

Undergraduate Student Government Supreme Court Rules

PART I.

STATEMENT OF PURPOSE

The Supreme Court (Court) of the Undergraduate Student Government (USG) at Arizona State University was established under Title IV of the ASASU Constitution,¹ in order to furnish the students of Arizona State University (ASU) a judicial body which:

1. Insures a fair and equitable means of adjudicating disputes arising under the USG Constitution and the Bylaws of the Undergraduate Student Government (USG)².
2. May provide, given the authority, an advisory forum for representatives of the USG.

The purpose of these rules and procedures is to set forth a framework which shall govern the Court and concerned parties in resolving the above named disputes. Consequently, each member of USG should be aware of his rights and duties prior to entering into the judicial arena, thus affording procedural due process of law.³

These Rules and Procedures provide a fairly comprehensive guide to the operations of the Court and to the methods whereby a dispute will be handled from beginning to end. Therefore, the Rules and Procedures will aid the student in understanding the workings of the Court in order to determine if it is the proper forum in which to address a particular issue.

It is the duty of all students wishing to work with the Court to be familiar with these Rules and Procedures; and it is the duty of the Court to abide by them. Combined, the Court will ensure that, regardless of the parties or the issues presented, each item will be handled in a consistent manner with the goal of judicial neutrality and the proper recognition of the rights of all concerned.

¹ Constitution of the Associated Students of Arizona State University, fully effective on November 30, 2006.

² Hereafter referred to collectively as the "Constitution."

³ Pronouns in these Rules are written in the male gender for brevity's sake only. References herein shall apply to both males and females, as the situation may dictate.

PART II.

THE COURT

Rule 1. Session

- A. The Court shall hold an annual Session commencing on October 1st and ending on May 31st of the following year. Justices are appointed between the inauguration of the USG Council of Presidents and shall be confirmed by the second senate session of the respective USG location. Justices' terms begin following their confirmation and shall continue for one year.

Rule 2. Quorum and Formulation

- A. There shall be five (5) eligible justices serving on the court each session with one justice representing USG Downtown, Poly, Tempe, and West. Two justices shall come from one single campus according to a yearly alphabetical rotation of which campus shall have 2 justices representing such campus.
- B. The Court may not sit to adjudicate disputes without at least four (4) eligible Justices.
- C. The Court may entertain Advisory Opinion requests when its membership contains three (3) or more Justices, one (1) of whom is the Chief Justice.

Rule 3. Clerk

- A. The office of the Clerk of the Court shall be located within the ASASU staff offices. .
- B. The Clerk receives documents for filing with the Court and has the authority to reject any submitted filing that does not comply with these Rules and Procedures.
- C. Any document filed with the Clerk is made a part of the Court's records (Library) and may not thereafter be withdrawn from the official Court files.
- D. The Clerk shall post all Decisions of the Court online.

Rule 4. Library

- A. The Library shall be located in or near the office of the Clerk.
- B. The Court's Library is available for use by all members of USG.
- C. Documents from the Library may be read on-sight, or copied and distributed by the Clerk.

Rule 5. Judicial Canons

In order to promote public confidence in the integrity of USG and the Court, when an issue is presented to the Court:

- A. A Justice will be unswayed by partisan interests, public clamor, or fear of criticism;
- B. A Justice will abstain from making public comments about ongoing proceedings prior to and during that proceeding; and
- C. A Justice will disqualify himself in a proceeding in which his impartiality might reasonably be questioned.

Rule 6. Participation

A Justice has a duty to attend and actively participate in all meetings and deliberations of the Court.

Rule 7. Conflicts

A Justice must resign his office when he becomes a candidate for any elected position in USG.

Rule 8. Chief Justice

- A. The Chief Justice shall be chosen at the beginning of each Session, by the Court, with partiality for Justices serving in their second or greater Session.

B. It shall be the duty of the Chief Justice to:

- a. Preside over all meetings of the Court;
- b. Insure that all decisions and opinions of the Court are written, posted, and filed with the Clerk; and

C. Communicate and perform ad hoc duties with the USG and the Clerk as necessary.

PART III. CASES AND CONTROVERSIES

Rule 9. Jurisdiction

Any member of the USG may petition the Court for a remedy to an injury caused by USG. Review of an appeal from a lower court is not a matter of right, but of judicial discretion. In the absence of lower courts, the Supreme Court will review all complaints. A petition for Court action will be granted only for compelling reasons.

