

BYLAWS
OF
THE STUDENT SUPREME COURT

JANUARY 21, 2023



Angus Ewington, Presiding Justice.

JANUARY 17, 2023.

TABLE OF CONTENTS

TABLE OF CONTENTS	2
I. SCOPE AND FORM.....	5
Rule 1. Scope.....	5
Rule 2. Form	5
Rule 3. Purpose.....	5
Rule 4. Term.....	5
Rule 5. Quorum.....	5
II. COMMENCING AN ACTION.....	5
Rule 4. Complaint.....	5
Rule 5. Statute of Limitations	6
Rule 6. Summons.....	6
Rule 7. Summons.....	6
Rule 8. Service of Summons	6
Rule 9. Persons to be Summoned.....	7
Rule 10. Service of Answer	7
III. JURISDICTION	7
Rule 11. General Jurisdiction	7
Rule 12. Jurisdiction and Enforcement.....	8
Rule 13. Presumption of Jurisdiction	8
Rule 14. Consent of Parties to Jurisdiction Effective.....	8
Rule 15. Raising a Jurisdictional Issue	8
IV. STANDING	8
Rule 16. Standing to Bring an Action	8
Rule 17. Standing to Bring an Action Based on a Legislative Act.....	8
Rule 18. Standing to Bring an Action Based on an Executive Act	9
Rule 19. Standing to Bring an Action Based on a Board of Elections Act	9
Rule 20. Standing to Bring an Action Based on Actions of Other Committees, Agencies, or Organizations	9
Rule 21. Standing to Bring an Action Appealing Judicial, or Quasi-Judicial Determination of a Student Organization, Student Quasi-Judicial Body, or other Deliberative Body in which Students Function as Decision-Makers (Standing to Appeal).....	10
V. COMPLAINTS	10
Rule 22. Form and Filing of Complaints	10
Rule 23. Form of Answers.....	11
Rule 24. Filing an Answer.....	11

Rule 25. Deadline and Extension of Time for Filing an Answer	11
Rule 26. Pleadings and Stipulations Binding on Parties	12
Rule 27. Necessary Defendants	12
Rule 28. Improper Joinder of a Defendant.....	13
Rule 29. Improper Omission of a Necessary Defendant.....	13
VI. COURT PAPERS.....	13
Rule 30. Categories of Court Papers	13
Rule 31. General Form of Parties' Court Papers	14
Rule 32. Citations	14
Rule 33. Flaws in a Parties' Papers.....	15
VII. MOTIONS	15
Rule 34. General Description of Motions	15
Rule 35. Contents	15
Rule 36. Notice to Opposing Parties	15
Rule 37. Motions for Subpoenas.....	15
Rule 38. Motion for a Temporary Restraining Order (TRO) and Extraordinary Writs	16
Rule 39. Motion to Dismiss	16
Rule 40. Motion for Summary Judgement.....	16
Rule 41. Motion to Amend Pleadings	16
Rule 42. Motion to Strike a Matter from Pleading	16
VIII. PRETRIAL AND TRIAL.....	17
Rule 43. Pretrial Hearing.....	17
Rule 44. Setting Date for Trial	17
Rule 45. Place of Trial	17
Rule 46. Convening of Court for Trial	17
Rule 47. Recording of Proceedings.....	18
Rule 48. Proof of Facts.....	18
Rule 49. Calling Witnesses.....	18
Rule 50. Oath of Affirmation for Witnesses.....	18
Rule 51. Trial Agenda	18
Rule 52. Court to Retire at Conclusion of Trial.....	19
IX. DELIBERATION.....	19
Rule 53. Presumption of Legality	19
Rule 54. Preponderance Standards	19
Rule 55. Conference	19
Rule 56. Vote Required.....	19

