

Second Edition

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RULES

OF THE

JUDICIARY

OF THE

**STUDENT GOVERNMENT
ASSOCIATION OF HAWAI'I PACIFIC
UNIVERSITY**



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CHIEF JUSTICE OF THE STUDENT BODY 2015-2017

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COMPOSITION AND ROLE OF THE JUDICIARY

CONSTITUTIONAL AUTHORITY, MANDATES, AND JURISDICTION

The Student Government Association (SGA) Judiciary, otherwise known as the Student Judicial Council (the Council) is established by Article IV, Section 1 of the Hawai‘i Pacific University Student Government Constitution.

Per the Constitution, the Council is an independent branch of the SGA composed of five Justices.

Students only become duly vested Justices of the Council upon nomination by the President of the Student Body, with the advice and consent of the Student Senate.

Justices serve the Council until they graduate from the university. “Terms of office for Justices shall end automatically upon the last day of the semester in which they graduate without the intention to resume taking HPU credits the first subsequent fall or spring semester; the first day of a fall or spring semester in which they are no longer considered under full-time status according to the HPU guidelines and requirements; resignation of the Justice; or proper removal of the Justice from his/her member position, or the Justice’s constitutional ineligibility for his/her member position, whichever should happen first.”

The term of office of a Justice commences upon the Justice-designate being duly administered the Oath of Office following his/her presidential appointment being consented to by the Student Senate.

The Council has jurisdiction over “constitutional controversies,” “controversies of compliance with internal law,” and “electoral controversies.”

The Constitution also stipulated that the Council “may provide for its internal policies and procedures,” which this document henceforth establishes.

AMENDMENTS TO THE RULES OF THE JUDICIARY

These Rules of the Judiciary of the SGA may be amended or changed by a four-fifths (4/5) vote of the Justices of the Council. The Student Senate “may review, modify and/or nullify” these Rules. “However, the Senate shall take no action that unduly interferes with the independence of the Judicial Council and its members.”

CHIEF JUSTICE OF THE JUDICIARY

Per the aforementioned rules, students only become duly vested Justices of the Council upon nomination by the President of the Student Body, with the advice and consent of the Student Senate. The Chief Justice shall have served in a position of trust under the SGA Constitution for at least 180 cumulative calendar days at any time prior to holding the Chief Justice position.

The Chief Justice serves as the head of the Council and the presiding Justice of the proceedings of the Council. He/she is also responsible for administering the Council, ensuring the Council's adherence to its internal policies and procedures, and serving as the chief spokesperson for the Council.

The Chief Justice may appoint a student, with the advice and consent of the Council, to serve as the Clerk of the Student Judicial Council. The Clerk shall serve at the pleasure of the Chief Justice.

STARE DECISIS AND EFFECTS OF DECISIONS

In conjunction with the Constitution, the rulings of the Council shall serve as the supreme law of Hawai'i Pacific University (HPU). They shall have full force and effect within (HPU).

As such, Opinions of the Council shall carry forth precedent of the Council. Thus, the Council shall afford previous decisions weight in examining the merits, employing the Doctrine of Precedent.

Previous decisions shall be binding except when its statutory authority has been altered so as to require a different result; the factual circumstances of the different controversies or cases requires a different result; or when the Council determines that the previous decision was erroneous.

STANDING

The Council may only consider cases that involve actual merit and controversy. In this vein, the Council shall not address, and shall dismiss for lack of standing, cases which do not arise out of controversy. In order for a party to have standing, the party must meet four separate requirements:

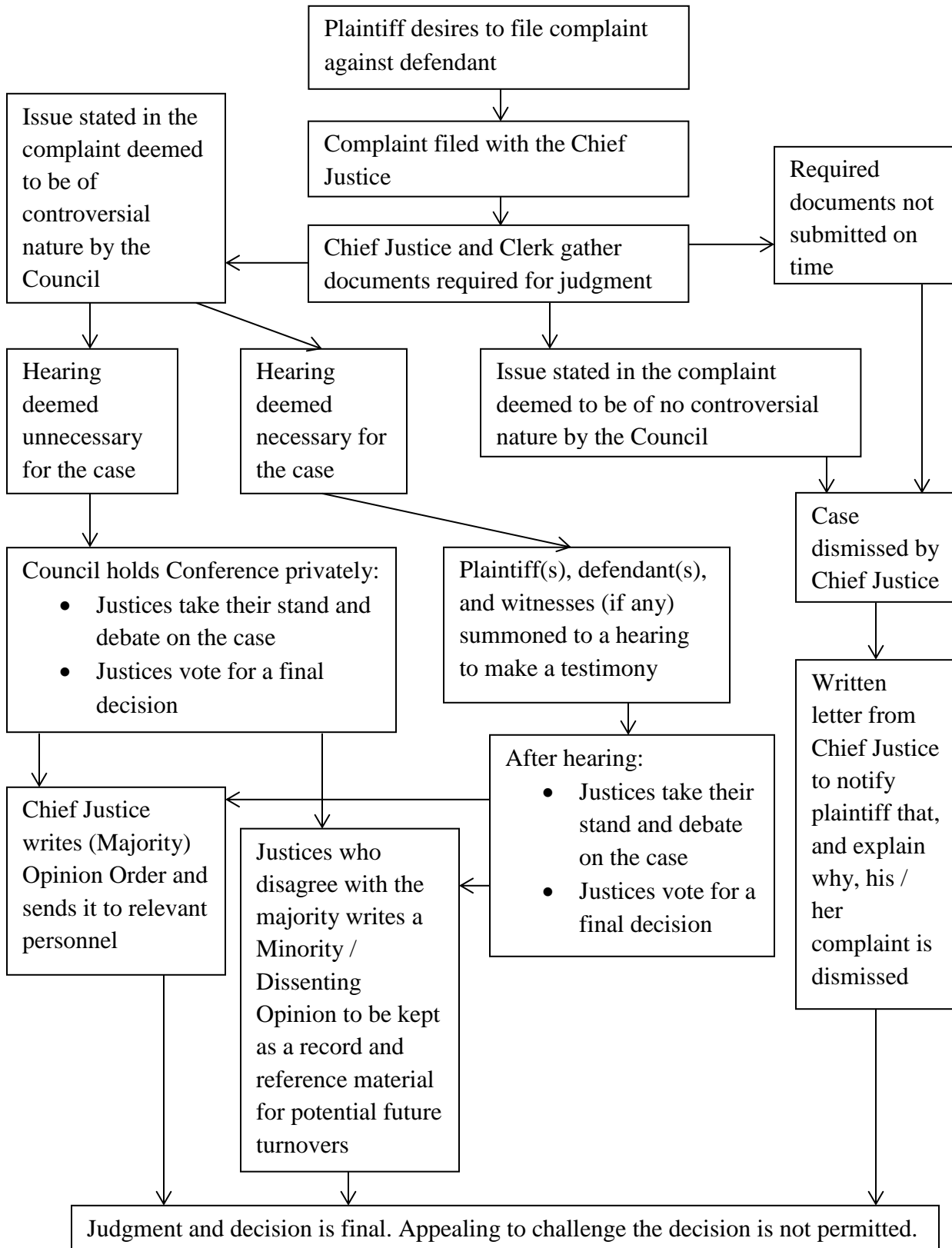
First, the Plaintiff must have suffered or will imminently suffer injury in the form of an invasion of a duly-protected interest that is both concrete and actual or imminent (i.e. neither conjectural nor hypothetical nor abstract). An example of such an injury would be a plaintiff's deprivation of a constitutionally protected right and/or a privilege afforded by school policy.

Second, for standing to be present, there must be causation. The injury suffered by the Plaintiff must be tangibly related to the challenged action of the Defendant and not the result of an action by a third party that is not a part of the case.

Third, in order to have standing, the injury must have redressability, in that the Council must be likely able to provide relief in the form of redressing the injury.

Fourth, in order for a party to have standing, the party must have exhausted other avenues of complaint, following the proper procedures. An example of this principle would be a candidate in an election first complaining to the Elections Committee about an election violation before filing a complaint for judgment by the Council.

BASIC FRAMEWORK OF PROCEEDINGS



EMERGENCY ACTIONS

EMERGENCY INJUNCTIONS

In some extraordinary and mitigating circumstances, the Council may need to take immediate action to protect the rights of the student(s), groups, and/or other constitutionally protected entities. Therefore, procedures such as Emergency Injunctions are necessary, and exist to protect the rights of students. Such actions may only be exercised in the overwhelming interest of Justices.

An Emergency Injunction is an order of the Council that temporarily halts or orders the continuation of action or actions by a student, group, and/or other entity subject to the Council's purview. This order shall immediately be executed by such an entity and has the full force and effect of an Opinion of the Council; however, it must be imposed solely as a temporary measure and may only be made in rare and extreme circumstances.

Only the Chief Justice may issue an Emergency Injunction, and may do so only upon request from a student, group, and/or entity with the standing to make such a request. The Council shall meet as soon as possible to determine if the Injunction shall remain in effect, and if so, for how long.

Emergency Injunctions shall only be issued by the Chief Justice if waiting for the whole Council to assemble would have a lasting effect on the merits of the case. Additionally, one of the following criteria must be met in order for the Chief Justice to appropriately file an Injunction:

1. There is a substantial likelihood of the party filing the request for an Emergency Injunction to succeed on the merits of the case.
2. The party filing the request for an Emergency Injunction faces a substantial threat of irreparable damage or injury if the Emergency Injunction is not granted.
3. The *balance of harms* weighs in favor of the party filing the request for an Emergency Injunction.
4. The grant of an Emergency Injunction serves the *public interest*.

If such requirements are achieved, the Chief Justice may issue an Emergency Injunction. In such cases, the Chief Justice must submit, in writing, the Emergency Injunction to all involved parties and to the Council as a whole.

An instance where an Emergency Injunction is applicable is when a candidate in the SGA election is found to be violating the statements in the Election Packet and Code of Student Conduct two days before the commencement of voting.

SUMMARY JUDGMENTS

In such cases as it sees fit, and solely upon unanimous consent of all the Justices to do so, the Council may issue a Summary Judgment, ruling on the merits of a case before entertaining oral arguments and Hearings. This process should be reserved for cases such as those that so clearly lack standing or merit that they might distract the Council from its important functions. This process should never be used to stifle due process of a case or to thwart input by a legitimate party.

AMICUS CURIAE

PROCEDURE AND ELIGIBILITY FOR FILING AN *AMICUS CURIAE* BRIEF

Amicus Curiae, or “Friends of the Court,” are parties that are not the Plaintiff or the Defendants but are directly related to the merits of the case. *Amicus Curiae* should be able to add valuable contributions to the discussions of the merits of the case.

Students, groups, and/or entities may file *Amicus Curiae* Briefs, which are statements that the *Amicus Curiae* would like the Council to consider in its judgment of a particular case. These *Amicus Curiae* should have a vested interest in the case. *Amicus Curiae* should have more than just a view on the case, but rather should have a stake in the outcome.

