

**RULES AND PROCEDURES
OF THE ASSOCIATED STUDENTS JUDICIAL BOARD
OF THE UNIVERSITY OF CALIFORNIA, SAN DIEGO**

[Ap 2007-1-24]

These rules and procedures govern the Associated Students Judicial Board, hereinafter referred to as the “Judicial Board.” As described in the Constitution of the University of California, San Diego, hereinafter referred to as the “Constitution,” these rules and procedures may only be amended by both a majority vote of the Associated Students Council and a majority vote of the Judicial Board. These rules and procedures may not be suspended.

SECTION 1

Powers and Responsibilities

The Judicial Board is vested with the judicial authority for the ASUCSD and has the power to resolve any case or controversy arising under the Constitution or any of the rules of the ASUCSD or subordinate bodies.

SECTION 2

Membership

Subsection A. Chair

The Officers shall appoint the Judicial Board Chair, hereinafter referred to as the “Chair,” from the membership of the Judicial Board with the consent of both the Council and the Judicial Board. The term of the Chair shall expire with the member’s term on the Judicial Board or upon the appointment of a successor, whichever is earlier.

If the Chair is not participating in a case, the Judicial Board shall elect an Acting Chair from its membership for the duration of the case, who shall execute all of the duties of Chair in connection with that case.

Subsection B. President Not a Member

The President shall not be an ex-officio member of the Judicial Board.

Subsection C. Clerk of the Judicial Board

The Clerk of the Council shall serve as the Clerk for the Judicial Board.

SECTION 3

Filing a Grievance

Subsection A. Standing

Any member of the ASUCSD may bring a grievance against a party alleging that the party has violated the rules of the ASUCSD.

Subsection B. Process to File and Assignment of Complainant’s Representative

To bring a grievance, the complainant must properly complete the “Judicial Board Grievance Form” and submit the form to the Clerk within twenty-one academic days of the incident. This form must include the complainant’s name and contact information, the appropriate accused

party, time, date, and place of specific violations, summary of relevant supporting evidence, the judicial relief sought, if the complainant is seeking a preliminary injunction, and the signature of the complainant.

The complainant shall assign one person to act on behalf of the complainant as their designated representative; this representative may be the complainant.

Subsection C. Withdrawal of a Grievance

The complainant may withdraw a grievance by notifying the Clerk in writing. A grievance may only be withdrawn up until the start of the formal hearing with the approval of the Chair.

SECTION 4

Processing the Grievance

Subsection A. Notification of the Accused and Assignment of Accused's Representative

Upon submission of the Judicial Board Complaint Form, the Clerk shall notify the accused party of the charges including a copy of the Judicial Board Complaint Form within one academic day. If the accused party is the Associated Students, the Clerk shall notify the Associated Students Council within one academic day. The accused shall assign one person to act on the behalf of the accused as their designated representative; this representative may be the accused if the accused is a person.

Subsection B. Scheduling of Formal Hearing

The Clerk shall request copies of the schedules of the designated representatives of the parties involved for the next three weeks.

The formal hearing on the grievance must take place within fifteen academic days. A date for the formal hearing must be announced and all parties notified at least five academic days before the start of the hearing. Any request by either party to postpone the formal hearing must be submitted to the Chair, who may grant the request only with good cause.

Subsection C. Request for Preliminary Injunction

If the complainant is seeking a preliminary injunction, an order preserving the status quo, until a full hearing can be held, the Clerk shall schedule an informal hearing within the time needed for the preliminary injunction to have effect.

For a preliminary injunction to be granted, the complainant must show that there is probable cause the complaint is true and that the harm to be incurred by the complainant if the preliminary injunction is not issued is greater than the harm to be suffered by the accused if the preliminary injunction is issued.

Subsection D. Jurisdictional Challenge

Within five academic days of being notified of the charges, the accused may challenge the jurisdiction of the Judicial Board to hear the dispute by notifying the Clerk in writing. In this case, the Judicial Board shall hear brief arguments from both parties immediately before the start of the formal hearing.

If the Judicial Board determines that they do not have jurisdiction over the dispute, they shall notify both the complainant and the accused in writing, the case shall be dismissed and any issued preliminary injunction shall be vacated.

If the Judicial Board determines that they do have jurisdiction over the dispute or there is no jurisdictional challenge, the case shall proceed normally.

