

**ASUO CONSTITUTION COURT
PETITION FOR REVIEW FORM**

Name: Michelle Brittany Haley

Student ID: XXXXXXXXXX

Date Filed: 8/3/2009 Phone: XXX-XXX-XXXX

Email: mhaley1@uoregon.edu

Address: XXXXXXXXXXXXXXXXXX

XXXXXXXXXX

Eugene, OR XXXXX

YOUR BRIEF SHOULD INCLUDE THE FOLLOWING INFORMATION (pursuant to Constitution Court rule 10.1)

- Name of person(s) against whom this complaint is filed
 - The question presented for review
 - The specific constitutional provision, rule, policy, or resolution relevant to the controversy. Please cite not only the section, but the language of the provision, rule, policy, or resolution verbatim.
 - A brief statement of facts giving rise to the complaint. Please be specific and complete, but concise.
 - The remedy requested--what you want the Constitution Court to do.
 - Any exigent circumstances that require the Constitution Court to hear this complaint with dispatch
- You may also attach any relevant documents, materials, or other evidence you feel may aid the Court in its deliberations.*

Place 5 copies of these materials (the attached forms and your petition) in the Constitution Court box in the EMU and deliver one additional copy to each of the person(s) against whom this complaint has been filed.

signature of petitioner

print name

date

PROOF OF SERVICE FORM

PETITIONER

I, the undersigned, certify that I have served the opposing party (or parties) with this petition. They received this petition by (choose one): ____ mail; ____ in person; __X__ other (please specify): ASUO Mail Box, and ASUO Presidential Email.

I realize that in order for the Constitution Court to hear my case or controversy, this procedure must be followed.

signature

print name

date

CERTIFICATION OF CONFORMITY

I, the undersigned, certify that I have read the Condensed Rules of the Constitution Court and that this Petition comports with said Rules.

signature

print name

date

IN THE CONSTITUTION COURT OF THE ASSOCIATED
STUDENTS OF THE UNIVERSITY OF OREGON

MICHELLE HALEY,
Petitioner,

v.

EMMA KALLAWAY,
PRESIDENT, ASSOCIATED STUDENTS OF THE UNIVERSITY OF
OREGON,
Respondent

ON A PETITION FOR REVIEW

COMPLAINT OF:
MICHELLE HALEY,
Concerned Student

IN FAVOR OF THE IMMEDIATE VACANCY AND REMOVAL
OF THE ASUO PRESIDENT

**PETITION TO REMOVE
ASUO PRESIDENT EMMA KALLAWAY**

July 27, 2009

Dear Constitution Court,

Please find attached a petition for review regarding the non-fulfillment of duties of ASUO President Emma Kallaway. As an incidental fee paying student, I expect student leaders to fulfill the duties they have voluntarily placed upon themselves. Unfortunately, President Kallaway has failed to perform several of her duties, and it is under this spirit of accountability and eagerness to hold our public servants true to their words that I submit this complaint.

I hope that in light of Kallaway's repeated failure to perform the duties of ASUO President that this Court vacate her position and remove her from office immediately.

Thank you,

Michelle Haley

Concerned Incidental Fee Paying Student

"American liberty is premised on the
accountability of free men
and women for what they have done, not
for what they may do."

- John Newman

PETITION TO REMOVE ASUO PRESIDENT EMMA KALLAWAY

I. QUESTION BEFORE THE COURT

1. Is the ASUO President in non-fulfillment of duties?
2. Should the office of the ASUO President be considered vacant?

II. SUMMARY OF ARGUMENTS

ARGUMENT 1. FAILURE TO SUBMIT MEMO OUTLINING CRITERIA FOR FULFILLMENT OF DUTIES WITHIN ONE (1) MONTH.

ARGUMENT 2. KALLAWAY INTENTIONALLY MISLEAD STUDENT BODY.

ARGUMENT 3. FAILURE TO PERFORM BASIC DUTIES: NEGLECTING ASUO EMAILS.

ARGUMENT 4. KALLAWAY ABUSED INCIDENTAL FEE DOLLARS TO PREPARE FOR PRESIDENTIAL CAMPAIGN IN WASHINGTON, D.C.

