

## STUDENT GOVERNMENT ASSOCIATION JUDICIAL COURT BRANCH BY-LAWS

Established: 4/3/2012

Revised: 4/1/2017

The Judicial Court recognizes its duties of constitutional interpretation, legislative interpretation, election regulation, and conflict resolution as granted by the Student Government Association Constitution. Each student shall be protected by equal justice under the Student Government Association governing documents.

### ARTICLE I. RESPONSIBILITY OF THE CHIEF JUSTICE

SECTION I. The Chief Justice shall be responsible for upholding, protecting, and complying with these By-Laws, as well as preserving the integrity and transparency of the Court. A failure to maintain and uphold the aforementioned duties shall constitute grounds for impeachment of the Chief Justice.

SECTION II. Any motion or appeal, such as a Motion to Rehear, taken against the Court shall name the Chief Justice as the opposing party.

### ARTICLE II. WRITS OF THE COURT

SECTION I. In cases pertaining to constitutional, legislative, election, or any other matters, a Writ of Injunction may be issued when at least 3 Justices agree to the issuance of the Writ.

- (a) A Writ of Injunction shall forbid those named in the writ or his agents to 1) do, 2) threaten to do, 3) attempt, or 4) continue an act which is unjust, inequitable, or injurious and which cannot be immediately addressed by action of the Court.
- (b) If a hearing is requested, the status of the writ shall be determined by the outcome of the hearing.

SECTION II. A Writ of Mandamus may be issued by the Judicial Court to inform S.G.A officials that adequate evidence of negligence and/or abuse of their duties and responsibilities has been shown. A case for remedial action or removal from office may be submitted to the Court if adequate evidence is shown that the writ has been ignored.

SECTION III. The Chief Justice will be notified of any and all writs before they are served for the purpose of ensuring proper protocols are followed by all parties involved, and not necessarily to gain the Chief Justice's support for or against the writ's issuance. If a writ is issued without the prior notification of the Chief Justice then the status of the writ will be determined by the Court once the Chief Justice is aware of the writ.

### ARTICLE III. THE PETITION FOR A WRIT OF CERTIORARI

SECTION I. The Petition shall be initiated and submitted to the Chief Justice by email using the appeal form located on the Judicial Court website.

- (a) Email shall be the primary mode of communication between the Court and all parties

involved. The Court will send all notification via email unless specifically requested to do so otherwise by a party involved.

SECTION II. Upon filing the Petition, the Chief Justice shall notify all Justices of the appeal. A vote of four or more Justices to hear the case shall signify the Court's acceptance of the appeal. Following acceptance, the Chief Justice shall issue a Writ of Certiorari to the Petitioner(s) and notify the Respondent(s).

- (a) Any Justice may recuse himself or herself from a case if they feel that a conflict of interest exists.

SECTION III. Should the Court vote not to accept an appeal the Chief Justice shall notify the Petitioner of the Court's vote and provide a substantive reason for the Court's decision.

- (a) Substantive reason shall be left to the discretion of the Chief Justice alone.

#### ARTICLE IV. DISCOVERY AND NOTIFICATION OF EVIDENCE

SECTION I. Any party is allowed counsel of its choosing to assist the party during the course of its appeal. Both parties may email the Chief Justice and request a Judicial Advocate be assigned to them. The Vice-Chief Justice will then assign a Judicial Advocate to the requesting party.

- (a) Parties shall not be permitted to request a specific Judicial Advocate.

SECTION II. Parties to the appeal have 72 hours following notification of issuance of a Writ of Certiorari to submit all relevant evidence and a Witness List to the Court. Except upon an emergency Motion to Admit, no additional evidence or witnesses will be accepted for consideration following the 72 hour period of discovery.

- (a) A party wishing to call a witness must include that witness in the originally submitted Witness List and include in evidence a signed affidavit of the witness's perception and recollection of events pertinent to the case. The witness shall include in his or her affidavit a signature accompanying the following oath: "I swear or affirm on my honor as an Aggie the truthfulness of everything stated in this affidavit." Only the affidavit template on the Judicial Court website may be used for purposes of an affidavit.

SECTION III. The Chief Justice, upon receiving all evidence submitted by both parties at the conclusion of the 72 hour period of discovery, shall immediately notify and provide both parties access to the respective opposing party's evidence.

#### ARTICLE V. GENERAL APPEAL PROVISIONS

SECTION I. This article applies to any hearing that may be convened by the Judicial Court.

SECTION II. If the information presented is of a nature that is deemed confidential by FERPA, HIPAA or any other educational confidentiality document, then the Court shall move into

executive session.

- (a) Either party may make a motion for the Court to enter into executive session if they provide valid cause related to the preceding.
- (b) Information discussed in executive session is to be treated with the highest level of confidentiality by all persons involved with said session.