Amicus Curiae Briefs should be filed with any Justice of the Council prior to the Hearings. *Amicus Curiae* Briefs submitted to a Justice shall be forwarded by the Justice to the whole Council. Opportunities for filing *Amicus Curiae* Briefs shall be advertised to the student body via campus email systems, in addition to other methods determined prudent by the Council. The Chief Justice shall mention such opportunities in the email notices for Hearings to all members of the student body.

Additionally, any one Justice may request an *Amicus Curiae* Brief from an individual, group, and/or entity, who may decline to submit such a Brief. However, should the individual, group, and/or entity choose to submit such a Brief upon the request of a Justice, the Brief shall automatically be entered into the files of the case and submitted to all Justices for consideration thus bypassing the eligibility requirements enunciated in this section.

Approved *Amicus Curiae* Briefs shall be submitted by the Chief Justice to all other parties of the case upon approval by the Council and prior to Hearings.

APPROVAL OF *AMICUS CURIAE* FOR HEARINGS

After *Amicus Curiae* Briefs have been filed with the Council, Justices should review the Briefs and determine their weight upon the merits of the case. Should any one single Justice determine that a certain *Amicus Curiae* is of such particular significance to the case as to merit time at Hearings, that Justice shall inform the Council as a whole and the Chief Justice shall invite the *Amicus Curiae* to partake in Hearings before the Council.

HEARINGS

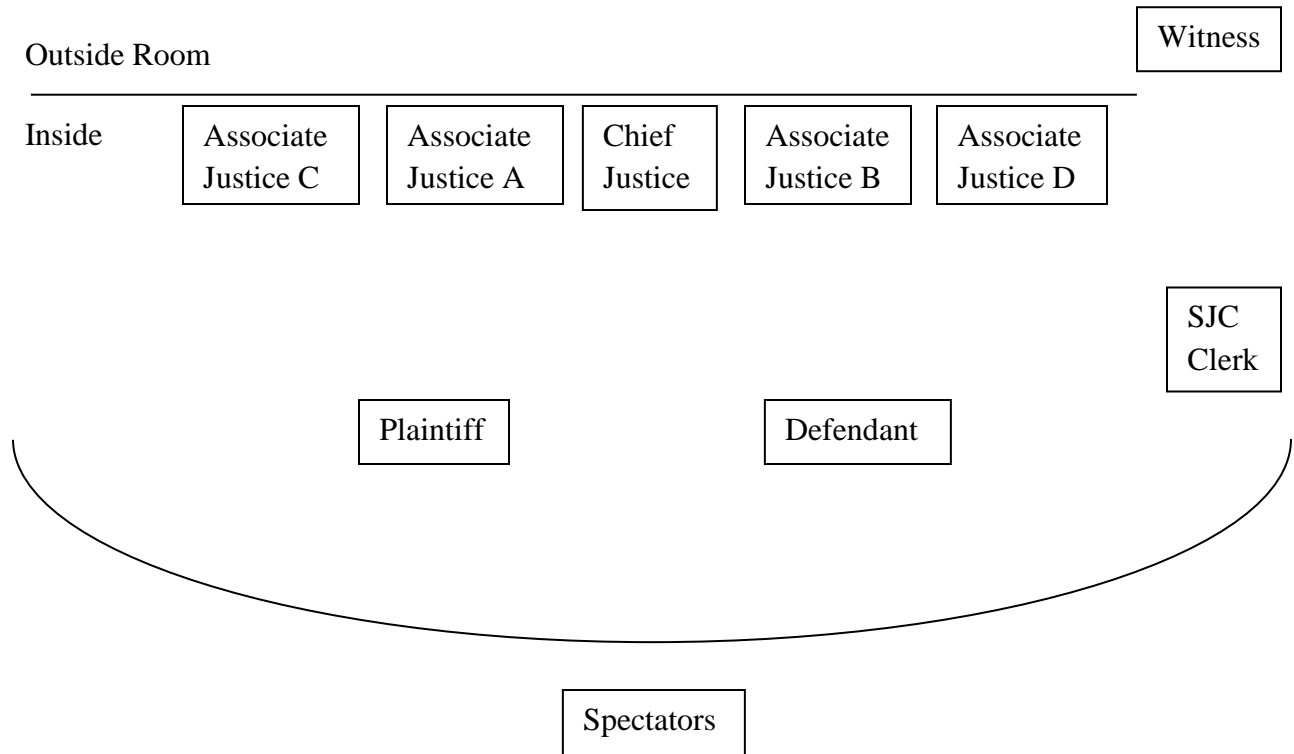
TIME ALLOTMENT

Both Plaintiffs and Defendants shall always be allotted equal amounts of time to present their arguments before the Council. The Plaintiffs and Defendants shall each receive 30 minutes to present their arguments unless the Council decides to allocate them equal amounts of additional time prior to hearing.

Any *Amicus Curiae* allocated time to present arguments shall receive amount of time decided by the Council. Therefore, unless the Council affords the parties additional time before the commencement of Hearings exceeding the standard allotment of time, *Amicus Curiae* shall present arguments within the 30 minutes given to the Plaintiffs and Defendants.

The Chief Justice shall be responsible for monitoring and enforcing these time allotments. Refer to *Hearing Procedures (Script)* in *Appendix* on page 57 for more instructions.

SEATING ARRANGEMENTS



Associate Justices	Seniority in the Council			
	Longest Serving	—————		Shortest Serving
	A	B	C	D

FORMAT AND PROCEDURE OF HEARINGS

The format and procedure for Hearings shall be similar to those of basic trial. Parties shall present their cases/arguments, one at a time, to the Justices, who may ask questions intermittently. The Justices should ask the parties questions surrounding the case, the relevant ancillary statutes and information, and any other inquiries significant to the case. The Justices may also make points that they would like the parties to address and question the parties' interpretations and representations.

The Plaintiff shall first present his/her argument to the Council.

Before the Plaintiff has exhausted his/her time allotment, any *Amicus Curiae* will make their arguments to the Council. These arguments shall transpire in a predetermined order if there are multiple *Amicus Curiae* granted time for Hearings.

After any *Amicus Curiae* have presented their arguments to the Council, the Defendant shall present his/her argument to the Council.

Following the arguments, the Council shall deliberate on remedies or sanctions before adjourning the Hearing.

Judgment and decisions made by the Council are final. Neither party is permitted to appeal the decisions of the Council.

During Hearings, parties should refer to the Justices, who shall have nameplates, by "Justice" followed by the Justice's last name. They should refer to the Chief Justice as "Mr./Madam Chief Justice." The Justices, in turn, should refer to the parties as "Mr./Misses/Ms." Followed by the litigator's last name. Arguments shall be urbane in deportment and presided over by the Chief Justice, who shall facilitate discussion and the whole Hearing.

VENUE AND PUBLIC ACCESSIBILITY OF HEARINGS

The public (HPU student body, staff, faculty) shall be able to reasonably observe Hearings before the Council unless the Council unanimously agrees to hold such proceedings behind closed doors. Should a majority of Justices object to hold Hearings in private, such proceedings shall be held publicly.

The Plaintiff(s) and Defendant(s) shall also be permitted to request for the Hearing to be held privately. Such request should be indicated, with the reasons, in the complaint filed. If the Council finds it reasonable to not hold the Hearing publicly, the Chief Justice shall make the final approval and inform all of the parties involved in the case.

Public Hearings shall be held in a venue accessible to all students and shall be adequately advertised to the student body via campus email systems, in addition to other methods determined prudent by the Council. The Chief Justice shall send out notices of such Hearings to all members of the student body at least one week prior to the Hearing.

AUDIO AND VISUAL RECORDINGS OF HEARINGS

The Council shall make audio and visual recordings of all Hearings that are available to public for viewing upon written ~~request~~ justification (Amendment 2017.04-01) after the conclusion of such Hearings, granted all recordings are posted in full and are not subject to truncation, editing, altering in any form, or otherwise distributing the entirety of the recordings. The Council has the right to grant or deny any request. (Amendment 2017.04-01)

According to Family Educational Rights and Privacy Act (FERPA), the privacy of student education records is protected. (Amendment 2017.04-01) The viewer of the recordings shall not create a recording of the recordings at the time of his/her viewing, and shall not possess a copy of the recordings. (Amendment 2017.04-01)

If granted to view the recordings, a form (page 61) will be provided to the viewer to sign, prior to the viewing, to indicate that he/she will adhere to these rules and regulations. (Amendment 2017.04-01)

Additionally, members of the public shall not be permitted to create audio recordings of Hearings open to the public. The Council does not consent to any recording of Hearings by any individuals.

ROLES AND RESPONSIBILITIES

The judicial hearing is a structured conversation between the Student Judicial Council, the plaintiff, the defendant, and their witnesses. An advisor to the plaintiff or the defendant may also be present, but may not address the Council. The hearing is led by the Chief Justice of the Council, in consultation with the Consultant to the Council if necessary. The proceedings are tape-recorded. All information communicated during a hearing is confidential, unless otherwise stated.

Associate Justices

It is the task of the Associate Justices to investigate the facts of the case by reading all information provided regarding an allegation, and by asking probing, thorough, and appropriate questions throughout the Hearing.

The facts will be used to determine, by a preponderance of evidence, whether or not the defendant has conducted the alleged action(s) or violation(s). If a majority of the justices finds the defendant responsible for the alleged action(s) or violation(s), they will move to consider appropriate remedies or sanctions. Remedies or sanctions are to be determined by consensus and should be commensurate with the alleged action(s) or violation(s).

Chief Justice

The Chief Justice has two responsibilities – guiding the Hearing and facilitating discussion. While guiding the Hearing, the Chief Justice insures that proper procedure is followed, questions are appropriately asked, issues are thoroughly investigated, the due process rights of the defendant and the plaintiff are protected, and the hearing runs smoothly. Careful adherence to procedure is an important responsibility because the potential consequences for the defendant and the university could be significant. The Chief Justice may consult the Consultant to the Council, the Advisors of the Student Government Association, the Office of Student Life, and/or the University Dean of Students regarding procedural matters before, during, or after a hearing. The Chief Justice is also responsible for the safe keeping and proper order of case notes, the tape recording, and any physical evidence, until they are kept in the case file that stores precedents at the end of the hearing.

While facilitating discussion, the Chief Justice is responsible for helping fellow Associate Justices to ask appropriate, thorough questions during the Hearing, and for guiding their discussion to stay focused on facts. The Chief Justice generally does not question the plaintiff, defendant, or witnesses but he/she may stimulate questioning or redirect it. The Chief Justice should focus on facilitating discussion of the proceedings. Justices should also keep in mind that the hearing is not a court of law.

Clerk

The Clerk shall serve at the pleasure of the Chief Justice. Generally, the Clerk has three tasks: making the audio and visual recordings of the Hearing; making written recordings of the Hearing; and assisting the Chief Justice in the facilitation of the Hearing.