Subsection E. Disqualification of Members

Members of the Judicial Board are disqualified to sit on any case to which they are a party or testifying as a witness. Members of the Judicial Board are expected to use good judgment in determining if they have a conflict of interest in a case to which they have a personal connection and disqualify themselves accordingly.

Subsection F. Other Requests

Either party may make any other request relating to the case or grievance by submitting the request in writing to Clerk or to the Chair before the start of the formal hearing. The Chair shall determine whether or not an informal hearing is necessary. If so, the request shall be handled pursuant to informal hearing procedure. If the Chair determines that an informal hearing is not necessary, the Chair shall rule on the request.

SECTION 5

Informal Hearing Procedure

Subsection A. Informal Hearing Officer

The informal hearing officer shall be appointed by the Chair and may be any member of the Judicial Board. The informal hearing officer shall preside over the informal hearing.

Subsection B. Exchange of Evidence

The complainant must provide the accused with a comprehensive list of all the evidence to be presented at the hearing at least two hours before the scheduled hearing. The accused may waive this right.

The accused must provide the complainant with a comprehensive list of all evidence to be presented at the hearing at least one hour before the scheduled hearing. The complainant may waive this right.

If the informal hearing officer determines that waiving the requirement for exchange of evidence in the interest of time would not harm due process, the informal hearing officer has the right to waive the requirement for exchange of evidence.

Subsection C. Objections to Procedures During the Hearing

Either party's designated representative may raise an objection to informal hearing proceedings at any time during the informal hearing including but not limited to admissibility of evidence. The informal hearing officer shall rule on any such objections.

Subsection D. Quorum for Informal Hearings

The only requirement for quorum for informal hearings is that the informal hearing officer must be present.

Subsection E. Failure of Either Party to Appear

If the designated representative of the party that is not making the request that resulted in the informal hearing fails to appear to the informal hearing, then the decision will be made based upon the case presented by the designated representative of the party making the request that resulted in the informal hearing.

If the designated representative of the party making the request that resulted in the informal hearing fails to appear to the informal hearing, then the request shall be denied.

Subsection F. Hearings Open to the Public

All informal hearings will be open to the public unless requested otherwise by one of the parties. Hearings may only be closed with good cause, including but not limited to the safety of either of the parties. The informal hearing officer shall have the final judgment on any such requests.

Subsection G. Authority of the Informal Hearing Officer to Conduct a Fair and Proper Informal Hearing

If at any time during the informal hearing there is disruptive behavior, the informal hearing officer has the authority to adjourn and reconvene the informal hearing within two academic days. The informal hearing officer has the final authority to take any other appropriate actions necessary for the proper and fair conduct of the informal proceedings.

Subsection H. Order of Presentation

The order of presentation for an informal hearing shall be at the discretion of the informal hearing officer. No witnesses are allowed to speak during informal hearings and only the designated representatives of the parties may speak. If either party is not their own designated representative, they may not speak during an informal hearing. The informal hearing officer may establish reasonable, equitable time limits for both parties if necessary.

Subsection I. Questioning by the Board During a Hearing

The informal hearing officer will have the right to ask questions to clarify any testimony at any time.

Subsection J. Decision on Informal Hearing

Within five academic days of the informal hearing, the informal hearing officer shall issue a ruling on the question that resulted in the informal hearing based on the information presented in the hearing only.

SECTION 6

Formal Hearing Procedure

Subsection A. Exchange of Evidence

The complainant must provide the accused with a comprehensive list of all the evidence and witnesses to be presented at the hearing at least forty-eight hours before the scheduled hearing. The accused may waive this right.

The accused must provide the complainant with a comprehensive list of all evidence and witnesses to be presented at the hearing at least twenty-four hours before the scheduled hearing. The complainant may waive this right.

Subsection B. Objections to Aforementioned Procedures

If any of the aforementioned procedures are not followed, any objections must be made in front of the Judicial Board before the start of the formal hearing. The Judicial Board will rule on the objection and may offer any proper remedy including but not limited to a postponement of the formal hearing.

Subsection C. Objections to Proceedings During the Hearing

Either party's designated representative may raise an objection to hearing proceedings at any time during the hearing including but not limited to admissibility of evidence. The Chair shall rule on any such objections.

Subsection D. Quorum for Formal Hearings

A majority of the membership of the Judicial Board must be present to conduct a formal hearing.

