related to this meeting.

Please feel free to contact me if you have any questions.

Again, I apologize for the multiple emails.

Gene Fitch, Jr.

Dr. Gene Fitch, Jr.

Vice-President for Student Affairs

The University of Texas at Dallas

(972) 883-6236

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 THE UNIVERSITY OF TEXAS AT DALLAS



From: Schwartz, Devin <Devin@utdallas.edu>

Sent: Tuesday, September 17, 2024 6:14 PM

To: Lum, Lydia <Lydia.Lum@UTDallas.edu>; Olivares

Gutierrez, Gregorio

<Gregorio.OlivaresGutierrez@UTDallas.edu>; Huffenberger,

Jenni <jennib@utdallas.edu>; Bainbridge, Avery

<Avery.Bainbridge@UTDallas.edu>; Johnson, Janet

<Janet.Johnson@UTDallas.edu>; Sweet, Kevin James

<Kevin.Sweet@UTDallas.edu>; Romine, Davy Laurence

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<Maizie.Croom@UTDallas.edu>; Pescalia, Krista Shannon

<Krista.Pescalia@UTDallas.edu>

Cc: Kesden, Michael <kesden@utdallas.edu>; Fitch, Gene

<gene.fitch@utdallas.edu>; Morales, Katherine

<kmorales@utdallas.edu>; Bhattacharya, Debopreet

<debopreet@utdallas.edu>

Subject: Re: SMOB Appeal RE: Removal of Gregorio

Hi Ms. Lum, et al.,

Apologies for the repeated emails outside of business hours. I have linked the Student Media Bylaws for verification of policy. Below is a complete transcription of section 4.5 Review and Appeal, with emphasis added for clarity.

"(a) The operating board shall serve as the first review of appealed operating decisions as are

permitted under the various provisions of this chapter.

(b) The senior director is the final level in the appellate process.

(c) In all matters of review and appeal under this chapter, the board shall review, hear

arguments, accept as evidence only that information that relates specifically to the decision in

question and shall render a ruling only on the basis of the provisions of this chapter.

(d) Appeals normally shall be filed in writing to the director within two (2) class days of the

action and shall be heard within two (2) class days of the filing.

(e) Decisions may be appealed to the board and, then, to the senior director if not resolved:

(1) by a person or group of persons who considers printed advertisements, published content or broadcast matter to be objectionable;

(2) by an editor or writer of material withheld from publication;

(3) by the student broadcaster prohibited from broadcasting objectionable material; and

(4) by the newspaper editor, magazine editor, radio station manager or TV station manager upon removal from office"

This is also supported by section 2.1(j), which states, "The senior director shall remove himself or herself from the board when an appeal is brought forward to the board, as the senior director serves as the final step in the appeal process."

I will acknowledge that there are particular sections of the Bylaws that make this somewhat unclear, namely section 2.9(g) which states "Action of the board on matters such as this may be appealed to the senior director under Section 4.5." However, as this refers back to the section above, it seems as though this would indicate that the board serves as the initial level of appeal. Further, under the Duties and Responsibilities of the Operating Board as listed in Section 3.1(a) it is stated "The operating board shall serve as a governing body. The board will be responsible for overseeing the **implementation** of operating procedures of the student media within the provisions of this document." As such, when there is an accusation of an ambiguity in

these Bylaws. I believe that the final interpretation should rest upon the board. I believe that these bylaws should be followed by the letter, as not doing so could lead to potential legal issues given their contractual nature.

Student Media Bylaws:

<https://studentmedia.utdallas.edu/docs/StudentMediaBylaws-010518.pdf>

The original appeal included accusations of purposeful exclusion of particular members in organizing the meeting last Friday. I believe that if this board and its members are to avoid the mere appearance of impropriety, a third party should be responsible for organizing the appeal meeting. If a member of the board recognizes the interpretation of Student Affairs as the correct one and does not have an interest in formally ruling such in the presence of the rest of the board, then I encourage them not to indicate availability and reply to either myself or the group indicating such. Otherwise, I kindly request that members indicate availability as mentioned in the previous email.

Ms. Lum, if you or anyone else in Student Affairs would like to discuss this issue further, please reach out to me and we can organize a meeting. My goal is to resolve this issue to the best of my ability to the satisfaction of all parties.

Best,

Devin Schwartz

Pronouns: he/him/his,
they/them/theirs <-- [Practice here!](#)

Student Government President
The University of Texas at Dallas
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Student Affairs, You Belong Here.



From: Lum, Lydia <Lydia.Lum@UTDallas.edu>

Sent: Tuesday, September 17, 2024 5:37 PM

To: Schwartz, Devin <Devin@utdallas.edu>; Olivares Gutierrez, Gregorio

<Gregorio.OlivaresGutierrez@UTDallas.edu>; Huffenberger,

Jenni <jennib@utdallas.edu>; Bainbridge, Avery

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Cc: Kesden, Michael <kesden@utdallas.edu>; Fitch, Gene
<gene.fitch@utdallas.edu>; Morales, Katherine
<kmorales@utdallas.edu>

Subject: Re: SMOB Appeal RE: Removal of Gregorio

Hi Devin, and all,

The route for Gregorio's appeal actually **differs** from what appears in the Bylaws. I emailed Gregorio the instructions (they came from Student Affairs in consultation with other UTD officials).

I respectfully ask everyone else **disregard** Devin's email because there isn't need for a meeting of the SMOB board for Gregorio's appeal. I did not know this til yesterday but when Student Affairs assigned me to communicate with Gregorio about the proper route, I did so. Thank you.