Consultant to the Council

The Consultant to the Council is a university faculty or staff recommended by the Chief Justice and advised by the Advisors of the Student Government Association. The Consultant may be present during the hearings for consultation by any person in the Council if deemed necessary for the particular case at hand. The Council may call the Consultant as a witness.

Should the Council find the defendant responsible for the allegation(s) or violation(s) and move to the remedies or sanctioning stage, the Consultant may be consulted in order to offer guidance on appropriate remedies or sanctions. Only after the Council has moved to the sanctioning stage, may the Consultant advise the Council of prior (proven) allegation(s) or violation(s) by the defendant, and only to assist the Council in the remedies or sanctioning process.

Plaintiff

The plaintiff is the student of the university, or the university-recognized student-led organization, who has filed a complaint. There may be more than one plaintiff at a hearing if all of the complaints involved the same situation. However, should such a situation arise, each plaintiff is allowed to request a separate judgment or hearing. If all plaintiffs request for a single judgment, the 30 minutes is allotted for the whole group.

Defendant

The defendant is the student, or the university-recognized student-led organization, against whom the complaint has been filed. There may be more than one defendant if all of the charges involve the same situation. However, should such a situation arise, each defendant is entitled to request an individual judgment or hearing. If all defendants request for a single judgment or hearing, the 30 minutes is allotted for the whole group.

Witnesses

Persons who have direct knowledge of the incident that led to the filing of the complaint. Witnesses may be neutral or appear for either party. Witnesses may not be compelled to testify. Witnesses may only be present in the hearing while they are testifying but may be recalled by the Council at a later time for further questioning.

Counsel

A counsel may be a faculty member, staff person, or friend and may be present on behalf of either of the parties, the plaintiff or the defendant. The counsel may not speak for or represent

either party unless the student has a speech disability or is physically unable to be present at a hearing.

REMEDIES OR SANCTIONING

REMEDIES OR SANCTIONING BY THE JUDICIARY

Issuing remedies or sanctions is an important aspect of the disciplinary process. This is the opportunity to educate the student on the effects of his/her behavior and to attempt to affect a change in the student's behavior for the future. Remedies or sanctioning is something one will be called upon to do in a majority of hearings. Remedies or sanctions that the Student Judicial Council imposes must be in some way educational and developmental for the defendant.

The first thing that will occur when the remedies or sanctioning phase of the hearing begins is deciding on the range of remedies or sanctions. The Consultant to the Council and/or the Advisors of the Student Government Association may inform the Council of any prior determinations against the defendant after a determination in the present case has been made and the range of remedies or sanctions has been determined. The defendant is called back into the room and is told the range of remedies or sanctions. The defendant then has the opportunity to justify his/her actions. The defendant could also mention why it may be difficult or impossible for him/her to complete a certain remedy or sanction. The defendant will then leave the room again.

Below are some questions to ask the student and to consider when deciding on appropriate remedies or sanctions.

1. What is the intent of the student? What was the student's motivation for behaving inappropriately? Did he/she intentionally violate a policy? Was he/she aware of the possible consequences or was there some plausible explanation?
2. What were the actual consequences of the behavior? Was there physical damage or personal harm (physical and/or emotional)? What were the effects of the behavior?
3. What were the potential consequences of the behavior? If not caught, would physical damage or personal harm have occurred? What potential harm could the student have suffered?
4. What is the attitude of the student? Is he/she willing to accept the responsibility for the behavior? Does he/she refuse to cooperate and is he/she not willing to accept the responsibility? Does he/she display any sense of empathy for others?
5. What is the student's past record? Is there a trend of this type of behavior or other violations?
6. How would one feel if he/she were given this remedy or sanction to complete?
7. What is the Council intending for the student to learn from this remedy or sanction?

Below are some questions that the Council should attempt to answer when deciding what type of remedy or sanction is appropriate.

1. What does the Code of Student Conduct require for the violations?
2. What significant aggravating or mitigating factors would warrant a lesser or more severe penalty?
3. What action by the Council would help the student learn from this experience?
4. What action would help the student take the process seriously and to think about his/her behavior?
5. What action would serve to deter others from similar behavior and to maintain community standards?
6. Is the remedy or sanction in any way demeaning? Is it realistic to expect the student to carry it out?
7. Does the remedy or sanction fit the incident?
8. Does the remedy or sanction violate the right to privacy?

The Council should keep in mind to not go overboard, and must be aware that all decisions and remedies or sanctions should not be too harsh.

REMEDIES OR SANCTIONING CONSENSUS

The discussion leading to the determination of the Council of the most appropriate remedy or sanction may be more difficult than the discussion concerning whether the alleged action(s) or violation(s) occurred. Although a unanimous decision is not required for remedies or sanctioning, it is hoped that all Council members reach consensus about what is the most appropriate remedy or sanction.

When building consensus, the objective is to elicit the concerns of all members of the Council and attempt to find the best and most creative solutions. The conflict between two opposing viewpoints is valued as an opportunity to reach a better decision. Presenting an opposing viewpoint is not seen as divisive but as constructive. The input of each Council member is recognized and valued equally. Participants do not compromise, but continue to offer suggestions and modify the suggestions made by others until one idea which all can support emerges.

Developing consensus within a group requires more time than other methods of decision-making. The way group members work together to reach a decision is as important as the decision itself. The Council should strive to have each Justice contribute and participate equally, despite differences in status, assertiveness, or other personal qualities. In other words, the contribution of a quiet, shy member should be listened to as carefully as the contributions of an outspoken, articulate member. The Council should consider and value emotions as well as logic, although distracting emotionalism is not helpful to its progress.

ROLES OF THE MEMBERS OF THE JUDICIARY

It is the responsibility as a member of the Council to:

- encourage the contribution of every other member without embarrassing the other members or putting them on the spot;
- help the Council make full use of everyone's contributions;
- express one's opinion;
- listen to everyone's opinion; and
- recognize and practice the qualities of an effective consensus seeking groups.

QUALITIES OF EFFECTIVE CONSENSUS SEEKING GROUPS

Effective consensus seeking groups:

- use synergistic thinking as opposed to either/or thinking;
- generate more ideas than individuals generate independently;
- have a high level of participation;
- develop a climate in which members can be relaxed, open, and direct; and
- are task-oriented

Attitudes that support consensus:

- Cooperation (Not competition)
- Common ownership of ideas (Not individually owning ideas)
- Valuing feelings (Not emphasizing facts at the expense of feelings)
- Valuing conflict as a cooperative effort to bring out all perspectives (Not suppressing feelings and avoiding conflict)
- Valuing the contributions of all members (Not allowing social prejudices to reflect in the group's dynamics)
- Making an effort to equalize power (Not relying on authority status)

DETERMINING APPROPRIATE REMEDIES OR SANCTIONS

The most appropriate remedies or sanctions are those designed to fit an individual student's current developmental level. Familiarity with the basic principles of student developmental theory, especially theories regarding the moral development of college students, will help the Council to create effective educational remedies or sanctions.

Students arrive at the university from a wide variety of backgrounds and at different levels of maturity. They move through developmental stages at different rates while at the university. Because students are at different stages of development, remedies or sanctions must be individually tailored for each student. Arthur Chickering, a developmental psychologist, suggests that the most effective educational remedies or sanctions are those designed to take into account a student's need for challenge.

Challenge refers to the intellectual difficulty of the assigned remedy or sanction. A challenging remedy or sanction is most appropriate for students with a strong intellect and well-developed social skills. If a remedy or sanction is too challenging, there is a risk that the student's behavioral insights will be limited by the difficulty of the assignment. However, a serious violation may demand a challenging remedy or sanction, and can be successfully completed if it is carefully structured.

Structure refers to the amount of support a student needs to successfully complete a remedy or sanction. Generally, younger students require more structure than upper class and graduate students do. A remedy or sanction with a high level of structure is appropriate for students who may need extra support to ensure successful completion of a remedy or sanction. For example, high levels of structure might include: checking in with an advisor as each stage of a remedy or sanction is completed; providing the resources a student needs to complete the remedy or sanction; or providing suggested topics for a reflection paper.

The goal of the Council should be to construct a remedy or sanction with the right amount of structure for the student to successfully meet its challenge. Too little structure or too much challenge may not allow the student to successfully complete the remedy or sanction and learn from it. On the other hand, too much structure and too little challenge may lead the student to discount the remedy or sanction and minimize its educational impact.

When the defendant addresses remedies or sanctions, the Council should listen for and ask questions about their perceived ability to successfully complete a possible remedy or sanction.

The Council may assign someone a remedy or sanction that he/she feels inappropriate, but the Council should be sure to have an educational rationale and an appropriate structure.

GUIDELINES FOR REMEDIES OR SANCTIONS

Some guidelines for creating developmental remedies or sanctions are:

Win-Win

The process of remedies or sanctioning is designed so that all parties feel that they have gained something. The student may feel that he/she was understood and encouraged to develop more appropriate behavior. When the remedies or sanctions are assigned with a win-win attitude, students are more likely to become even more valuable members of the university.

Appropriate to circumstances and violation

The remedies or sanctions must be in accordance with the seriousness of the violations and the circumstances surrounding the conduct. This will emphasize the goal of educating rather than punishing the students. The student will also perceive the remedies or sanctions as fair, justified, and legitimate. Each person should be treated as an individual. It is fine to give two persons involved in the same incident different remedies or sanctions. However, the Council should keep in mind that appropriateness depends upon each individual's level of involvement, personal developmental level, and willingness to accept responsibility for his/her behavior.

Timelines

All remedies or sanctions given must have a specific deadline for their completion. The deadlines must offer adequate time for the student to complete the task while considering academic demands, job expectations, and/or other needs. However, the process must not linger on for several months since any potential for growth will diminish as time drags on. Furthermore, the Council does students no service when it fails to hold them responsible for their commitments. All deadlines and the consequences for failing to meet those deadlines must be stated clearly in the letter of decision that is sent to the student.

Explaining "Why"

In order for the student to understand the purpose of remedies or sanctioning, an explanation of why certain remedies or sanctions are being imposed is necessary. It is helpful to discuss why the exhibited behavior was inappropriate or disruptive, how the behavior affected others, and what skills are being encouraged by the student. These explanations should be included in both the hearing process and in the letter of decision. This rationale is extremely important. It is the foundation of the decision of the Council, and must be stated clearly and thoroughly. Explicating the rationale of the Council in the proper way will help to answer possible questions and educate future Councils about why such a decision was reached.

**OPINIONS OF THE JUDICIARY,
CONCURRENCES, AND DISSENTS**

DELIBERATIONS

Following Hearings, or if the Council has accordingly unanimously waived consideration of Hearings as described previously, the Justices shall enter into deliberations. The deliberations of the Council are private, attended only by the Justices themselves with no recording of minutes of discussions. An Advisor being present during SGA official actions is considered best practice at the university. (Amendment 2017.04-02) Therefore, the Council may allow Advisors of SGA to be present during deliberations as a resource and to provide clarification, if needed. (Amendment 2017.04-02) During deliberations, the Justices shall discuss the merits of the case, talk about their views on the cases with each other, and ultimately arrive at a decision or decisions. Decisions are arrived at through each Justice casting a vote to adopt a certain opinion. These decisions can come in four different forms: Opinions of the Judiciary, Concurring Opinions, Dissenting Opinions, and Plurality Decisions.