Subsection E. Failure of Either Party to Appear

If the designated representative of the accused party fails to appear to the formal hearing, then the case will be decided based upon the evidence presented at the hearing. If the designated representative of the complainant fails to appear to the formal hearing, then the case will be dismissed.

Subsection F. Hearings Open to the Public

All formal hearings will be open to the public unless requested otherwise by one of the parties. Hearings may only be closed with good cause, including but not limited to the safety of either of the parties. The Chair shall have the final judgment on any such requests.

Subsection G. Audio Record of Formal Hearing

An audio recording of all formal hearings shall be made and maintained by the Clerk.

Subsection H. Authority of the Chair to Conduct a Fair and Proper Formal Hearing

If at any time during the hearing there is disruptive behavior, the Chair has the authority to adjourn and reconvene the hearing within five academic days. The Chair has the authority to take any other appropriate actions necessary for the proper and fair conduct of the proceedings, except that either party's designated representative may appeal such actions to the Judicial Board.

Subsection I. Order of Presentation

The Chair may establish reasonable, equitable time limits for both parties if necessary. If either party is not their own designated representative, they may only speak as a witness. The order of presentation for a formal hearing is as follows.

1. Chair introduces case

2. Designated representative of complainant presents case, including witnesses.
3. Designated representative of accused cross-examines complainant and witnesses.
4. Designated representative of complainant questions any witness concerning issues discussed during cross-examination
5. Designated representative of accused presents case, including witnesses
6. Designated representative of complainant cross-examines accused and witnesses
7. Designated representative of accused questions any witness concerning issues discussed during cross-examination
8. Closing statements by designated representative of complainant
9. Closing statements by designated representative of accused
10. Chair adjourns hearing and the Judicial Board goes into closed deliberations

Subsection J. Questioning by the Board During a Hearing

Any member of the Judicial Board will have the right to ask questions to clarify any testimony at any time.

SECTION 7 Decision

Subsection A. Determining the Outcome

The decision on the grievance will be based on the preponderance of the evidence that was presented at the formal hearing only. All deliberations shall be open only to the membership of the Judicial Board.

The Board will make its decision by majority vote of those members participating in the case.

Subsection B. Written Opinions

The members on the prevailing side shall designate someone to write the Opinion of the Board. The Opinion of the Board must be endorsed by at least a majority of the members on the prevailing side. The Judicial Board, in issuing the Opinion of the Board, may issue an injunction or any other judicial remedy deemed appropriate to enforce its judgment. The Opinion of the Board shall serve as binding precedent for future cases and controversies.

Any member on the prevailing side who disagrees with the Opinion of the Board or wishes to add to it may issue a concurring opinion. This concurring opinion shall not serve as binding precedent. A member that issues a concurring opinion may or may not endorse the Opinion of the Board.

Any member not on the prevailing side may issue a dissenting opinion.

In delivering a decision and opinion, members must adhere to precedent unless they explicitly reverse themselves or the circumstances are significantly different.

Judicial Board members may use other campus judicial board decisions and federal and state court decisions as an aid in their decision-making, but shall not be required to use those decisions as binding precedent.

Subsection C. Notification and Publication of Decision

The Opinion of the Board along with any concurring and dissenting opinions shall be published within five academic days of the formal hearing. All parties to the dispute and the Associated Students Council shall receive a copy of the Opinion of the Board along with any concurring and dissenting opinions.

The official copy of the Opinion of the Board shall bear the signatures of the members who endorse it. The official copies of any concurring and dissenting opinions shall bear the signatures of the members who issued them. These official opinions shall be filed with the Clerk within five academic days of the formal hearing. All decisions and opinions of the Judicial Board shall be open to the public for viewing.

SECTION 8

Rehearing a Case

All decisions of Judicial Board are final; however, if extraordinary circumstances arise, either party may submit a formal written request for a rehearing or reconsideration to the Clerk within twenty-one academic days of the publication of the official opinions from the formal hearing. The Judicial Board shall decide on any such requests within ten academic days of its submission.

Extraordinary circumstances include, but are not limited to newly discovered important evidence not known at the time of the hearing; the decision of the Judicial Board is not supported by the findings; misapplication or misinterpretation of the Constitution or rules made pursuant to it; or unfairness in the proceedings including but not limited to the denial of due process that prejudiced the result.

SECTION 9

Meeting to Conduct Business

The President shall convene the Judicial Board for the purpose of conducting business, including but not limited to, approving the appointment of a Chair or approving changes to these Rules and Procedures.