SECTION III. The Court may begin a hearing only upon achieving a quorum (5) of Justices.

SECTION IV. During any proceedings, the Chief Justice may, upon request by either party OR by his or her discretion, grant a motion to extend time.

SECTION V. The amount of people allowed to attend a hearing is limited to the capacity of the room. Entry into the hearing will be on a first-come, first-serve basis.

- (a) The Chief Justice reserves the right to remove any person in attendance on the grounds of disruptive behavior.

SECTION VI. Upon the vote of at least three Justices, the Court shall move to a Closed Hearing, in which only the related parties, their witnesses, the Justices, and SGA advisors are permitted to attend. This can be done for any reason deemed appropriate by the Court.

SECTION VII. Counsel shall be asked no more than two judicial questions at the same moment. If two Justices simultaneously address counsel or a witness, the less tenured Justice shall defer to the other Justice.

SECTION VIII. No audio or video recording, except upon agreement of the Chief Justice, shall be allowed during any Judicial Court hearing.

SECTION IX. Any opinions by a Justice given outside of the Court setting, otherwise known as advisory opinions, are not binding on either that Justice or the Court.

SECTION X. In the event that a decision comes to an even split among the Justices, the status quo shall be upheld.

#### ARTICLE VI. RULES OF EVIDENCE

(rules of evidence to be inserted here after confirmation by Student Senate)

#### ARTICLE VII. PRE – TRIAL HEARING PROCEDURES

SECTION I. The Chief Justice, upon request by either party, may grant and set the date of a pretrial hearing so long as:

- 1) the request comes less than 96 hours following the issuance of a Writ of Certiorari and
- 2) the requesting party provides a substantive and legitimate reason for calling such hearing.

SECTION II. All motions considered during the pre-trial phase will either be granted or denied by the Court, by majority vote, immediately following the pre-trial hearing. Motions must be formally submitted no later than 12 hours before the pretrial hearing begins and must include substantive reasons for granting the motion. Only the following may be considered during the pre-trial hearing:

(a) Motion(s) to Dismiss

- a. Either party may make a Motion to Dismiss specific evidence in the form of an exhibit submitted to the Court during the discovery phase
- b. Either party may make a Motion to Dismiss the testimony of a witness
- c. The Respondent may make a Motion to Dismiss the case altogether
- d. A Motion to Dismiss may pertain to more than one witness or exhibit in a singular motion if 1) the nature of the exhibits or witnesses is substantially similar and 2) the legal reasoning to dismiss the set of exhibits or witnesses is substantially similar.

(b) Motion(s) to Admit

- a. A party may make an emergency Motion to Admit specific evidence in the form of an exhibit submitted to the Court. The Court must find that the evidence in question is substantially necessary for the motioning party's appeal.
- b. A party may make an emergency Motion to Admit witness testimony submitted to the Court and include that witness in the party's Witness List. The Court must find that the testimony in question is substantially necessary for the motioning party's appeal.
- c. A Motion to Admit may pertain to more than one witness or exhibit in a singular motion if 1) the nature of the exhibits or witnesses is substantially similar and 2) the legal reasoning to admit the set of exhibits or witnesses is substantially similar.

SECTION III. Each party will have 15 minutes, split however the party deems appropriate, to present an opening statement and a rebuttal.

- (a) During opening statements, the motioning party must offer arguments germane only to its motions.
- (b) Following the rebuttal phase, the Justices will deliberate and upon a majority vote grant or deny each motion brought forth.

SECTION IV. Each party and/or their representative must be in attendance to raise claims against any of the preceding.

#### ARTICLE VIII. APPEAL HEARING PROCEDURES

SECTION I. The failure of the Petitioner or their representative to appear before the Judicial Court without justifiable cause approved by the Court shall terminate his or her right to appeal. In the event that the Respondent fails to appear at the oral arguments scheduled by the Court, the Court reserves the right to conduct an ex parte hearing consisting of presentations by the

Petitioner alone.

SECTION II. Any current student of Texas A&M University may submit to the Court for any case an Amicus Curiae Brief that outlines the outcome sought by the submitting party and the legal reasoning supporting that outcome.

- (a) All briefs must be submitted to the Chief Justice after the appeal for the case has been filed and at least 12 hours before the beginning of oral arguments for the same case.

SECTION III. Each party will have 15 minutes, split however the party deems appropriate, to present an opening statement and a rebuttal.