OPINIONS OF THE JUDICIARY

Opinions of the Judiciary are decisions for which a majority of the Justices cast votes. Opinions of the Judiciary are the ultimate decisions that the Council has arrived at, and they command the full force and effect within HPU. The SGA, all subsidiary organizations, and all other individuals, groups, and entities that fall under the jurisdiction of the Council are compelled to respect, carry out, and execute the rulings of the Council, which are expressed through Opinions of the Judiciary.

Opinions of the Judiciary set precedence and shall be afforded as such under the Doctrine of *Sine Diem*.

The Justices voting in the majority may decide amongst themselves which Justice shall author the Opinions of the Judiciary, but a single Justice shall write the Opinion of the Judiciary. This author shall sign his/her name under the Opinion of the Judiciary. The other Justices voting in the majority shall be listed as joining in the decision. Should the Justices in the majority fail to elect a single authority from amongst themselves by plurality vote, the Chief Justice (if he/she is in the majority) or in his/her absence, the most senior Justice in the majority (as determined first by time on the Council, then by class, then alphabetically by last name), shall decide who shall author the Opinion of the Council.

CONCURRING OPINIONS

Justices may also individually author opinions. One such opinion is a Concurring Opinion, which expresses agreement with the tenets of the Opinion of the Judiciary. A Concurring Opinion can be used to express complete agreement with the Opinion of the Judiciary, or it can represent that a Justice is “concurring in part” (i.e. the Justice only agrees with certain aspects of the Opinion of the Judiciary). Concurring Opinions, like all opinions, are only written by one Justice individually, but any Justice can write in an opinion. A Concurring Opinion shall be signed by its author, followed by a list of Justices that join in the opinion.

DISSENTING OPINIONS

Justices disagreeing with the Opinion of the Judiciary may file Dissenting Opinions, articulating their disagreement. Much like Concurring Opinions, Justices may “dissent in part” and “concur in part.” These Dissenting Opinions, like Concurring Opinions and Opinions of the Council, must be authored by a single Justice but may be joined by additional Justices. A Dissenting Opinion shall be signed by its author, followed by a list of Justices that join in the opinion.

PLURALITY DECISIONS

In rare circumstances, a majority of Justices may not be able to reach a decision. In these rare cases, the Council may issue a Plurality Decision, which holds that more Justices agree with a certain view than with any other view, but that a majority of the Council does not accept such a holding. These Plurality Decisions, when no majority decisions can be reached, have the holding of the law in HPU. However, these decisions lack the ability to set precedence for future cases and are not accepted under the Doctrine of *Sine Decisis*. They are simply employed to settle the specific dispute before the Council, not to issue an overarching interpretation of the principles of law by the Council. Plurality decisions are only written by one single Justice, but any Justice can join the plurality decision. The same procedure to determine the author of Opinions of the Judiciary shall be used to determine the same for Plurality Decision. The author of the Plurality Decision shall sign the Decision, and all justices joining in the Plurality Decision shall be listed below.

DISSEMINATION OF DECISIONS

All Opinions of the Council, Concurring Opinions, Dissenting Opinions, and Plurality Decisions shall be disseminated by the Chief Justice and/or the Advisors of SGA to the entire student body. Additionally, the Chief Justice shall submit all of such decisions to the Senate Secretary of the SGA for distribution among the Legislative and Executive branches of the SGA, if necessary.

ARCHIVAL OF DECISIONS

The Chief Justice shall be responsible for seeing to it that all Opinions of the Court, Concurring Opinions, Dissenting Opinions, and Plurality Decisions are properly archived, accessible to all Justices, so that such decisions may be drawn upon for future cases and uses.

AMENDMENTS



WESLEY CHAI
CHIEF JUSTICE OF THE STUDENT BODY

STUDENT GOVERNMENT ASSOCIATION
2016 – 2017 Session

IN THE STUDENT JUDICIAL COUNCIL OF HAWAII PACIFIC UNIVERSITY

AMENDMENT I

Short Title: Student Judicial Council Honors and Awards

May 17, 2016

**ESTABLISHMENT OF HONORS AND AWARDS FOR
THE STUDENT JUDICIAL COUNCIL**

WHEREAS, honors and awards are bestowed upon members of Legislative and Executive branches of Student Government Association; and

WHEREAS, honors and awards recognize the accomplishments of significantly dedicated Justices; and

WHEREAS, the Bylaws and *Rules of the Judiciary* do not include honors and awards for Student Judicial Council;

THEREFORE,

BE IT ADOPTED BY THE STUDENT JUDICIAL COUNCIL OF HAWAII PACIFIC UNIVERSITY THAT:

SJC Distinguished Service and Legacy Award

- a. This award honors and recognizes the Justice for his/her exceptional dedication and accomplishments for Student Judicial Council.
- b. This award shall be bestowed upon the Justice who:
 - i. Has served a minimum of three years in Student Judicial Council;
 - ii. Has provided remarkable service to HPU and the community; and
 - iii. Is graduating from HPU this session.
- c. The Justice must exemplify the highest standards of judicial excellence throughout a distinguished Student Judicial Council career.
- d. Student Judicial Council shall vote on the eligible candidates.
- e. A certificate shall be handed out to the recipient.

Justice of the Year

- a. This award is bestowed upon one Justice for exceptional accomplishments, conduct, and dutiful execution of his/her job in Student Judicial Council.
- b. The Justice must be an innovator who is creative in dealing with the processes within the courtroom.
- c. The Justice must display courage, energy, and tenacity in the handling of high profile, controversial, or difficult cases.
- d. The Justice must efficiently, expeditiously, and objectively manage cases.
- e. The winner shall be chosen by the members of Student Judicial Council.
- f. A certificate shall be handed out to the recipient.

AMENDMENT I

ADOPTED by a vote of 4-0-1.



WESLEY CHAI
CHIEF JUSTICE OF THE STUDENT BODY

STUDENT GOVERNMENT ASSOCIATION

2016 – 2017 Session

IN THE STUDENT JUDICIAL COUNCIL OF HAWAII PACIFIC UNIVERSITY

AMENDMENT II

Short Title: Student Judicial Council Office Hour

April 5, 2017

ESTABLISHMENT OF OFFICE HOUR FOR THE STUDENT JUDICIAL COUNCIL

WHEREAS, all Senators are required to perform office hours per week per semester; and

WHEREAS, office hours provide student body with the opportunity to meet a Justice in person;
and

WHEREAS, the Constitution and *Rules of the Judiciary* do not include office hours for Justices;

THEREFORE,

BE IT ADOPTED BY THE STUDENT JUDICIAL COUNCIL OF HAWAII PACIFIC UNIVERSITY THAT:

Office Hour

- a. The Chief Justice may require all Justices to perform a minimum of one hour of office hour per week per semester.
- b. If this requirement is ignored, the Justice's membership may be called to question by the Chief Justice.
- c. The Justice in question may be subject to disciplinary action.

AMENDMENT II

ADOPTED by a vote of 4-0-0.



WESLEY CHAI
CHIEF JUSTICE OF THE STUDENT BODY

STUDENT GOVERNMENT ASSOCIATION
2016 – 2017 Session

IN THE STUDENT JUDICIAL COUNCIL OF HAWAI'I PACIFIC UNIVERSITY

AMENDMENT 2017.04-01

Short Title: Public's Access to Recordings of Student Judicial Council Hearings

April 28, 2017

**AMENDMENT OF PROCEDURES FOR PUBLIC'S ACCESS TO AUDIO AND VISUAL
RECORDINGS OF HEARINGS**

WHEREAS, public's right to access recordings requires clarification; and

WHEREAS, need for public's justification in any request requires clarification; and

WHEREAS, the Council's right to grant or deny request requires clarification; and

WHEREAS, Family Educational Rights and Privacy Act (FERPA) sets limitations on the access of any records that contain information directly related to a student and which are maintained by an educational agency or institution or a party acting for the agency or institution; and

WHEREAS, the *Rules of the Judiciary* does not include a form for viewers of the recordings to sign to indicate that the rules and regulations would be adhered;

THEREFORE,

**BE IT ADOPTED BY THE STUDENT JUDICIAL COUNCIL OF HAWAI'I PACIFIC
UNIVERSITY THAT THE *RULES OF THE JUDICIARY* IS AMENDED AS FOLLOWS:**

AUDIO AND VISUAL RECORDINGS OF HEARINGS

The Council shall make audio and visual recordings of all Hearings that are available to public for viewing upon written request justification after the conclusion of such Hearings, granted all recordings are posted in full and are not subject to truncation, editing, altering in any form, or otherwise distributing the entirety of the recordings. The Council has the right to grant or deny any request.

According to Family Educational Rights and Privacy Act (FERPA), the privacy of student education records is protected. The viewer of the recordings shall not create a recording of the recordings at the time of his/her viewing, and shall not possess a copy of the recordings.

If granted to view the recordings, a form (page __) will be provided to the viewer to sign, prior to the viewing, to indicate that he/she will adhere to these rules and regulations.

Additionally, members of the public shall not be permitted to create audio recordings of Hearings open to the public. The Council does not consent to any recording of Hearings by any individuals.

AMENDMENT 2017.04-01

ADOPTED by a vote of 4-0-1.



WESLEY CHAI
CHIEF JUSTICE OF THE STUDENT BODY

STUDENT GOVERNMENT ASSOCIATION
2016 – 2017 Session

IN THE STUDENT JUDICIAL COUNCIL OF HAWAI'I PACIFIC UNIVERSITY

AMENDMENT 2017.04-02

Short Title: Presence of Advisors to SGA in Student Judicial Council Deliberations

April 28, 2017

AMENDMENT OF PROCEDURES FOR COUNCIL DELIBERATIONS

WHEREAS, an Advisor being present during SGA official actions is considered best practice at Hawai'i Pacific University; and

WHEREAS, Advisors are a resource and can provide clarification, if needed; and

WHEREAS, the *Rules of the Judiciary* does not clearly permit or deny the presence of Advisors to SGA in Council deliberations;

THEREFORE,

BE IT ADOPTED BY THE STUDENT JUDICIAL COUNCIL OF HAWAI'I PACIFIC UNIVERSITY THAT THE *RULES OF THE JUDICIARY* IS AMENDED AS FOLLOWS:

DELIBERATIONS

Following Hearings, or if the Council has accordingly unanimously waived consideration of Hearings as described previously, the Justices shall enter into deliberations. The deliberations of the Council are private, attended only by the Justices themselves with no recording of minutes of discussions. **An Advisor being present during SGA official actions is considered best practice at the university. Therefore, the Council may allow Advisors of SGA to be present during deliberations as a resource and to provide clarification, if needed.** During deliberations, the Justices shall discuss the merits of the case, talk about their views on the cases with each other, and ultimately arrive at a decision or decisions. Decisions are arrived at through each Justice casting a vote to adopt a certain opinion. These decisions can come in four different forms: Opinions of the Judiciary, Concurring Opinions, Dissenting Opinions, and Plurality Decisions.