Rule 57. Decisions and Opinions	20
X. AUTHORITY	20
Rule 58. Stare Decisis	20
Rule 59. Enforcement of Judgement by Injunction	21
Rule 60. Enforcement of Judgement by Honor Code	21
Rule 61. Enforcement Power Generally.....	21
XI. JUSTICES	21
Rule 62. Number and Title of Justices	21
Rule 63. Instrument Obligations Binding.....	21
XII. APPEALS.....	22
Rule 64. Notice of Intent to Appeal	22
Rule 65. Preparation of Record and Transcripts	22
Rule 66. Privacy.....	23
Rule 67. Briefs	23
Rule 68. Oral Argument	24
Rule 69. Deliberation in Appellate Cases.....	24
XIII. PERSONNEL.....	24
Rule 70. Clerk	24
Rule 71. Clerk's Duties	24
Rule 72. Removal.....	25
Rule 73. Standards	25
XIV. ETHICS	25
Rule 74. General Prohibitions.....	25
Rule 75. Dual Service Prohibition.....	25
Rule 76. Conflicts of Interest.....	26
Rule 77. Removal.....	26

I. SCOPE AND FORM

Rule 1. Scope

The Student Constitution gives the Student Supreme Court of the University of North Carolina at Chapel Hill the authority to enact Bylaws for its “composition, operation, and policies” not inconsistent with the Constitution. Student Const. art. IV, §6. These rules shall have no retroactive effect.

Rule 2. Form

These rules govern the “composition, operation, and policies” of the Student Supreme Court (“the Court”). *Id.*

Rule 3. Purpose

These rules shall be construed and administered so as to ensure the just, speedy, and inexpensive determination of every action.

Rule 4. Term

The Court’s term shall begin and end on the regularly scheduled inauguration day of the Student Body President.

Rule 5. Quorum

(a) Three (3) Justices shall constitute quorum to hear and determine cases, exercise any powers or perform any functions required of the Court by law.

(b) The Consent of a majority of justices shall be required to take any action not otherwise delegated to the Chief Justice or specifically described as non-discretionary.

II. COMMENCING AN ACTION

Rule 4. Complaint

(a) An action in the Court is commenced by filing a complaint with the Court. This may be done by:

(1) sending the Complaint to the Clerk (or any Justice should the position of Clerk be vacant) by physical mail;

(2) sending the Complaint to the Clerk (or any Justice should the position of Clerk be vacant) by electronic mail as either a Microsoft Word Document or PDF;

(3) sending the Complaint to the Chief Justice (or the Presiding Justice in the absence of a Chief Justice) via electronic-mail as either a Word Document or PDF; or

(4) submitting the Complaint through the form available on the Court’s “HeelLife” page.

Rule 5. Statute of Limitations

(a) A Complaint shall be submitted to the Court no later than eighteen (18) calendar days after actions of the Board of Elections (BOE);

(1) If such actions pertain to a special election, a Complaint shall be submitted to the Court no later than seven (7) calendar days after the actions of the BOE.

(b) The period of limitations shall not run during any time in which the University is in recess for a scheduled University, State, or Federal holiday, but shall run during weekends.

(c) The Court may grant an extension of time in which to file a Complaint if it determines there were circumstances beyond the control of the Plaintiff justifying the delay.

Rule 6. Summons

Within twenty-four (24) hours of the filing of a Complaint in the Student Supreme Court, a Justice shall issue an Order directed to the Defendant(s) in the action and summoning them to defend.

Rule 7. Summons

(a) A summons must contain:

- (1) name of the Court and the Parties;
- (2) language clearly directing it to the Defendant(s);
- (3) the name, address, and electronic-mail address of the Plaintiff's Counsel or for unrepresented Plaintiffs, the Plaintiffs themselves;
- (4) the time within which the Defendant(s) must appear to defend;
- (5) notification that if the Defendant(s) fail to appear and defend, a default judgement will result against the Defendant(s) for the relief demanded in the complaint;
- (6) signature of the issuing Justice; and
- (7) the seal of the Court.

(b) The Court may permit a summons to be amended.

Rule 8. Service of Summons

(a) Summons must be served with a copy of the Complaint.

(b) Valid service of process upon a Defendant shall consist of one (1) of the following:

- (1) personally handing the summons to the defendant;
- (2) personally handing the summons to a person who maintains their sleeping quarters in the same room as the person to be served;

(3) leaving the process attached to the door of the room, apartment, house, etc. where the person to be served maintains their sleeping quarters; or

(4) sending the summons via electronic-mail to the person to be served.

Rule 9. Persons to be Summoned

(a) The following list of persons are acceptable for summons in this Court:

(1) the individual Defendant(s) if they are an individual person;

(2) the Chief Officer of the Student Organization, association, or Independent Agency if the Defendant is a Student Organization, association, or Independent Agency; or

(3) the President of the Student Body if the Defendant is the Student Body.