- (a) The first 3 minutes of each party's argumentation will not be interrupted by judicial questioning.
- (b) Each party will then call witnesses included in the Witness List.
  - (i) Either party may Motion to Sequester witnesses for the appellate hearing. If sequestration is circumstantially permissible, all witnesses to testify will exit the room. When the time arrives, the Bailiff will escort the called witness back into the courtroom and to the witness stand.
  - (ii) The Chief Justice shall issue the following oath to all witnesses immediately before testifying: "Do you swear on your honor as an Aggie to tell the truth, the whole truth, and nothing but the truth?" The proper response is, "I do."
  - (iii) A witness may provide two uninterrupted minutes of testimony and one minute of testimony available to judicial questioning. The opposing party to a called witness may then cross examine for a time of two uninterrupted minutes and one minute of cross examination available to judicial questioning.
- (c) After all witnesses have taken the stand, the hearing shall conclude with both parties providing up to 3 minutes of uninterrupted closing argumentation.

#### ARTICLE IX. DELIBERATION AND OPINION

SECTION I. Immediately following the conclusion of a hearing, all Justices on the case shall exit to a secluded, private location to begin closed deliberations. The least tenured sitting Justice shall begin by providing general perceptions and inclinations regarding the case, then the next Justice shall offer the same until the most tenured Justice has spoken. Then, open dialogue among Justices shall occur before a final vote is taken. Voting shall occur from the least tenured Justice to the most tenured Justice.

SECTION II. The most tenured Justice for each opinion shall delegate the responsibility of writing each respective opinion. Individual Justices are able to write or join concurring or dissenting opinions.

SECTION III. Every opinion issued by the Court must bear the signature of each Justice joining the opinion. After approval, a copy of each opinion is to be placed in the Student Government Association Judicial Court permanent file. Similarly, all opinions are to be issued to The Battalion for publication, provided to all parties involved, and posted on the Judicial Court

website. Every opinion receiving at least two votes shall also be posted in the SGA front office, and must be transmitted to the parties involved.

#### ARTICLE X. REHEARING PROCEDURES

SECTION I. A Motion to Rehear can be submitted by any student of Texas A&M University and may be entertained if a procedural fault is more likely than not to have occurred. A procedural fault must meet both of the following criteria: 1) a direct contradiction of a previously established procedural mandate and 2) such fault unreasonably inhibited the application of justice.

SECTION II. This motion must be made within 7 days of the opinion being posted. The Motion to Rehear shall be heard in a Closed Hearing consisting of at least 3 Justices who sat on the original case.

(a) Only Justices who heard the original case may sit on the panel and vote on the motion.

SECTION III. The moving party will have 10 minutes to substantiate the claim of a procedural fault. No exhibits or witnesses are permitted. Arguments in the Closed Hearing on a Motion to Rehear shall solely be confined to failures to adhere to procedures mandated by the SGA Code.

SECTION IV. If the Motion to Rehear is granted, then the original case shall be declared a mistrial, the original ruling shall be discarded, and the case shall be reheard anew according to the procedures listed in Articles III-VIII in these By-Laws.

#### ARTICLE XI. OATH OF OFFICE

I (state your name) do solemnly swear (or affirm) to faithfully execute to the best of my ability the duties of the office of (state your office) for the Texas A&M University Student Government Association; to uphold the honor of the same; at all times to protect the welfare of the student body; and to promote good relations between the students and those concerned with the University.

#### ARTICLE XII. INTERNAL PROCEDURES

SECTION I. The Student Government Judicial Court shall convene at the discretion of the Chief Justice in order to conduct normal business matters.

SECTION II. The Court's regular meetings shall be construed to be mandatory and only upon excusal by Chief Justice shall a member's absence be permitted. Upon accumulating more than 3 unexcused absences, the Justice in question will only continue to serve on the Court at the discretion of the Chief Justice. If after more than 3 unexcused absences, the Chief Justice may inquire of the Primary Advisor of Student Government Association for the removal of the Justice in question.

SECTION III. The only officer position required for the function of the Court is the Vice-Chief

Justice, appointed by the Chief Justice.

- (a) Officer positions may be created at the discretion of and appointed by the Chief Justice for viable functioning of the Court.

SECTION IV. The Secretary of the Court shall be responsible for maintaining Court files in accordance with the Filing and Administrative Guidelines that were established by the Court on November 1st, 2013.

### ARTICLE XIII. JUDICIAL ADVOCATES

SECTION I. The entire Judicial Advocate Commission shall include six Judicial Advocates.

SECTION II. The Judicial Advocate shall fall under the charge of the Vice-Chief Justice of the Judicial Court. The Vice-Chief's responsibilities shall include, but are not limited to, leading the selection of the Judicial Advocates, ensuring communication between the Court and the Judicial Advocates, and selecting the Chief Judicial Advocate. These processes shall be completed in whichever manner the Vice-Chief Justice sees fit.