The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:

- A. The USG, (or one of its elected or appointed members) has acted in conflict with the decisions of one of the other branches on some important matter when consistency is a Constitutional priority;
- B. The USG, (or one of its elected or appointed members) has so far departed from the accepted and usual course of proceedings, or sanctioned such a departure, as to call for an exercise of this Court's supervisory power;
- C. The USG, (or one of its elected or appointed members) has acted on an important Constitutional question in a way which conflicts with the Constitution and/or previous relevant decisions of this Court.

Rule 10. Appeals from the Elections Department

- A. All Appeals from the Elections Department must be filed by a petitioner within two(2) days from the original publication of their decision.
- B. The Petitioner should attach a copy of the Elections Department's decision and the complaint which was originally filed.
- C. The function of Appeals from the Elections Department is to allow the Petitioner to challenge the Elections Department's interpretation of the Election Code as applied, or the Election Code's Constitutionality.

Rule 11. Petition

- A. Any Petition permitted to be presented to the Court shall be filed with the Clerk.
- B. Petitions to the Court shall be typed, dated, and signed.
- C. The Petition format shall be:
 - a. First page - "Petitioner"
 - i. The Petitioner's name, current address, phone number, and e-mail address;
 - ii. Whether the Petitioner is an elected or appointed officer of USG; and
 - iii. Whether the Petitioner is a member or representative of a club or organization under USG.
 - b. Second page - "Defendant(s) and or Defending Governing Body"
 - i. All known, pertinent contact information regarding the Defendant or Defending Governing Body (DGB);
 - ii. Whether the Defendant is an officer or appointee of USG; and
 - iii. If unsure of the appropriate Defendant or DGB, the capacity in which the Petitioner believes the violation occurred.
 - c. Third and continuing pages - "Statements of Facts and Issues"
 - i. The specific, alleged violation(s) of the Defendant or DGB;
 - ii. All pertinent facts surrounding the alleged violation;
 - iii. Witness statements, if necessary (signed by the witnesses); and
 - iv. The relief requested from the Court.

D. Receipt of the Petition

- a. Upon receipt of the Petition by the Clerk, the Clerk shall have two (2) days to notify the Chief Justice and Defendant or the DGB of the Petition.
- b. From the time of notification by the Clerk of the Petition, the Chief Justice and the Defendant or DGB shall have three (3) days to pick up a copy of the Petition.
- c. Until the Defendant or DGB obtains a copy of the Petition, the Petitioner shall have the one-time right to amend the Petition.
- d. For elections related cases, the Clerk shall notify the Defendant or the Elections Department within one (1) business day of receiving the petition.

Rule 12. Answer

Each Defendant or DGB may, as a matter of right, file a joint or separate Answer to the Petition.

- A. All Answers permitted to be presented to the Court shall be filed with the Clerk.
- B. Answers shall be typed, dated, and signed.
- C. The Answer format shall be:
 - a. First page - "Defendant(s) or DGB"
 - i. The Defendant or DGB's name, current address, phone number, and e-mail address;
 - ii. Whether the Defendant is an elected or appointed officer of USG.
 - b. Second page - "Petitioner"
 - i. The Petitioner's name, current address, phone number, and e-mail address; and
 - ii. The date of the original Petition.

- c. Third and continuing pages - "Response to Statements of Facts and Issues"
 - i. Refute or affirm each specific, alleged violation(s) as stated in the Petition; and
 - ii. Present affirmative arguments in favor of the Defendant or DGB.

D. Receipt of the Answer

- a. Answers must be filed with the Clerk of the Court within five (5) days from the time which the Defendant or DGB obtained a copy of the Petition.
- b. Upon receipt of the Answer by the Clerk, the Clerk shall have two (2) days to notify the Chief Justice and Petitioner.
- c. No amendments to the Answer shall be permitted.
- d. For all elections related cases, answers must be filed with the Clerk of the Court within (2) business days from the time in which the Defendant or DBG obtained a copy of the petition.