ARGUMENT 5. FAILURE TO PERFORM FAIR HIRING PRACTICES WHEN SELECTING FRIEND, CONTRIBUTOR ELLA BARRETT AS CHIEF OF STAFF—FAILURE TO FOLLOW AFFIRMATIVE ACTION PLAN.

III. REMEDY REQUESTED

I respectfully request that the ASUO Constitution Court immediately remove Emma Kallaway from the Office of ASUO President for failing to perform duties prescribed to her under the ASUO Constitution.

Thank you,

Michelle Haley

ARGUMENTS IN FAVOR OF THE REMOVAL OF EMMA KALLAWAY FROM THE OFFICE OF ASUO PRESIDENT

Argument 1. FAILURE TO SUBMIT MEMO OUTLINING CRITERIA FOR FULFILLMENT OF DUTIES WITHIN ONE (1) MONTH.

ASUO President Emma Kallaway failed to submit a memo outlining her criteria for fulfillment of duties within one (1) month of taking office, a duty made perfectly clear by ASUO Constitution Section 5.17. Furthermore, the ASUO Constitution dictates that any office elected under this Constitution shall be considered vacant if the duty is not being performed for a period of three (3) weeks (ASUO Constitution Section 14.3).

Emma Kallaway served on the Student Senate when such a memo was published by the previous ASUO President and was therefore made well aware of such responsibility. Under this premise alone, the Court should find the office of the ASUO President vacant.

***ASUO Constitution Section 5.17:** The president shall establish and publish his or her own criteria for fulfillment of duties within one month of taking office.*

***ASUO Constitution Section 5.17:** The President shall also perform all duties as required by this constitution.*

***ASUO Constitution Section 14.3:** Non fulfillment of duties for three weeks will be considered a vacancy of any office elected or appointed under this Constitution.*

See Appendix I for a copy of the email sent by Kallaway.

Additionally, Kallaway admits that she was late in submitting this memo in a letter she submitted to the Editorial Board of the Oregon Daily Emerald (see ‘Apologies for late criteria; vows to stay realistic’ published on 7/27/09 by ASUO President Emma Kallaway). Letter also available in Appendix 4.

Argument 2. KALLAWAY INTENTIONALLY MISLEAD STUDENT BODY

Emma Kallaway attempted to mislead the student body: the late memo she emailed on July 20, 2009 was backdated to June 24, 2009—a tactic to evade the duties clearly outlined in the ASUO Constitution. She intentionally wrote in a date that was 30 days after taking office—a dishonest move that does not merit the position of student body president.

***ASUO Constitution Section 1.2:** The purpose of the ASUO is to provide for the social, cultural, educational and physical development of its members, and for the advancement of their individual and collective interests both within and without the University.*

Not only does this behavior question her character and integrity, but it also encroaches on rules set forth by the Student Conduct Code; I encourage this Court to investigate this matter further.

Argument 3. FAILURE TO PERFORM BASIC DUTIES: NEGLECTING ASUO EMAILS

For a period of nearly two months, ASUO President Emma Kallaway neglected to read emails sent to the ASUO President account (asuopres@uoregon.edu). Kallaway's reckless behavior jeopardized the ASUO's contract with Lane Transit District. Thousands of incidental fee paying students rely on this bus system as a primary means of transportation. Furthermore, her neglect disenfranchised student programs from contacting the ASUO President, who is responsible for the administration of ASUO Programs. We simply cannot afford to allow such a mistake to occur again.

According to LTD Planning Director Andy Vobora, "I have offered to meet with the new ASUO president on numerous occasions, but she has yet to respond" (Oregon Daily Emerald Article published on 6/29/2009).

Furthermore, according to former ASUO Transportation Adviser Nick Schillaci, "ASUO is continuing to be unresponsive, rude, and worthless" (Oregon Daily Emerald Article published on 6/29/2009), in response to Kallaway's behavior over her neglect to read and respond to important LTD emails.

ASUO Constitution Section 5.1: The President is the chief executive officer of the ASUO, is responsible for the administration of ASUO programs, and acts as the official spokesperson for students as a whole, within and without the University.

Argument 4. KALLAWAY ABUSED INCIDENTAL FEE DOLLARS TO PREPARE FOR PRESIDENTIAL CAMPAIGN IN WASHINGTON, D.C.