Rule 10. Service of Answer

(a) A Defendant shall serve a copy of the Answer upon the Plaintiff's Counsel and the Plaintiff and shall submit a copy of their Answer with the Court at the same time.

(b) Valid Service shall consist in one (1) of the manners enumerated under Rule 8(b)(1–4).

III. JURISDICTION

Rule 11. General Jurisdiction

(a) The jurisdiction of the Court shall extend to:

(1) Cases and controversies concerning Student Government actions;

(i) This section shall not be construed to place the burden on any party to demonstrate that an action was entirely committed, carried out, or otherwise done entirely by the Student Government; rather, Student Government actions are those in which a causal nexus may be drawn between an act of Student Government and the “action” in question, broadly-conceived.

(2) Questions of law arising under:

(i) the Student Body Constitution and laws enacted under its authority;

(ii) the governing documents of all Independent Agencies of Student Government;

(iii) actions of the Joint Governance Council;

(iv) actions of the USG Executive Branch;

(v) actions of the GPSG Executive Branch;

(vi) actions of the USG Legislative Branch;

- (vii) actions of the GPSG Legislative Branch;
 - (viii) actions of the Board of Elections;
 - (ix) actions of any other Independent Agencies of Student Government; and
 - (x) the actions of all officially recognized student organizations, and
- (3) shall be based in a controversy in law.

(b) This Rule shall not be construed to resolve questions of justiciability, nor shall this rule be construed to be exhaustive.

Rule 12. Jurisdiction and Enforcement

Upon a determination that the Court has jurisdiction over an action, the Court retains jurisdiction over the action for the purposes of enforcing its judgement and for punishing contempt of Court as an offense under the Honor Code.

Rule 13. Presumption of Jurisdiction

The Court shall always presume jurisdiction over an action. A party seeking to show that the Court lacks jurisdiction must make an affirmative showing that the Court does not possess jurisdiction over the matter.

Rule 14. Consent of Parties to Jurisdiction Effective

The consent of the parties to submit themselves to the jurisdiction of the Court or the failure of the parties to raise the issue of jurisdiction shall be effective to give the Court jurisdiction in any action in which it otherwise lacks jurisdiction.

Rule 15. Raising a Jurisdictional Issue

The issue of jurisdiction of the Court over an action may be raised by any party at any stage of the proceedings.

IV. STANDING

Rule 16. Standing to Bring an Action

To bring an action before the Court, the party/parties bringing the action must have the appropriate standing, and no standing shall extend to any person, student, or student organization in controversies arising from a merely proposed act.

Rule 17. Standing to Bring an Action Based on a Legislative Act

Standing to bring an action before the Court based on the question of legitimacy of a legislative act by the Joint Governance Council (JGC), Undergraduate Senate (UGS), or Graduate and Professional Student Government Senate (GPSG Senate) shall extend to any

student or officially recognized student organization whose powers, rights, privileges, benefits, or immunities are adversely affected, restricted, impaired, or diminished by the legislative act in question.

Rule 18. Standing to Bring an Action Based on an Executive Act

Standing to bring an action before the Court based on the invalidity or illegality of an act of a Student Body officer; a student executing the laws of the students, or a member of a President's Executive Committee, Cabinet (of any constituency) shall extend to any member or class of the Student Body likely to suffer injury as a result of the action.

Rule 19. Standing to Bring an Action Based on a Board of Elections Act

Standing to bring an action before the Court for election error or fraud in the acts and decisions of the Board of Elections extends to Plaintiffs who must have their powers, rights, privileges, benefits, or immunities adversely affect, restricted, impaired, or diminished, and the Plaintiff must be:

- (a) a candidate or political party alleging injury through an election error or fraud;
- (b) a member of a constituency adversely affected by a regulation or determination of the Board of Elections; or
- (c) a student alleging election error in relation to a constitutional referendum, a constitutional initiative, a special referendum, an initiative election, or a review election.