Rule 13. Initial Court Action

- A. Within three (3) days from the Court's notification of an Answer or the lack of filing of an Answer, the Court, by a majority vote, shall act by:
 - a. A Decision of Dismissal of the Petition - for reasons including, but not limited to:
 - i. Lack of standing;
 - ii. Failure to state a claim;
 - iii. Not ripe for adjudication; and/or
 - iv. The issue(s) involved can not be fairly addressed by the Court.
 - b. Decision of Summary Judgment - to the Petitioner, Defendant, or DGB based upon the overwhelming success of one of the parties on the merits of the case as put forth in the filed documents.

- c. The scheduling of Oral Proceedings - to take place no more than twenty-one (21) days from the initial Petition filing date.
- B. For all elections related cases, within two (2) business days from the Court's receipt of an Answer, the Court, by majority vote, shall act in one of three ways as described above, with the exception that Oral Proceedings shall take place no more than five (5) days from the initial Petition filing date.

Rule 14. Oral Proceedings

The overriding purpose of Oral Proceedings is to enable the Court to receive and consider evidence and achieve an effective ascertainment of the issues involved.

- A. All Oral Proceedings are hearings open to the public.
- B. The time and place of Oral Proceedings shall be posted online at least three (3) days in advance of the hearing.
 - a. For Elections Related cases, the time and place of Oral Proceedings shall be posted online as soon as these details are decided by the Court in accordance with all elections-related case provisions of these rules.
- C. No permanent record of Oral Proceedings shall be kept.
- D. Only the Justices, Petitioner(s), Defendant(s), and representatives from the DGB shall be allowed to speak at Oral Proceedings.
- E. The format for Oral Proceedings shall be as follows:⁴
 - i. The Petitioner will be given fifteen (15) minutes to present his arguments and answer the questions of the Court;
 - ii. The Defendant and/or the DGB will be given fifteen (15) minutes to present his/their arguments and answer the questions of the Court;

⁴ The time limit for each segment is the TOTAL time allowed. If there is more than one proper speaker for any given segment, the time should be divided so as not to exceed the time limitations. The Court may grant **equal time extensions, on its own motion, as necessary.**

- iii. There may be a short recess in order to allow the parties to prepare for their rebuttal and for the Court to prepare further questions;
- iv. The Petitioner will be given ten (10) minutes for rebuttal and to answer additional questions from the Court; and
- v. The Defendant and/or the DGB will be given ten (10) minutes for rebuttal and to answer additional questions of the Court.

Rule 15. Deliberations

- A. After an Oral Proceeding, or in the absence thereof, upon completion of the proper filings, the Court shall begin Deliberations.
- B. All Deliberations are closed to the public.
- C. During Deliberations, the Court shall consider all evidence presented in the course of action, as well as appropriate precedent from the Library.⁵ The Court may also conduct independent research in order to extricate the issues.
- D. At the end of Deliberations, the Court shall take an official vote. A majority of concurring votes shall determine the direction of the Decision.

Rule 16. Decisions and Remedies

- A. In a Decision, the Court may impose any Remedy it deems appropriate to the Case and Controversy. All Decisions and Remedies shall be final and binding on USG, its subdivisions and representatives, and its members at large.
- B. All Decisions shall be typed, dated, and signed.

⁵ Precedent presents itself in the form of "stare decisis." Uniformity of treatment, stability, and convenience are considerations which underlie the doctrine of stare decisis in the judicial system. Thus, the Court should be guided by past decisions and rely on what it has done previously in similar circumstances. The doctrine, however, is flexible when a prior decision was clearly erroneous, when the rationale underlying it is no longer valid, or when changing circumstances have made it obsolete. In such situations, the Court must act in a just and sensible way, ignoring precedent.

- i. There must be one (1) holding from the Court. Dissenting and/or concurring opinions may also be filed.
- ii. Each Justice, unless disqualified from a proceeding, must sign his name to the holding and/or one of the opinions.

C. All Decisions presented by the Court shall be filed with the Clerk and immediately posted in a public place.

- i. Decisions of Dismissal and of Summary Judgment shall follow the timeline indicated in Rule 13(A).
- ii. Decisions following Oral Proceedings shall be filed no later than five (5) days after the hearing.
- iii. For elections-related cases, decisions following Oral Proceedings shall be filed no later than one (1) business day after the hearing.