ADMIT REMEDIES OR SANCTIONING

10. Justices discuss possible remedies or sanctions and extend closed executive session if necessary. **The Council may allow Advisors of SGA to be present during deliberations as a resource and to provide clarification, if needed.**

DENY RESUME THE HEARING BY EXTENDING CLOSED EXECUTIVE SESSION

9. Excuse all parties from the room and deliberate on whether the Defendant violated the rule or Code of Conduct, or committed the action. **The Council may allow Advisors of SGA to be present during deliberations as a resource and to provide clarification, if needed.**

DENY REMEDIES OR SANCTIONING

16. Justices discuss possible remedies or sanctions and extend closed executive session if necessary. **The Council may allow Advisors of SGA to be present during deliberations as a resource and to provide clarification, if needed.**

AMENDMENT 2017.04-02

ADOPTED by a vote of 4-0-1.

APPENDIX

2016 – 2017 Session *of the* Student Government Association

Hawai‘i Pacific University Student Judicial Council

_____,)
)
Plaintiff,)
)
v.)
)
_____,)
)
Defendant.)
)

For Office Use Only
File No. _____ - ____

Submission of Case Brief

Filed on the __ day of _____, _____

By: _____

I. FACTS

Give a general summary of the case being presented to the Council.

II. ISSUES

Identify the specific Code violations and how they pertain to the case at hand.

III. LIST OF WITNESSES AND ANY ADDITIONAL COUNCIL

A list of witnesses must be provided for them to testify. Any witness on the list who will not be present at the hearing must submit a written testimony, sign the document, and personally deliver it to a Council member at least **72 hours** prior to the hearing. Any witness testimony not following these guidelines will be considered void and will thus not be considered.

IV. LIST OF EVIDENCE

Present the evidence to be discussed during the hearing. A copy of these documents must be presented with the case briefs and any evidence not listed will not be considered during the hearing.

V. REMEDY SOUGHT

List the goal of the hearing you want or what you want the Council to find favor in. Be as specific as possible in your remedy and identify the parties it will affect.

ADDITIONAL INSTRUCTIONS

Case briefs should be no longer than **10 pages**, and any longer may be remanded back to the plaintiff or defendant for revision. For any further clarification of questions, please email the Chief Justice of the Council.

For Office Use Only

This case brief was received on the _ _ day of _____, _ _ _ _, at _____ am / pm,
_____ (*please specify via email or in person*).

By: _____ (*print name*) Title: _____

Signature: _____

SUMMONS TO DEFENDANT	Student Judicial Council
PLAINTIFF	DATE OF HEARING
DEFENDANT	TIME OF HEARING

TO THE DEFENDANT NAMED ABOVE:

The Plaintiff named above has filed with this Council the attached:


- Complaint for constitutional controversies.
- Complaint for controversies of compliance with internal law.
- Complaint for electoral controversies.
- Other:

The Student Judicial Council of Hawai'i Pacific University will conduct a Hearing on the Plaintiff's Complaint on the date and time shown above.

YOU ARE HEREBY SUMMONED TO APPEAR before this Council at that date and time if you wish to be heard on whether the Council should order the requested remedy or sanctions.

At that hearing, you will have an opportunity to cross-examine any witnesses offered by the Plaintiff. You may also offer witnesses or other evidence on your behalf and you may be heard on whether the Council should order the requested remedy or sanctions.

IF YOU DO NOT APPEAR AT THE HEARING, EITHER PERSONALLY OR BY WRITING A STATEMENT, THE COUNCIL MAY ORDER THE REQUESTED REMEDY OR SANCTION WITHOUT HEARING FROM YOU.

	CERTIFICATE OF SERVICE		
	I certify that on this date I served this Summons and a copy of the Plaintiff's Complaint on the Defendant.		
DATE	SIGNATURE OF PERSON MAKING SERVICE	TITLE	

WITNESS SUBPOENA	Student Judicial Council
WITNESS	DATE OF HEARING
PLAINTIFF v. DEFENDANT	TIME OF HEARING

TO THE WITNESS NAMED ABOVE:

The Plaintiff named above has filed with this Council:


- Complaint for constitutional controversies.
- Complaint for controversies of compliance with internal law.
- Complaint for electoral controversies.
- Other:

The Student Judicial Council of Hawai'i Pacific University will conduct a Hearing on the Plaintiff's Complaint on the date and time shown above.

YOU ARE HEREBY SUMMONED TO APPEAR before this Council at that date and time (and on each following day of the Hearing until this Council informs you that you are no longer required) to give evidence in respect of the above allegation against the Defendant.

DO NOT IGNORE THIS SUMMONS.

If you wish to set aside or vary this witness summons, you may make an application to the Student Judicial Council.

	CERTIFICATE OF SERVICE	
	I certify that this subpoena is a true copy and was served to the witness in accordance with the request of the applicant.	
DATE	SIGNATURE OF PERSON MAKING SERVICE	TITLE

2016 – 2017 Session *of the* Student Government Association

NAME

STUDENT BODY PRESIDENT

NAME

CHIEF JUSTICE OF THE STUDENT BODY

File Date: **Month Day, Year**

Hawai‘i Pacific University Student Judicial Council

Name,

)

)

File No. **20xx-xx**

Plaintiff,

)

)

OPINION AND ORDER

v.

)

)

Name,

)

)

Defendant.

)

)

OPINION AND ORDER

Plaintiff **xxx**'s Complaint concerning **xxx** has come for reviewing before the Student Judicial Council **Month Day, Year**.

NAME, Chief Justice.

I. PROCEDURAL BACKGROUND

Describe previous allegations filed against the defendant through previous complaints, if any.

This case commenced on **Month Day, Year**, when Plaintiff **xxx** filed a petition with the Chief Justice of the Student Judicial Council (hereinafter referred as "Council") of Hawai‘i Pacific University with the intent to file a Complaint against the Defendant. The Complaint and Request for Judgement was filed by the Plaintiff on **Month Day, Year**.

Describe the allegations made against the defendant.

II. JURISDICTION AND STANDING

Describe the jurisdiction of the Council to judge this case, using references from the Constitution.

The Constitution of the Hawai'i Pacific University Student Government Association provides that this Council has "the power of judgement, as to both questions of law and fact, over controversies" which includes "constitutionality," "internal law compliance," and "electoral concerns." (See Article IV, Sections 9, 10, and 11 respectively)

Article IV, Section 8 gives any student or recognized student organization at the University standing to petition the Council for judgment.

III. FINDING OF FACT

At a Judicial Council Conference, all documentary evidence and statements were taken into account. No / No. witnesses were called. Based upon the documentation / and witnesses, the Council established the following findings of fact.

- 1) Xxx
- 2) Xxx
- 3) Xxx

IV. ANALYSIS

Plaintiff's Request for Judgment included xxx. The Council has decided that xxx.

Explain how the Council analyzed all allegations made against the defendant.

V. ORDER

Because xxx, he / she is deemed xxx.

IT IS HEREBY ORDERED, ADJUGED, AND DECREED, that xxx.

/s/ Name

Name, Chief Justice of the Student Body

For a unanimous Council

Associate Justices XXX, XXX, and XXX join in the opinion.

2016 – 2017 Session *of the* Student Government Association

WESLEY CHAI

CHIEF JUSTICE OF THE STUDENT BODY

Hawai‘i Pacific University Student Judicial Council

JUDICIARY MINUTES

EVENT TITLE				File No. _____ - ____	
Date / Time	MM/DD/YYYY	XX:XX – XX:XX	Venue		
Person In charge				Clerk	
Participants					
Subject					
Agenda					
Conference Discussion					

2016 – 2017 Session of the Student Government Association

WESLEY CHAI

CHIEF JUSTICE OF THE STUDENT BODY

Hawai‘i Pacific University Student Judicial Council

HEARING TRANSCRIPT

_____, Plaintiff, v. _____, Defendant.	File No. _____ - ____			
Date / Time	MM/DD/YYYY	XX:XX – XX:XX	Venue	
Presiding Justice	PJ	Chief Justice NAME	Clerk	NAME
Participants	J1	Associate Justice NAME		
	J2	Associate Justice NAME		
	J3	Associate Justice NAME		
	J4	Associate Justice NAME		
	P1	Plaintiff NAME		
	D1	Defendant NAME		
XX:XX	D1	Write down what Defendant said.		
XX:XX	P1	Write down what Plaintiff said.		
XX:XX	J1	Write down what Justice said.		
XX:XX	J2			
XX:XX	J3			
XX:XX	J4			
XX:XX	PJ			
XX:XX	xx			
XX:XX	xx			
XX:XX	xx			
XX:XX	xx			
XX:XX	xx			

2016 – 2017 Session *of the* Student Government Association

WESLEY CHAI

CHIEF JUSTICE OF THE STUDENT BODY

Hawai'i Pacific University Student Judicial Council

FORMAL HEARING PROCEDURES

The format will be as follows:

I. INTRODUCTIONS AND COURTESY RULES

The Chief Justice of the Student Judicial Council will address both parties by welcoming them to the hearing, introducing himself/herself and fellow Associate Justices, and laying the ground rules for the hearing. The Council will stipulate:

- a) The courtesy and respect of all members within the procedure, regardless of outside affiliations or the sentiments and emotions possibly in tow with the hearing. Disrespectful attitudes and repeated violation of this courtesy policy will result in the Council removing said person from the hearing and possibly striking the testimony of the individual from the records.
- b) The Opening and Closing Statements will be limited to **10 minutes** total, and can be allocated to each presentation at the discretion of the plaintiff or defendant.
- c) Witnesses during the hearing must be limited to **two** per party, subject to council question and cross-examination.
- d) In the event of a recess, there will be a strict adherence to the time given by the Chief Justice of the Council. Going over the time allocated for a break will result in the individual not being able to come back into the hearing and contribute to his/her party. Excessive time abuse will also be taken into consideration as disrespect to the Council and non-adherence to the courtesy policy of the hearing room.
- e) Food or beverages (with the exception of water) of any kind are prohibited in the Hearing, as they present a distraction for the party eating and the people having to adjust to those circumstances.

II. PRESENTATION OF ARGUMENTS, EVIDENCE, AND CROSS-EXAMINATION

Starting with the plaintiff, both parties will present their case, first with an Opening Statement and examination of their witnesses. The defendant may hold their Opening Statement

until they begin to present their side of the case and witnesses if need be, otherwise both Opening Statement will be presented, then direct and cross-examination of witnesses.

If a witness is unable to attend the hearing, a written statement, with signature and personal delivery of the document, may be submitted to the Council to be read in the Hearing for the records of the Hearing. However, this written statement holds less credibility due to the absence of cross-examination.