SECTION III. The responsibilities of the Judicial Advocates include performing discovery and research for cases, representing parties, assisting parties, and maintaining impartiality through all elections during the year. All requirements or expectations, be they attendance, supplementary, or academic in nature, that apply to a Justice shall also apply to the Judicial Advocates. The tenure of a Judicial Advocate shall be for the entirety of the Judicial Advocate's tenure at Texas A&M University at College Station so long as they do not resign or get removed.

SECTION IV. The removal of a Judicial Advocate shall occur when deemed appropriate by the Vice-Chief Justice and when approved by both the Chief Judicial Advocate and Chief Justice. Reasons for removal include, but are not limited to, a Judicial Advocate entering as a candidate in an election governed by the Election Commission, consistently not maintaining impartiality throughout elections, and failure to perform duties required for the position.

SECTION V. The position of Chief Judicial Advocate shall be responsible for the training of newly selected Judicial Advocates, and ensuring communication among Judicial Advocates. The selection of the Chief Judicial Advocate shall be completed no later than four weeks following the end of the last Chief Judicial Advocate's tenure. The Chief Judicial Advocate's tenure shall last as long as the corresponding session of Student Senate.

### ARTICLE XIV. REMOVAL OF MEMBERS OF JUDICIAL COURT

SECTION I. A complaint concerning an Associate Justice shall be filed by any current student of Texas A&M University to the Chief Justice.

SECTION II. Upon receipt of a complaint, the Chief Justice has one week to convene a performance review committee to consider the matter. The performance review committee shall be made up of the Chief Justice and a quorum of Judicial Court. If the complaint is made by a

member of Judicial Court that person shall then forfeit his or her position in the review process and any subsequent appeal as secondary to his or her position as the filer of the complaint.

SECTION III. The performance review committee will evaluate the claim and may remove an individual from Judicial Court if it can be shown beyond a reasonable doubt that any of the following are true:

- (a) The accused individual has shown gross negligence in their duties as outlined in the SGA Constitution.
- (b) The accused individual has shown gross negligence in their duties as outlined in the Judicial Court by-laws.
- (c) The accused individual has violated the Aggie Honor Code or engaged in egregious abuse of their position in Judicial Court.

SECTION IV. A two-thirds majority vote of the performance review committee will be required to remove any individual from Judicial Court or from their officer position. In the case of a complaint concerning an officer's job performance, the performance review committee may allow the individual to resign from their office without being removed as an Associate Justice.

SECTION V. Following the impeachment of the Chief Justice by the Student Senate, the Vice-Chief Justice will assume the position of Chief Justice, until a new Chief Justice has been confirmed.

SECTION VI. A Justice who has issued an appeal through any of the means mentioned above to determine the legitimacy of removal will not have their seat filled until the appeals process is completed and the Justice is confirmed to not meet the qualifications of office.

SECTION VII. If any Judicial Advocate has been deemed unfit for office by any Justice, they may request to the Chief Justice that they be removed. If no action is taken by the Chief Justice, a Justice may move for a vote. A vote of two-thirds of Justices in a meeting with quorum shall be deemed sufficient to remove a Judicial Advocate.

SECTION VIII. If any Justice shall enter as a candidate for a position within SGA in an election that is governed by the Texas A&M Election Commission, he or she shall effectively resign his or her position of Justice at the time of registering to run. If, after losing, the former Justice desires to return to the Court, he or she must go through the process of nomination by the Student Body President and confirmation by the Student Senate set forth in the Constitution.

- (a) For any measures of seniority and tenure relevant in these By-Laws, a Justice's tenure shall be measured from his or her most recent appointment and confirmation.

## ARTICLE XV. ACADEMIC POLICY

SECTION I. No member of the Judicial Court shall be on scholastic or conduct probation with the university. All officers and members must comply with the academic policies set forth in the University Rules and Regulations, as well as have at least a 2.00 cumulative grade point ratio for undergraduate students and at least a 3.00 cumulative and term grade point ratio for graduate

students and at least a 3.00 cumulative and term grade point ratio for graduate students for every semester (spring, summer, and fall) while in office.

SECTION II. A Justice who has issued an appeal through Student Activities to determine the legitimacy of any probation will not be removed from office until the appeals process is completed and the Justice is confirmed to not meet the qualifications of office.

#### ARTICLE XVI. JUDICIAL BRANCH BY-LAW AMENDMENTS

SECTION I. Amendments to the Judicial Court By-Laws shall be voted on and approved by a two-thirds (2/3) vote of a quorum of Judicial Court.

- (a) Judicial Advocates may only vote when amendments to the Judicial Court By-Laws concern ARTICLE XIII.

SECTION II. A revision date shall be implemented in the By-Laws. No votes shall be necessary to change the revision date directly. The date shall reflect the same date in which the last time the Judicial Court By-Laws were amended.

SECTION III. In order to provide consistent formatting for the By-Laws, the Chief Justice, at their discretion, can change the formatting of the By-Laws at any time.