D. The Decision format shall be:

- i. First page - "Court's Decision"
 - a. The Petitioner's, Defendant's, and DGB's name;
 - b. File number;⁶
 - c. Date of the Oral Proceeding (if necessary); and
 - d. Date the Decision is filed.
- ii. Second and continuing pages - "Opinion(s) of the Court"
 - a. Fact Summary;
 - b. Reasons for or against Jurisdiction;
 - c. Holding of the Court (including the relief granted);
 - d. Concurring Opinion(s) if applicable; and
 - e. Dissenting Opinion(s) if applicable.

⁶ The file number for each case shall consist of two numbers separated by a hyphen. The first number shall be the year in which the Term began. The second number shall designate the order in which the cases were filed during that Term.

Part IV. ADVISORY OPINIONS

Rule 17. Jurisdiction

An Advisory Opinion is not an adversarial proceeding; rather it is a request for interpretation by the Court. If given the ability by the related body, any authorized member of the USG or GPSA may Motion to the Court on a question or proposition of Constitutional law for which he seeks instruction or clarification.

Rule 18. Status

Advisory Opinions are non-binding but considerably weighted by the Court should a Case or Controversy arise on the same or similar issue.

Rule 19. Motion for an Advisory Opinion

- A. Any Motion presented to the Court shall be filed with the Clerk.
- B. Motions to the Court shall be typed or e-mailed, dated, and signed.
- C. There are no formatting requirements for a Motion; however all known, pertinent information (including Constitutional references) should be included.
- D. Upon receipt of the Motion by the Clerk, the Clerk shall have two (2) days to forward it to the Chief Justice.

Rule 20. Initial Court Action

Within two (3) days from the Chief Justice's receipt of the Motion, the Court, by a majority vote, shall act by:

- A. A Decision of Dismissal of the Motion - for reasons including, but not limited to:
 - i. Lack of standing;

- ii. Failure to state a claim; and/or
- iii. The issue(s) involved can not be fairly addressed by the Court.

B. The scheduling of Deliberation - to take place no more than ten (10) days from the initial Motion filing date.

Rule 21. Deliberations

- A. All Deliberations are closed to the public.
- B. During Deliberations, the Court shall consider all evidence presented in the Motion. The Court may also conduct independent research in order to extricate the issues.
- C. At the end of Deliberations, the Court shall take an official vote. A "super" majority (4 of 5, 3 of 3 or 4) of concurring votes shall determine the direction of the Advisory Opinion.

Rule 22. Advisory Opinion

- A. In an Advisory Opinion, the Court may not impose any remedy.
- B. All Advisory Opinions shall be typed, dated, and signed.
- C. There must be one (1) opinion from the Court, and there may be a dissenting opinion.
- D. All Advisory Opinions presented by the Court shall be filed with the Clerk and immediately posted in a public place.
- E. The Advisory Opinion format shall be:
 - i. First page - "Advisory Opinion"
 - a. File number;⁷
 - b. Date of the Advisory Opinion; and

- c. General Topic of the Advisory Opinion.
 - ii. Second and continuing pages - "Opinion(s) of the Court"
 - a. Fact Summary;
 - b. Reasons for or against Jurisdiction;
 - c. Opinion of the Court; and
 - d. Dissenting Opinion (if applicable).

⁷ The file number for each case shall consist of two numbers separated by a hyphen. The first number shall be the year in which the Term began. The second number shall designate the order in which the Advisory Opinions were filed during that Term.

PART V. GENERAL PROVISIONS

Rule 23. Revision and Amendments

- A. These Rules and Procedures can be revised or amended only through a formal adoption by four (4) of the five (5) members of the Court and the approval of Conference Committee.

Rule 24. Suspension

- A. The Court may, for good cause and in the furtherance of justice, on a case-by case basis, suspend the operation of any of these Rules and Procedures which are not mandated by the USG Constitution until the Court files its Decision in that particular Case and Controversy.
- B. The Rules and Procedures of the Court may be suspended by a vote of four (4) of the Justices.
- C. If the suspension of a given rule is material to a Case or Controversy, the Court shall include, in the Decision, the reason(s) behind the necessity of the suspension.

Rule 25. Time Limits

- A. All time limits expressed in days shall include only school days with weekends and holidays excluded.

Rule 26. Items Not Covered

- A. When a situation arises which is not covered by these Rules and Procedures, the Court shall determine an equitable course of action in the spirit of common sense and due process of law, subject to the limitations of the Constitution.