Hearing parties may object to questions being asked of their witnesses or the format of the question itself. Please note that objections should be used at the discretion of the party and the Council has the authority to sustain or dismiss the objection based on information being presented by the witness, phrasing of the question, or rationale the objection was made under. The list of acceptable objections will be as follows:

a) **Narrative**

This is when the witness is responding to questions in a longer manner necessary to fully address the scope of the question. This is relatively easy to spot and calling this objection prevents rambling of the witness and arbitrary information to be disclosed during the hearing and for the Hearing records.

b) **Non-responsive**

When the witness is continually circumventing a question asked by opposing council, the person questioning has a right to ask the Council to instruct the witness to answer the question in a clear and concise manner.

c) **Leading Question**

This can only be called during initial examination of a witness, where the question presented creates a clear and forced line of thinking for the witness' answer to subscribe to. In the event of a leading question objection, the Council may ask the questioner to rephrase the question and move on.

d) **Vague and Ambiguous**

When a question is asked of the witness that he/she cannot answer due to limited knowledge, or a question is presented that has nothing to do with the case and Hearing at hand; this can be used to maintain the focus of the questioning. The vague and ambiguous objection can also be used to challenge the validity of a certain phrasing for word within a question. Clarification may be asked by the Council of the question's motive and purpose.

e) **Asked and Answered**

Parties should ask their questions, whether within direct or cross-examination, only as many times as to gain a scope of the question and answer appropriately. In the sake of time, it is recommended to not repeat questions for emphasis when it has already been brought up previously in the Hearing.

f) **Argumentative**

Parties should not badger or instigate inflamed emotions of the witness during direct examination and cross-examination. Ask question in clear, concise manner that achieves your goal, but do not taunt or be impolite to the witness on the stand.

III. REBUTTALS AND REFUTATION

This provides time to clarify issues presented during the Hearing and refute the arguments of their opponents in an organized and formal manner.

IV. SUMMATION

This allows for closing arguments and summary of arguments presented within the Hearing. Neither party may present new evidence or ideas to the Council at this time. This is merely a review of the issues addressed and the last persuasive effort toward the Council.

V. PRIVACY STATEMENT

Hearings are to be open to the public unless otherwise stated by either side. The Hearing may become closed if information during the Hearing is of a confidential nature to the student's academic or professional aspirations. This may happen only with final approval from the Chief Justice determining whether this information is ground for an open or a closed hearing. Deliberation after the Hearing, however, still remains closed until the Council has reached a statement to give to the public.

ACKNOWLEDGEMENT OF HEARING PROCESS

I hereby acknowledge that I received a copy of the Formal Hearing Procedures and accept full responsibility for all of the information contained here within. I understand that failure to adhere to these policies and procedures can result in my hearing being delayed and/or cancelled and the Chief Justice of the Council or his/her designate will make that such determination.

Name: _____ (*print name*) Date: _____

Signature: _____

For Office Use Only

File No. 20__ - __

This was received on the __ day of _____, __ __ __ __, at _____ am / pm,
_____ (*please specify via email or in person*).

By: _____ (*print name*) Title: _____

Signature: _____

2016 – 2017 Session *of the* Student Government Association

WESLEY CHAI

CHIEF JUSTICE OF THE STUDENT BODY

Hawai‘i Pacific University Student Judicial Council

GUIDE TO COUNCIL HEARING

I. BEFORE COMING TO A HEARING

Before coming to a hearing, it is important to make sure that you adhere to ALL deadlines. Failure to do so could result in a postponement or dismissal of your case. **Seven** copies of the case brief are to be filed with the Chief Justice or the Clerk at least **48 hours** prior to the hearing. Defendants and plaintiffs must serve each other with their own briefs. It is not the responsibility of the Student Judicial Council to serve the parties with the others’ briefs.

II. GENERAL PROCEDURES

The Council proceedings follow a basic trial procedure with an opening statement, witness examinations, and a closing statement. The plaintiff always presents his/her side of the case first since he/she is the one making the case to the Council. The plaintiff makes the first opening statement and conducts his/her direct examinations first. After the plaintiff’s direct examination, the defendant can make his/her opening statement, and has the chance to cross-examine the witness. Once all of the plaintiff’s witnesses have been called, the defendant begins direct examinations of his/her witnesses, who are then cross-examined by the plaintiff. Once all the witnesses have been called and the evidence has been entered into the record, the plaintiff makes his/her closing statement, followed by the defendant. Once the defendant is done with his/her statement, the Council will move into executive session and dismiss all participants. A decision will be reached and an opinion issued no later than **one week** after the hearing.

a) **Opening Statements**

An opening statement is a basic summary of the argument that you will make throughout the proceedings. This is, by no means, your full and complete argument, but it is a helpful road map of what you will show through your evidence and witnesses.

b) **Direct Examinations**

This is the technical term for asking questions of your own witnesses. The object here is to weave a story through the witnesses’ testimony. The key part to this portion of the

Hearing is to ask open ended questions. Do not lead your witnesses. Instead, try to ask them questions and allow them to explain themselves. That being said, it is also important to have foundation for their testimony (which might require a yes/no question, but make sure that is not leading).

c) **Cross-Examinations**

This is where the opposing party gets to ask questions of your witnesses (or you get to ask questions of their witnesses). The point of a cross-examination is two-fold. The first is to try and discredit the testimony of a witness. The second point is to get a witness to concede to (at least) the possibility that your argument is true. Having said this, you must also keep in mind that the witnesses will probably not be willing to cooperate. It is vital that you keep your cool. A good cross-examiner asks only leading questions and knows what he needs to ask to prove his point. The rule of thumb is that you never ask a question that you do not already know the answer to.

d) **Closing Statements**

The closing statement resembles an opening statement in most respects, except that it involves more of the testimony that was heard during the Hearing. Testimony and evidence not admitted in the hearing cannot be used in a closing statement. Any evidence addressed during a closing statement that was not brought up during the regular course of the Hearing will be disregarded by the Council.

III. OBJECTIONS

The following is a list and explanation of objections that will be entertained by the Chief Justice of the Council. Be familiar with these objections as you may be asked to explain why you are making it. Also, if an objection is made by the opposing party, you may ask to be heard, allowing you to make an argument as to why that particular objection should be overruled. A final note is to not overuse the objections. There is a line between making valid points and just making objections to slow things down.

a) **Relevance**

This is a simple enough objection to make. You use this objection when a question is not relevant to the issue at hand.

b) **Opinion/Speculation**

These are opinions or the witnesses' thoughts on an event or person, generally derived from their observations. Because of the nature of the Council, some opinions might be allowed into evidence, but this is determined by the issue at hand and the circumstances surrounding the issue. The difference between Opinion and Speculation is that an opinion

is someone's feelings and thoughts while speculation is deriving a fact from someone's observation.

c) **Compound Question**

Do not ask a question with an "and" or an "or" in it. These questions force the witness to confirm or deny two statements when there is a possibility that one may be true and one may be false. The easiest way to avoid this objection is to not use "and/or" in your questioning. If you need a witness to confirm two facts, ask two questions.

IV. EVIDENCE

As much as we all would like, the Council cannot go out and find everything. We have the Constitution and the Code of Student Conduct to work with, but outside of that, our decisions are based on the evidence that is provided to us (whether in the form of actual evidence or witness testimony). The Council cannot consider anything that was not entered into evidence.

An important note about witnesses is that if a witness cannot attend a hearing for any reason, that witness may submit a typed and signed statement to the Council. These statements must be handed in by the witness to a member of the Council. This is to establish a chain of evidence for the testimony as well as to establish the veracity of the written statements. Failure to follow this procedure will result in the exclusion of the statement from the Hearing, thus preventing it from being entered into evidence. However, this written statement holds less credibility due to the absence of cross-examination.

A final note is that even if the evidence is attached to the complaint to hear a case, the evidence must formally be admitted into evidence during the Hearing. To do this, simply label the evidence, identify it to the Council, and ask that it be entered into evidence. Plaintiffs should label their evidence with letters (Exhibit A, Exhibit B...) while defendants should label their evidence with numbers (Exhibit 1, Exhibit 2...).

V. MOTIONS

There is a list of acceptable motions to make. Below is an explanation of the different motions and how they are used.

a) **Motion to Dismiss**

The Motion to Dismiss is, in essence, asking the Council to dismiss the case due to lack of evidence or to the absence of an infraction of policies. The Motion to Dismiss is entered before either side begins presenting their case.

b) **Motions in Lieu of Either Witnesses or Other Evidence**

This is used when either evidence or witnesses cannot be present at the hearing. If evidence is to be submitted, or witnesses on either the plaintiff or defendant's side cannot be present for the hearing, a signed witnesses' statement must be submitted at least **72 hours** before the hearing and attached to the case brief. If a witness statement is to be submitted, it must bear the signature of the witness and be submitted by the witness to a member of the Council. The Council will rule on the motion and show the evidence to both parties during the Hearing. Any witness statements that are submitted and accepted will be read aloud during the Hearing. There will be no cross-examination of the statement. The Council can ask clarifying questions as needed.

c) **Motion of Continuances**

The Motion of Continuances is basically asking the Council to postpone or continue the proceedings to a later time. Generally, this motion is used to postpone a case for a period longer than a day. The most common reason for using this motion would be insufficient time to prepare. This motion must be filed at least **48 hours** before the Hearing. If you require a recess during the proceedings (of a time not exceeding 15 minutes), you may ask for a recess during the proceedings at an appropriate time (after a witness has been dismissed, or an argument has been concluded).

d) **Motions to Substitute**

By submitting your briefs, the plaintiff and defendant are establishing who and what will represent their case. A Motion to Substitute allows either party to change, with Council approval, witnesses and/or paperwork that the party believes would clarify and further the case. Credentials of the person substituting must be established to the Council and there is no limit on how many times you can substitute information as long as there is consent from the Council.

e) **Demurrers**

This allows the opportunity to respond to a complaint filed, dropping the case altogether on the grounds that the complaint has no legal basis and/or is of no controversial nature. The complaint itself can be true, and the Council will decide whether the complaint should receive a judgment from the Council.

ACKNOWLEDGEMENT OF COUNCIL HEARING

I hereby acknowledge that I received a copy of the Guide to Council Hearing and accept full responsibility for all of the information contained here within. I understand that failure to adhere to these policies and procedures can result in my hearing being delayed and/or cancelled and the Chief Justice of the Council or his/her designate will make that such determination.

Name: _____ (*print name*) Date: _____

Signature: _____

For Office Use Only

File No. 20__ - __

This was received on the __ day of _____, __ __ __ __, at _____ am / pm,
_____ (*please specify via email or in person*).

By: _____ (*print name*) Title: _____

Signature: _____

2016 – 2017 Session *of the* Student Government Association

WESLEY CHAI

CHIEF JUSTICE OF THE STUDENT BODY

Hawai'i Pacific University Student Judicial Council

VIEWING OF RECORDINGS OF COUNCIL HEARINGS

According to the *Rules of the Judiciary*, the recordings must “not [be] subject to truncation, editing, altering in any form, or otherwise distributing the entirety of the recordings.”