While campaigning for ASUO President, Emma Kallaway attended a United States Student Association (USSA) conference in Washington, D.C. to lobby on behalf of higher education. While attending the conference, she met with "ASUO Alumni" (former ASUO President Jared Axelrod) to discuss the ASUO in preparation for her bid for the ASUO Executive. Student incidental fee dollars should not feed her campaign; instead, it should support student programs and diversity initiatives. Emma Kallaway's incidental-fee-funded political meeting was wrong and dangerous for the integrity of student government.

From an article published in the Oregon Daily Emerald, "After the debate, Kallaway said she had been meeting with ASUO alumni who did not want to be identified. She said it was a privilege to see old perspectives' on a variety of issues, and the way she spent her time in Washington D.C." (published on April 15, 2009). Student Senate Rule 12(a).I.ii.c (below) clearly outlines that experiences gained by an attendee must be passed on to the student body. Emma Kallaway failed to uphold this rule by meeting someone for political purposes, as well as not identifying

the person to the student body.

Student Senate Rule 12(a).I.ii.c. *The program must make every effort to ensure that the experience gained by the individual attendees can be passed on as an experience that will further the physical and cultural development of the entire student body.*

See Appendix III.

ARGUMENT 5. FAILURE TO PERFORM FAIR HIRING PRACTICES WHEN SELECTING FRIEND, CONTRIBUTOR ELLA BARRETT AS CHIEF OF STAFF—FAILURE TO FOLLOW AFFIRMATIVE ACTION PLAN.

Emma Kallaway did not follow fair hiring practices when selecting Ella Barrett as her ASUO Executive Chief-of-Staff. The three-person hiring committee consisted of Kallaway, Getachew Kassa, and Alison Fox (who was not only Emma Kallaway’s campaign manager, but also a good friend of Ella Barrett. Barrett also helped with Kallaway’s campaign and was a contributor).

ASUO CONSTITUTION 5.14. *Except as otherwise provided in this Constitution, the President shall abide by the ASUO Affirmative Action plan in making appointments to all non-elective salaried ASUO positions.*

Two students with more experience than Ella Barrett also applied for the position of ASUO Chief of Staff. The two students, Carina Miller and Diego Hernandez, were not only more qualified than Ella Barrett (both having served on the ASUO Senate and leading student unions), but they are both students of color. Emma Kallaway’s blatant disregard to the other candidates’ skills and contribution to the diversity of the ASUO is a violation of the ASUO Affirmative Action Plan.

CONCLUSION

By not fulfilling her duties for more than three weeks, the office of the ASUO President is considered vacant. Under Constitution Section 14.3 from “REPLACEMENT, RECALL AND IMPEACHMENT”, it reads:

“Non fulfillment of duties for three weeks will be considered a vacancy of any office elected or appointed under this Constitution.”

Three weeks in calendar business days is the equivalent to fifteen (15) days. Kallaway has been in non-fulfillment of duties for longer than three weeks. Based on previous rulings of the Constitution Court, non-fulfillment of duties can occur when just one duty as required by the Green Tape Notebook remains unfulfilled.¹ This Constitutional Clause covers the office of the ASUO President, as it is an office “elected or appointed under this Constitution.”

¹ 23 C.C. (2006/2007)

Although “considered a vacancy” at first seems ambiguous, I would like to direct the Constitution Court to the clause immediately following 14.3. Constitution 14.4 states:

“Impeachment and removal from office of the ASUO President may be under the process set forth in 5.17 of this Constitution, in addition to the process of Section 13.3.”

This clause clearly delineates that the ASUO President may be impeached and removed by articles of impeachment brought forth by the ASUO Student Senate. That is, the ASUO Student Senate, by a $\frac{3}{4}$ vote may bring charges against the ASUO President through impeachment articles, and vote for his or her removal. This process is a mechanism to remove the ASUO President for violations that are not necessarily included in the duties of the ASUO President, but may in fact be reprehensible enough to require action. In addition, however, the mechanism for removal for violations specifically related to fulfillment of duties must be addressed through this Court:

ASUO Constitution Section 11.2:

“The Constitution Court shall have supreme and final authority on all questions of interpretation of this Constitution and any rules promulgated under it, including election rules and complaints.”

ASUO Constitution Section 11.13:

“All questions relating to non-fulfillment of duties, except as provided by Section 11.12 shall be decided by this Court.”