Rule 20. Standing to Bring an Action Based on Actions of Other Committees, Agencies, or Organizations

Standing to bring an action before the Court based on the question of legitimacy or illegality of an act by an officer, official, or agent of the Residence Hall Association, Carolina Athletic Association, or other recognized organizations, Independent Agencies, and committees or groups receiving funds from Student Fees extends to:

- (a) any student or officially recognized student organization, agency, committee, or association whose powers, rights, privileges, benefits, or immunities are adversely affected, restricted, impaired, or diminished by the act in question; or
- (b) any student who is a constituent of the relevant Independent Agency or member of the relevant student organization, committee, or association.

Rule 21. Standing to Bring an Action Appealing Judicial, or Quasi-Judicial Determination of a Student Organization, Student Quasi-Judicial Body, or other Deliberative Body in which Students Function as Decision-Makers (Standing to Appeal)

Standing to bring an action before the Court appealing the decision of a Student Organization, Quasi-Judicial Body, or other deliberative body in which students serve a decision-making role extends to any student who has their powers, rights, privileges, benefits, or immunities adversely affected, restricted, impaired, or diminished.

V. COMPLAINTS

Rule 22. Form and Filing of Complaints

(a) Complaints filed in the Court shall contain in concise and clear language, in separate and numbered paragraphs, with the following headings, the following allegations:

(1) *Jurisdiction*. An allegation of the grounds upon which the Court possesses jurisdiction. Some statement about the justiciability of the issue is also favored if parties claim the Court possesses jurisdiction;

(2) *Standing*. An allegation of the grounds upon which each Plaintiff or all plaintiffs collectively claim standing to bring the action;

(3) *Claim*. A statement of the claim citing facts showing that each plaintiff is entitled to the relief sought. State how each defendant was involved and what each defendant did that caused the harm or violated the plaintiff's rights including the dates and places of the involvement or conduct at issue. If more than one claim is asserted, each claim will be numbered with a short statement of the claim in a separate paragraph.

(4) *Relief*. An allegation of the grounds upon which the Plaintiff(s) claim they are entitled to relief, and a demand for judgement to which the Plaintiff(s) deem themselves entitled. The Court shall assume that the Plaintiff demands all such other relief as the Court deems just and proper.

(b) Unless required for subsection (a) of this Rule, it shall be otherwise unnecessary for a Plaintiff to anticipate in their Complaint possible defenses of the Defendant.

(c) A Complaint shall be signed by the Plaintiff and their Counsel (if applicable) who shall indicate their address(es), electronic mail address(es), phone number(s), and shall certify as follows: "I do affirm that I have read in full the foregoing Complaint and that the

allegations contained therein are true to the best of my knowledge and belief.”

(d) A Complaint shall be filed through the manner specified in Title II.

Rule 23. Form of Answers

(a) Answers to complaints filed in the Court shall contain in concise and clear language in separate, numbered paragraphs, with headings, the following contents:

- (1) an admission or denial of every allegation in the complaint;
- (2) an allegation of any defense upon which the Defendant(s) rely;
- (3) an allegation of any grounds upon which the Defendant believes themselves entitled to relief; and
- (4) a demand for judgement for any relief to which the Defendant(s) deem themselves entitled.

(b) When preparing an Answer, the Defendant shall explicitly cite the numbers of the corresponding paragraphs of the complaint or other filing in which allegations are made and shall either:

- (1) admit the allegation, or
 - (2) admit the allegation in part and deny the allegation in part,
- or
- (3) deny the allegation, specifying the reasons for denial.

(c) If Defendant(s) are without sufficient knowledge or information to form a belief as to the truth of an allegation made in a complaint or other filing, they shall so state, and this shall have the effect of a denial.

(d) Failure to follow all stipulated guidelines shall not constitute sufficient grounds to dismiss the answer, but the Court may request that the Defendant(s) refile their answer.

Rule 24. Filing an Answer

An Answer to a complaint shall be filed with the Court via electronic mail to a Justice or Clerk of the Court and shall be served in accordance with Rule 10.

Rule 25. Deadline and Extension of Time for Filing an Answer

If Defendant(s) fail to file an answer to the complaint in the time directed, the Chief Justice:

(a) may grant them an extension of time in which to file the answer if the Chief Justice determines that there were circumstances beyond the control of the defendant justifying the delay, and that the extension of time will not result in injury to the rights or available remedies to involved parties; or

(b) May assume that the Defendant has chosen not to file an answer.