According to Family Educational Rights and Privacy Act (FERPA), the privacy of student education records is protected. Because of FERPA, you may not make a recording of the video at the time of your viewing. You may take notes of the session if you wish. It is also because of FERPA that you are not allowed to have a copy of the recordings.

ACKNOWLEDGEMENT

I hereby acknowledge that I consent to the aforementioned rules and regulations, and accept full responsibility for all the information contained here within. I understand that failure to adhere to these policies can result in my viewing of the recordings delayed and/or cancelled and the Chief Justice of the Council or his/her designate will make that such determination.

Name: _____ (*print name*) Date: _____

Signature: _____

For Office Use Only

File No. 20__ - __

This was received on the __ __ day of _____, __ __ __ __, at _____ am / pm,
_____ (*please specify via email or in person*).

By: _____ (*print name*) Title: _____

Signature: _____

2016 – 2017 Session *of the* Student Government Association

WESLEY CHAI

CHIEF JUSTICE OF THE STUDENT BODY

Hawai‘i Pacific University Student Judicial Council

HEARING PROCEDURES (SCRIPT)

PRIOR TO BEGINNING THE HEARING

Turn on the Tape Recorder. Always make sure that the door is open while not in closed executive session.

Chief Justice: Student Judicial Council will now come to order to discuss case number “**CASE NUMBER**”. This hearing shall involve matters relating to actions adversely or favorably affecting a member of the university. Due to the content of the hearing, this Council may move into closed executive session. Is there a motion to move into closed executive session?

Associate Justice 1: Mr./Madam Chief Justice, I move we recess into closed executive session to discuss possible actions against a member of the university in order to protect the privacy of the parties involved. We will reconvene the open meeting here at “**TIME (5 MINUTES FROM NOW)**”.

Chief Justice: Is there a second?

Associate Justice 2: I second the motion.

Chief Justice: It has been moved and seconded that the Council recess into closed executive session. Is there any discussion? (Seeing none) All in favor say aye. All opposed say nay. (Assuming the motion passes) The motion carries. At this time, the hearing will move into closed executive session. No binding action shall be taken while the Council is in closed session. The Council will resume open session at “**SET TIME**”.*

*Open session has to be resumed at the **exact** time announced. If extended time is needed for closed executive session, see EXTENDING CLOSED EXECUTIVE SESSION.

Chief Justice: Clear the room of everyone present except for the plaintiff, defendant, their advisors, and Justices. Witnesses and anyone else must wait outside (preferably in a separate room) until the Council calls for them. Explain to the witnesses how they will be called in one at a time and then be permitted to leave. Despite the fact that they are allowed to leave, please request that the witnesses remain available for the duration of the hearing in the event that they need to be recalled. Witnesses are not specifically prohibited from discussing their testimonies, but they are encouraged to not do so.

BEGIN THE HEARING

Ensure that the Tape Recorder is still on and the door is closed.

1. Introduction of the Hearing.

***Chief Justice:* The time is _____; the date is _____, 20 __. Prior to beginning this hearing, I ask if there are any Justices present who may not sit in judgment on this hearing for any reason. Reasons might include: prior knowledge of any of the parties involved in the incident, or of the incident in question.**

*If there is still a Quorum, continue with the following:

***Chief Justice:* We will begin this hearing of Student Judicial Council with introductions:**
Justices
Plaintiff
Plaintiff's Advisor (*If any, only permitted to speak to their advisee*)
Defendant
Defendant's Advisor (*If any, only permitted to speak to their advisee*)
Others Present (Clerk, etc.)

*If there is no longer a Quorum, read the following:

***Chief Justice:* For the record, a quorum no longer exists. This hearing will be postponed for a period of no more than 10 class days. You will receive notice of the future hearing from the Chief Justice, "NAME", within the given time. This hearing is now adjourned.**

Come out of closed executive session and repeat the previous paragraph.

END OF HEARING

2. Allegations.

Chief Justice: **The defendant “NAME OF DEFENDANT”, for case number “CASE NUMBER”, is alleged to have**

a) **violated “NAME OF CODE/POLICY AND NUMBER” which states “READ TEXT”.**

OR

b) **“DESCRIBE ACTION”.**

At this time, I will read the complaint for the judicial record. “READ COMPLAINT”. (Including Plaintiff and Defendant’s names, date and location of the alleged violation or action, etc.)

3. Admittance or Denial of Violation

Chief Justice: **Does the Defendant understand these allegations?** (Wait for response)
Does the Defendant admit or deny these allegations?

At this point, the 5 minutes originally set for closed session will have expired. The Council will need to come out of closed executive session and proceed with either the “Admit” or “Deny” portion of the script.

- If the Defendant **denies** the allegations, follow the procedures for EXTENDING CLOSED EXECUTIVE SESSION. Then, proceed with the “Deny” section of this script.
- If the Defendant **admits** to the allegations, move to the “Admit” section of the script where the Council comes back into open session. Proceed from that point.
- If there are multiple Defendants:
 - If one Defendant admits and one Defendant denies, excuse the Defendant(s) that denied the allegations. Then, proceed as normal for the Defendant(s) that admitted to the allegations. After the hearing for the Defendant(s) who admitted, the allegation is finished, allow the Defendant(s) who denied the allegations back into the hearing room and proceed with the “Deny” section of the script.
 - If the Defendants either all admit or all deny, just do one hearing. However, **all Defendants should be judged on an individual basis.**

ADMIT

COME OUT OF CLOSED EXECUTIVE SESSION

Chief Justice: Open doors. Allow anyone waiting outside to return to the hearing room. (Open session cannot resume until the time that was stated in the motion to go into closed session)

Ensure that the Tape Recorder is still on.

Chief Justice: The time is “TIME” and the Student Judicial Council will resume open session. At this time, the Council announces that the Defendant has admitted to being in violation of the university policy OR have conducted the actions that he/she was alleged to. The Council shall now hear from the Plaintiff and Defendant regarding remedies or sanctioning, and then deliberate on an appropriate remedy or sanction for the Defendant.

RETURN TO CLOSED EXECUTIVE SESSION FOR REMEDIES OR SANCTIONING

Chief Justice: **It there a motion to move back into executive session to discuss an appropriate remedy or sanction?**

Associate Justice 1: **Mr./Madam Chief Justice, I move we recess into closed executive session in order to protect the privacy of the parties involved as we discuss remedies or sanctioning against a member of the university. We will reconvene the open meeting here at “SET TIME”.**

Chief Justice: **Is there a second?**

Associate Justice 2: **I second the motion.**

Chief Justice: **It has been moved and seconded that the Council recess into closed executive session. Is there any discussion? (Seeing none) All in favor say aye. All opposed say nay. (Assuming the motion passes) The motion carries. At this time the hearing will move into closed executive session. Again, no binding action shall be taken while the Council is in closed session. The Council will resume open session at “SET TIME”.***

*Open session has to be resumed at the **exact** time announced. If extended time is needed for closed executive session, see EXTENDING CLOSED EXECUTIVE SESSION.

REMEDIES OR SANCTIONING

Ensure that the Tape Recorder is still on and the door is now closed.

***Chief Justice:* The Council shall notify both the Plaintiff and the Defendant in writing no later than one week of the decision indicating the reasons for the decision and the remedies or sanctions. The decision of the Council is final. Neither party shall have the right to submit an appeal to the Council following this hearing.**

***Chief Justice:* By his/her own admission, the Defendant violated “STATE THE RULE” which states “READ TEXT OF RULE” OR “DESCRIBE ACTION”.**

4. Plaintiff(s) may address the impact of the Defendant’s violation(s). The Plaintiff(s) have the option of submitting this impact statement in writing.

5. Justices may question the Plaintiff(s).

6. Defendant may address the potential remedies or sanctions, giving reasons why certain remedies or sanctions would be difficult or impossible to complete. The Defendant has the option of submitting this personal impact statement in writing.

7. Justices may question the Defendant.

8: Chief Justice: Escort the Plaintiff(s) and Defendant(s) and their advisors from hearing room.

Turn off the Tape Recorder.

9. Consultant to the Council may inform the Council of any prior violations by the Defendant.

10. Justices discuss possible remedies or sanctions and extend closed executive session if necessary. The Council may allow Advisors of SGA to be present during deliberations as a resource and to provide clarification, if needed. (Amendment 2017.04-02)

COME OUT OF CLOSED EXECUTIVE SESSION – ANNOUNCE REMEDY OR SANCTION

Chief Justice: Open doors. Allow anyone waiting outside to return to the hearing room. (Open session cannot resume until the time that was stated in the motion to go into closed session)

Turn on the Tape Recorder.

Chief Justice: The time is “**TIME**” and the Student Judicial Council will resume open session. At this time, the Council will decide upon an appropriate remedy or sanction for the Defendant. Is there a motion for an appropriate remedy or sanction? (For multiple Defendants, a different motion will need to be made for each remedy or sanction that is different. In other words, if Defendant 1 has a different remedy or sanction than Defendant 2, two motions will need to be made.)

Associate Justice 1: I move the Council to pass the following remedy or sanction for the Defendant: “**STATE REMEDY OR SANCTION**”.

Chief Justice: Is there a second?

Associate Justice 2: I second the motion.

Chief Justice: It has been moved and seconded that the Defendant completes the aforementioned remedy or sanction. Is there any discussion?

Associate Justice 1: I move unanimous consent

Chief Justice: Is there a second?

Associate Justice 2: I second the motion.

Chief Justice: Are there any objections?

- a) Seeing none, the motion passes unanimously.
- OR**
- b) (Seeing any objection) All in favor say aye. All opposed say nay. (Assuming the motion passes) The motion carries.

The Defendant is required to complete the aforementioned remedy or sanction. This hearing is now adjourned.

END OF HEARING

DENY

RESUME THE HEARING BY EXTENDING CLOSED EXECUTIVE SESSION

Ensure that the Tape Recorder is still on and the door is closed.

4. Presentation of evidence by the Plaintiff.

*Chief Justice: “**PLAINTIFF’S NAME**”, do you have any witnesses or relevant evidence to present at this time?*

- Plaintiff may present witnesses and speak at this time.

*Chief Justice: “**DEFENDANT’S NAME**”, do you have any question for the Plaintiff or his/her witnesses at this time?*

- Defendant may question the Plaintiff and his/her witnesses at this time.

Chief Justice: Do Justices have any question for the Plaintiff or his/her witnesses at this time?

- Justices may question the Plaintiff and his/her witnesses at this time.

5. Presentation of evidence by the Defendant.

*Chief Justice: “**DEFENDANT’S NAME**”, do you have any witnesses or relevant evidence to present at this time?*

- Defendant may present witnesses and speak at this time.