Lydia Lum

Director of Student Media

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(972) 883-6343 | Office SU 1.601A | Mailstop SU 24

 THE UNIVERSITY OF TEXAS AT DALLAS

From: Schwartz, Devin <Devin@utdallas.edu>

Sent: Tuesday, September 17, 2024 5:29 PM

To: Olivares Gutierrez, Gregorio

<Gregorio.OlivaresGutierrez@UTDallas.edu>; Lum, Lydia

<Lydia.Lum@UTDallas.edu>; Huffenberger, Jenni

<jennib@utdallas.edu>; Bainbridge, Avery

<Avery.Bainbridge@UTDallas.edu>; Johnson, Janet

<Janet.Johnson@UTDallas.edu>; Sweet, Kevin James

<Kevin.Sweet@UTDallas.edu>; Romine, Davy Laurence

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<Krista.Pescalia@UTDallas.edu>

Cc: Kesden, Michael <kesden@utdallas.edu>; Fitch, Gene <gene.fitch@utdallas.edu>; Morales, Katherine <kmorales@utdallas.edu>

Subject: Re: SMOB Appeal RE: Removal of Gregorio

Hello all,

I understand that these meetings have, in the past, typically been arranged by the Director of Student Media. However, this arrangement is not required by the Student Media Bylaws. Given that it is in the best interest of all to arrange this hearing with expediency in order to continue compliance with the bylaws that govern this board and its members and to resolve the current conflict, I would like to assist the board in organizing this meeting. As such, I ask that all voting members and any ex officio members or other parties interested in attending please fill out the link below indicating availability. I also ask that this message be shared with any voting or ex officio member that is appointed after this email is sent.

The availability does extend past the two-day requirement, as section 4.2(d) states that "Appeals *normally* shall be filed in writing to the director within two (2) class days of the action and shall be heard within two (2) class days of the filing" (emphasis added). This is in the interest of ensuring the availability of the greatest number of members, as well as to allow time for the vacant voting undergraduate student seat to be appointed and the vacant ex officio local newspaper editorial staff seat to be filled if possible. On this subject, if Gregorio or anyone else has recommendations for a person who may be interested in serving from the local newspaper, I would suggest that these recommendations be emailed directly to Dr. Fitch for consideration.

As the primary representative of the student body, I have a vested interest in ensuring that this bastion of student expression continues to thrive. While I would like to utilize and involve a staff or student ombuds to assist in mediation, as it appears that there are larger conflicts at play, the university does not currently employ anyone in these positions. I am looking into the possibility of having someone from Employee Relations in HR to assist in mediating, either during or in addition to this meeting. While I would be willing to chair this meeting as suggested in the appeal, I will not do so without the approval of the board.

Regardless, I would be happy to act as a parliamentarian to ensure that this meeting runs as smoothly as possible.

Please indicate availability using this link at your earliest convenience: <https://www.when2meet.com/?26531014-Hlrcv>

All the best,



Devin Schwartz

Pronouns: he/him/his, they/them/theirs <-- [Practice here!](#)

Student Government President
The University of Texas at Dallas
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Office: SU 2.414 | Mailstop: SU21
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From: Olivares Gutierrez, Gregorio

<Gregorio.OlivaresGutierrez@UTDallas.edu>

Sent: Tuesday, September 17, 2024 11:03 AM

To: Lum, Lydia <Lydia.Lum@UTDallas.edu>; Huffenberger,

Jenni <jennib@utdallas.edu>; Bainbridge, Avery

<Avery.Bainbridge@UTDallas.edu>; Johnson, Janet

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Cc: Schwartz, Devin <Devin@utdallas.edu>; Kesden, Michael

<kesden@utdallas.edu>; Fitch, Gene

<gene.fitch@utdallas.edu>; Morales, Katherine

<kmorales@utdallas.edu>

Subject: SMOB Appeal RE: Removal of Gregorio

Hello,

I hope this email finds you well.

Attached is my official appeal in accordance with §4.5 of the Student Media bylaws. Moreover, I have attached *The Mercury's* policy compendium as well.

Per §4.5(a) of the Student Media bylaws, this appeal is being submitted to the SMOB board for review as "The operating board shall serve as the first review of

appealed operating decisions as are permitted under the various provisions of this chapter." I do not appreciate Lydia Lum's instructions that the appeal be sent directly to Jenni Huffenberger as doing so would invite a direct violation of the Student Media bylaws while circumventing this deliberative body entirely.

I have included all officially appointed SMOB members which I am aware of despite attempts to keep these official appointments undisclosed. If any official SMOB member is missing, then I request that this appeal be shared with them in full as they have the same right to review this appeal as any other member of SMOB, ex-officio or otherwise.

SMOB bylaws mandate that "an editorial staff person from a local newspaper" be provided with a seat as an ex-officio member of SMOB. I as the petitioner am of the understanding that no such member has been appointed by the Vice President of Student Affairs, Gene Fitch. To avoid this current bylaw violation, I request that efforts immediately begin to appoint such a member since per §2.1(h) of the student media bylaws, this is not an optional role unlike the variability of the broadcast board member, a position which also remains vacant. I have a few business cards I could share with Fitch if the Office of Student Affairs is struggling to connect with local news organizations.

I request and will request during any hearings held that the SMOB board explain every instance in which it chooses to discard information submitted as part of this appeal: with specific evidence, policy links, and citations provided as applicable.

While I am not an official signatory or cosigner of the ongoing Mercury strike, I am one of the strike leaders and am authorized to negotiate on behalf of UTD's striking student journalists.

CCed on this appeal message are the president of student government, the speaker of the academic senate, the vice president of student affairs, and the media relations associate vice president.

I look forward to further communications with this deliberative body.

Regards,

Gregorio Olivares Gutierrez

Mercury Staff Writer

Former Editor-in-Chief

Political Science and Philosophy Major