Rule 26. Pleadings and Stipulations Binding on Parties

Except for an allegation or admission of jurisdiction contained in a pleading or stipulation, a pleading or stipulation made by a party is binding upon that party.

Rule 27. Necessary Defendants

(a) In any action before the Court, the plaintiff must name all necessary defendants. Necessary defendants include all students who caused or contributed to the plaintiff(s)'s injury, officials or officers leading the student group that caused or contributed to the plaintiff's injury and all students whose powers, rights, privileges, benefits, or immunities would be affected if the Court grants the relief the plaintiff requests.

(b) If the action is based on an act of an organ of Student Government, the necessary defendants can include the following:

(1) for acts of the Undergraduate Senate, the Undergraduate Student Government President, the Speaker of the Undergraduate Senate, and officers of any other student group affected; and

(2) for acts of the GPSG Senate, the GPSG President, the GPSG Vice President, and officers of any other student group affected;

(3) if the suit is based on an act of the Joint Governance Council, the necessary defendants include the Chair of the Joint Governance Council, the presidents of both constituencies, and other members of the Joint Governance Council;

(4) if the suit is based on an executive act of one of the constituent governments, the necessary defendants could include the following:

(i) for actions of the Undergraduate Executive Branch: the Undergraduate President, executive officers, cabinet officials, and other members of the Executive Branch involved in the action; and

(ii) for actions of the GPSG Executive Branch: the GPSG President, executive officers, cabinet officials, and other members of the executive branch involved in the action; and

(5) if the suit is based on an election issue, the necessary defendants could include all of the parties who would be directly or adversely affected if the complaint was upheld, *e.g.*, other candidates, or against whom an injunction would have to be issued, *e.g.*, the BOE.

(6) if the suit is based on the act of an officer, official, or agent of an Independent Agency of Student Government, or other

recognized organizations, committees, or groups receiving Student Fees or conducting quasi-judicial operations, the necessary Defendants shall include officers of the group and any other students that would be directly and adversely affected if the Court entered judgement for the plaintiff.

(c) The list in subsection (b) of this rule is not exclusive. Necessary defendants may also include all those students that the Chief Justice requires to be named.

Rule 28. Improper Joinder of a Defendant

(a) In an action before the Court, a plaintiff may, by timely motion, move that a defendant be dismissed from the action because they were improperly brought into the action as a defendant. A defendant also may, upon timely motion to the Court, move that they be dismissed from the action because they were improperly brought into the action as a defendant. The Court shall grant or deny such motions upon their merits.

(b) The Court may dismiss an improper defendant from an action before it at its own discretion.

Rule 29. Improper Omission of a Necessary Defendant

(a) In an action before the Court, a plaintiff may by timely motion to the Court, move that a party improperly omitted as a defendant be brought into the action. A party may, upon timely motion to the Court, move that they be made a defendant in an action in which they were improperly omitted as a defendant. The Court shall grant or deny such motions upon their merits;

(b) The Court shall note the omission of a necessary defendant to the plaintiff and allow them a maximum of twenty-four (24) hours to fix the mistake.

VI. COURT PAPERS

Rule 30. Categories of Court Papers

(a) In an action before the Court, the categories of papers which may be submitted by the parties are as follows:

- (1) complaints;
- (2) answers;
- (3) motions;
- (4) affidavits; and
- (5) briefs.

(b) In an action before the Court, the types of documents which may be issued by the Court or its officers include, but are not limited to, the following:

- (1) orders;
- (2) extraordinary writs; and
- (3) opinions.

Rule 31. General Form of Parties' Court Papers

(a) All documents filed by parties shall conform to the following style:

- (1) formatted on a page with dimensions of eight and one-half (8 ½) inches by eleven (11) inches and have one (1) inch margins;
- (2) documents longer than one (1) page shall have consecutive page numbering in the center of the bottom margin;
- (3) printed documents shall be printed on white paper, stapled in the top-left margin;
- (4) documents shall use a Century-style serif font in twelve (12) point typeface. Boldface and italics may be used for emphasis. Case names must be italicized or underlined; and
- (5) documents must be single spaces.