*Chief Justice: “**PLAINTIFF’S NAME**”, do you have any question for the Defendant or his/her witnesses at this time?*

- Plaintiff may question the Defendant and his/her witnesses at this time.

Chief Justice: Do Justices have any question for the Defendant or his/her witnesses at this time?

- Justices may question the Defendant and his/her witnesses at this time.*

*All questions for the Plaintiff, Defendant, and their witnesses should be asked at this time. Otherwise, all parties are permitted to leave following the closing statements, in which case they would be unavailable to respond to any future questions, should they choose to leave.

6. Concluding statement by the Plaintiff.

7. Concluding statement by the Defendant.

8. Closing the hearing.

***Chief Justice:* The Council shall notify both the Plaintiff and the Defendant in writing no later than one week of the decision indicating the reasons for the decision and the remedies or sanctions. The decision of the Council is final. Neither party shall have the right to submit an appeal to the Council following this hearing.**

The Council will now discuss the evidence presented and determine if there exists a preponderance of evidence that the Defendant violated the identified policies OR “DESCRIBE ACTION”. The Defendant may wish to wait outside so that if the Council finds *him/her* in violation OR responsible, *he/she* may be available to present any information relevant to the remedies or sanctions.

Turn off the Tape Recorder.

9. Excuse all parties from the room and deliberate on whether the Defendant violated the rule or Code of Conduct, or committed the action. The Council may allow Advisors of SGA to be present during deliberations as a resource and to provide clarification, if needed. (Amendment 2017.04-

02)

COME OUT OF CLOSED EXECUTIVE SESSION

Chief Justice: Open doors. Allow anyone waiting outside to return to the hearing room. (Open session cannot resume until the time that was stated in the motion to go into closed session)

Turn on the Tape Recorder.

***Chief Justice:* The time is "TIME" and the Student Judicial Council will resume open session. At this time, this Council will determine, based on preponderance of evidence, whether or not the Defendant for case number "CASE NUMBER" is in violation of the university *policy/policies* in question. Is there a motion whether or not the Defendant is in violation? (If there are multiple Defendants, some may be found in violation while the others found not in violation. Make one motion for the Defendant(s) who is/are not in violation and another motion for the Defendant(s) who is/are in violation)**

***Associate Justice 1:* I move the Council to find the Defendant *in/not in violation*.**

***Chief Justice:* Is there a second?**

***Associate Justice 2:* I second the motion.**

***Chief Justice:* It has been moved and seconded that the Defendant be found *in/not in violation*. Is there any discussion?**

***Associate Justice 1:* I move unanimous consent**

***Chief Justice:* Is there a second?**

***Associate Justice 2:* I second the motion.**

***Chief Justice:* Are there any objections? Seeing none, the motion passes unanimously. The Defendant is found *in/not in violation*.**

*NOT IN VIOLATION

***Chief Justice:* The Council finds that there is not a preponderance of evidence that the Defendant violated the Code of Student Conduct, university policy, and/or the Constitution. Therefore, the matter is concluded, and the**

Defendant and Plaintiff will receive written notices of this decision, in the manner previously described. This hearing is now adjourned.

END OF HEARING

OR

*IN VIOLATION

***Chief Justice:* The Council finds by a preponderance of evidence that the Defendant violated the Code of Student Conduct, university policy, and/or the Constitution. The Council shall now hear from the Plaintiff and Defendant regarding remedies or sanctioning, and then deliberate on an appropriate remedy or sanction for the Defendant.**

RETURN TO CLOSED EXECUTIVE SESSION FOR REMEDIES OR SANCTIONING

Chief Justice: **It there a motion to move back into executive session to discuss remedies or sanctioning for the Defendant?**

Associate Justice 1: **Mr./Madam Chief Justice, I move we recess into closed executive session, in order to protect the privacy of the parties involved, to discuss remedies or sanctioning against a member of the university. We will reconvene the open meeting here at “SET TIME”.**

Chief Justice: **Is there a second?**

Associate Justice 2: **I second the motion.**

Chief Justice: **It has been moved and seconded that the Council recess into closed executive session. Is there any discussion? (Seeing none) All in favor say aye. All opposed say nay. (Assuming the motion passes) The motion carries. At this time the hearing will move into closed executive session. Again, no binding action shall be taken while the Council is in closed session. The Council will resume open session at “SET TIME”.***

*Open session has to be resumed at the **exact** time announced. If extended time is needed for closed executive session, see EXTENDING CLOSED EXECUTIVE SESSION.

REMEDIES OR SANCTIONING

10. Plaintiff(s) may address the impact of the Defendant's violation(s). The Plaintiff(s) have the option of submitting this impact statement in writing.

11. Justices may question the Plaintiff(s).

12. Defendant may address the potential remedies or sanctions, giving reasons why certain remedies or sanctions would be difficult or impossible to complete. The Defendant has the option of submitting this personal impact statement in writing.

13. Justices may question the Defendant.

14: Chief Justice: Escort the Plaintiff(s) and Defendant(s) and their advisors from hearing room.

Turn off the Tape Recorder.

15. Consultant to the Council may inform the Council of any prior violations by the Defendant.

16. Justices discuss possible remedies or sanctions and extend closed executive session if necessary. The Council may allow Advisors of SGA to be present during deliberations as a resource and to provide clarification, if needed. (Amendment 2017.04-02)

COME OUT OF CLOSED EXECUTIVE SESSION – ANNOUNCE REMEDY OR SANCTION

Chief Justice: Open doors. Allow anyone waiting outside to return to the hearing room. (Open session cannot resume until the time that was stated in the motion to go into closed session)

Turn on the Tape Recorder.

Chief Justice: The time is “**TIME**” and the Student Judicial Council will resume open session. At this time, the Council will decide upon an appropriate remedy or sanction for the Defendant. Is there a motion for an appropriate remedy or sanction? (For multiple Defendants, a different motion will need to be made for each remedy or sanction that is different. In other words, if Defendant 1 has a different remedy or sanction than Defendant 2, two motions will need to be made.)

Associate Justice 1: I move the Council to pass the following remedy or sanction for the Defendant: “**STATE REMEDY OR SANCTION**”.

Chief Justice: Is there a second?

Associate Justice 2: I second the motion.

Chief Justice: It has been moved and seconded that the Defendant completes the aforementioned remedy or sanction. Is there any discussion?

Associate Justice 1: I move unanimous consent

Chief Justice: Is there a second?

Associate Justice 2: I second the motion.

Chief Justice: Are there any objections? Seeing none, the motion passes unanimously. The Defendant is required to complete the aforementioned remedy or sanction. This hearing is now adjourned.

END OF HEARING

EXTENDING CLOSED EXECUTIVE SESSION

Turn on the Tape Recorder. (If it is not already on)

Chief Justice: The time is “TIME” and the Student Judicial Council will resume open session. At this time, the discussion in the executive session has not been completed. Is there a motion to extend closed executive session?

Associate Justice 1: I so move.

Chief Justice: Is there a second?

Associate Justice 2: I second the motion.

Chief Justice: It has been moved and seconded that the closed executive session be extended, is there any discussion? (Seeing none) All in favor say aye. All opposed say nay. (Assuming the motion passes) The motion carries. The hearing will move back into closed executive session. Again, no binding action shall be taken while the Council is in closed session. The Council will resume open session at “SET TIME”.*

Return to the part in the script where you left off.

*Open session has to be resumed at the **exact** time announced.

ELECTORAL CONTROVERSIES CASES

Filing the Complaint

Individuals or groups seeking to challenge a result of the elections of the Student Government Association shall convey their intent in writing, providing one copy to the Chief Justice and one to the Elections Committee.

Once the complaint has been received by the Chief Justice, the Student Judicial Council reserves the right to impose an injunction to stop the confirmation of any candidate(s) in the contested position and/or on the position itself that is being challenged.

Communications

All communication between the parties and the Council will be sent through the Clerk or the Justices of the Council.

The Council will be responsible for distributing filings and orders amongst the parties.

All filings must be in PDF format.

Briefs

The Council will work with both parties to set an appropriate deadline for brief submission.

The Council reserves the right to schedule an initial conference. Such a conference will be called if an appropriate deadline for brief submission cannot be established.

Amicus curiae briefs are permitted. However, the plaintiff may have no more than two *amicus* briefs filed in support of his/her position.

Interrogatories

In the days following the brief submission deadline, the Justices of the Council may begin to develop questions for the parties. These questions will be compiled and distributed to the parties in the form of an interrogatory.

Justices will have a maximum of two academic days to submit questions.

Parties will have a maximum of two academic days to respond to an interrogatory.

General Information

Parties are prohibited from filing motions for summary judgment or dismissal.

The Council reserves the right to address the constitutionality of the Elections policy to ensure that they align with the Constitution of the Student Government Association.

CONSTITUTIONAL REVIEW CASES

Filing the Complaint

Individuals or groups seeking to challenge a piece of legislation or executive order shall convey their intent to the Chief Justice in writing.

Communications

All communication between the parties and the Council will be sent through the Clerk or the Justices of the Council.

The Council will be responsible for distributing filings and orders amongst the parties.

All filings must be in PDF format.

Jurisdiction

If the Council has jurisdiction, it will determine if the named defendant is the proper individual or group to respond to the challenge.

- If the proper defendant is named, the Council will notify the named defendant that the complaint has been filed.
- If an improper defendant is named, the Council will issue an order stating that the plaintiff has named an improper defendant and directing the plaintiff to resubmit the challenge with a proper defendant by the second academic day after the order is issued.
 - If the plaintiff does not re-file within the prescribed time, the Council will dismiss the case without prejudice (i.e. the plaintiff is not prohibited from filing a new case on the subject at a later date).

If the Council does not have jurisdiction, it will issue an order dismissing the case with prejudice for lack of jurisdiction (i.e. plaintiff is forbidden from filing a case on the matter again).

Briefs

The Council will work with both parties to set an appropriate deadline for brief submission.

The Council reserves the right to schedule an initial conference. Such a conference will be called if an appropriate deadline for brief submission cannot be established.

Amicus curiae briefs are permitted. However, the plaintiff may have no more than two *amicus* briefs filed in support of his/her position.

General Information

Parties are prohibited from filing motions for summary judgment or dismissal.

DOCUMENTATION OF UPDATES

TABLE OF EDITIONS AND UPDATES

EDITION	SEMESTER	UPDATE	CHIEF JUSTICE
First	2015 Fall	ORIGIN	Wesley Chai
Second	2016 Spring	“Amendments” section	
		Amendment I	
	2016 Fall	Update of year session on Template of Case Brief, Template of Opinion Order, Formal Hearing Procedures, Guide to Council Hearing, and Hearing Procedures (Script).	
		Template of Minutes	
		Template of Hearing Transcript	
	2017 Spring	“Documentation of Updates to Rules of the Judiciary” section	
		Template of Summons to Defendant	
		Template of Witness Subpoena	
		Amendment II	
		Viewing of Recordings of Council Hearings	
		Amendment 2017.04-01	
	Amendment 2017.04-02		