In other words, the Constitution Court must answer *all* questions relating to non-fulfillment of duties, except those that involve members of the Constitution Court. Therefore, the Constitution Court shall decide whether the office of the ASUO President, based on the facts presented in this complaint, shall be considered vacant or not.

REMEDY REQUESTED

I hereby request that the Constitution Court hear this petition with haste and remove Emma Kallaway from the office of ASUO President immediately.

Regards,

Michelle Haley

APPENDIX I

EMAIL OUTLINING DUTIES OF ASUO PRESIDENT PUBLISHED and EMAILED on July 20, 2009.

To: Whom it May Concern

From: ASUO Executive

Original Date: June 24th 2009

Modified: July 20, 2009

Subject: Executive goals and appointments

This memo is meant to share the goals of the current ASUO executive for the coming year, as well as the appointments that were made at the end of spring term 2009. We are excited to be serving students, eleven months does not seem long enough. This memo is purely informational and any questions or concerns please feel free to direct at Emma Kallaway (ASUO President- asuopres@uoregon.edu). These are some of our larger goals and other projects and work will come up throughout the year.

Goals for 2009-2010

Work closely with programs to improve resources

Improve outreach to students

Research cost effectiveness of our current transportation options

Increase fundraising

Research and plan for continued funding of the late night library

Appointments

Candidates were chosen based on experience, passion for working for students, and articulated skill level. It is our belief that the students we have chosen are very qualified and invigorated by these positions. We will see the senate confirmation process happen in the fall.

Executive Appointments

PFC: Devon Duguette

DFC: Aloura Digiallonardo

ACFC: Ben Exstein

EMU Exec Appointee: Alison Brown

EMU Senate: Carina Miller

ASPAC: Tim Taylor

SRC: Payaam Tabatabaei

Con-Court: Casey King

We are excited to be working with all of these very talented students. There were a great number of qualified applicants interested in these positions and we hope to include those students in other avenues within the ASUO. Questions and concerns are highly encouraged.

*Sincerely,
Emma Kallaway and Getachew Kassa*

APPENDIX II

OREGON DAILY EMERALD ARTICLE SUMMARIZING KALLAWAY'S FAILURE TO READ EMAILS

<http://media.www.dailyemerald.com/media/storage/paper859/news/2009/06/29/News/Ltd-Angered.By.Asuo.EMail.Breakdown-3749458.shtml>

APPENDIX III

OREGON DAILY EMERALD ARTICLE SUMMARIZING KALLAWAY ADMITTING TO MEETING WITH ASUO ALUMNI FOR CAMPAIGN ADVICE

“After the debate, Kallaway said she had been meeting with ASUO alumni who did not want to be identified. She said it was "a privilege to see old perspectives" on a variety of issues, and the way she spent her time in Washington D.C.” – Oregon Daily Emerald

<http://media.www.dailyemerald.com/media/storage/paper859/news/2009/04/15/News/Debate.Turns.Sour.Candidates.Question.Rivals.Motives-3710833.shtml>

APPENDIX IV

KALLAWAY ADMITS FAILURE TO PERFORM ASUO PRESENTIAL DUTIES²

It has come to my attention that there are students unhappy with the letter I sent out last week addressing the criteria for my administration. I appreciate the criticism and will revise the details of my criteria by the end of next week.

The Constitution of the ASUO states, "The President shall establish and publish his or her own criteria for fulfillment of duties within one month of taking office."

² <http://media.www.dailyemerald.com/media/storage/paper859/news/2009/07/27/Opinion/Apologies.For.Late.Criteria.Vows.To.Stay.Realistic-3752978.shtml>

I began working on these criteria in June. I found I needed advice from my staff and information from administrators before professing to the students a long list of criteria that may or may not be feasible. For this reason and the workload in the ASUO this summer, **I apologize for the criteria being late.**

In regard to the detail of the criteria, I will add to my goals a framework for how I plan to complete these goals, but I will not publish extensive lofty detail that I cannot promise to produce. I think it is a disservice to students for me to write unrealistic wishful goals when the year will shape the needs of students.

It is my duty to work for students, and I will continue to shape my goals to meet those needs throughout the year. I cannot thank enough those students who came forward with their concerns. The ASUO office is always open to hearing the concerns of students. Please contact me with any future concerns. I work for you.