(b) All papers submitted and used by parties in the Court shall contain a caption at the top of the first page setting forth the name of the Court, the docket number, the action number, and the title of the action consisting of the names of the parties;

(c) All papers filed by a party in the Court shall have a statement at the end of the document with a certification for the time of following, *e.g.*, "Filed this the ___ day of ___, 20___, at ___:___ (a.m./p.m.)."

Rule 32. Citations

(a) UNC Student Legal Documents shall be cited in the following manner:

- (1) the *Student Constitution* shall be cited: "Student Const. ch. [Chapter] art. [Article], §[Section].";
- (2) the *Joint Code of Student Government* shall be cited: "[Title] J.C.S.G. §[Section].";
- (3) The *Undergraduate Student Government Code* shall be cited in the same manner as the *Joint Code*, but with the acronym "U.C.S.G.";
- (4) The *GPSG Code* shall be cited "[Title] GPSG Code §[Section].";
- (5) The *Instrument of Student Judicial Governance* shall be cited in the same manner as the *Joint Code*, but with the acronym "I.S.J.G.";
- (6) The *Student Supreme Court Bylaws* shall be cited "R. [Rule]."

(b) In general, citations shall conform to the most recent edition of *The Bluebook: A Uniform System of Citation*.

(c) In-text citations are preferred. Footnote, endnote, or bibliographic citations shall be disfavored.

Rule 33. Flaws in a Parties' Papers

Minor failures of papers and filings to conform to the specific requirements of formatting shall not constitute sole grounds for dismissal.

VII. MOTIONS

Rule 34. General Description of Motions

A party may petition the Court to take certain actions outside complaint or answer by means of motion. Motions shall be filed in writing.

Rule 35. Contents

(a) Motions shall contain in concise and clear language the following:

- (1) an allegation of the grounds for the order sought;
- (2) the order sought.

(b) The motion shall be signed by the counsel of the party seeking the order, or if the party is not represented by Counsel, the motion shall be signed by the party seeking the order.

Rule 36. Notice to Opposing Parties

(a) Motions must be delivered to the opposing party and their counsel (if the opposing party retains counsel) in advance. Opposing counsel or the party will petition the Court, and must be granted, reasonable time to prepare arguments opposing the motion.

(b) All motions to dismiss a complaint or to request summary judgement on any grounds must be delivered to the opposing party and counsel, if applicable, forty-eight (48) hours before they are argued at a pre-trial hearing or at trial. The forty-eight (48) hour period may only be waived by opposing counsel or the opposing party, not by the Court acting *sua sponte*, nor by those filing the motion.

Rule 37. Motions for Subpoenas

At least seventy-two (72) hours before trial of an action, a party may file a motion requesting that an order be issued subpoenaing a student and requiring them to appear before the Court as a witness in the action or to submit material evidence in their possession. Failure to respond to a subpoena shall constitute a violation of the Honor Code.

Rule 38. Motion for a Temporary Restraining Order (TRO) and Extraordinary Writs

(a) Before trial of any action, a party may file a motion requesting that an order be issued restraining the opposing party from doing a particular act until the rights of the parties may be adjudged.

(b) A motion requesting a TRO or other extraordinary writ shall be granted and the proper order or writ shall issue only if it is determined that:

(1) the granting of the TRO or extraordinary writ is necessary to preserve the jurisdiction of the Court, the rights of the party requesting the order, or the availability of remedies; and

(2) the party requesting the TRO or extraordinary writ must be clearly entitled to the relief requested.

Rule 39. Motion to Dismiss

Before answering a complaint, a party may file a motion to dismiss based on failures of the opposing party to comply with the requirement of these Bylaws, the Student Constitution, or other Student Law, and shall serve to prevent the need of opposing parties to answer non-meritorious complaints.

Rule 40. Motion for Summary Judgement

Before the trial of any action, a party may file a motion for summary judgement. A summary judgement motion shall only be granted when there is no genuine issue of material facts in the case and the moving party is entitled to a decision purely as a matter of law.

Rule 41. Motion to Amend Pleadings

(a) At least seventy-two (72) hours before trial of an action, a party may file a motion requesting that an order be issued granting them permission to amend a pleading.

(b) A motion to amend a pleading shall be granted and the proper order issued if it is determined that such an amendment will not result in prejudice or hardship to the other party.

Rule 42. Motion to Strike a Matter from Pleading

(a) Before trial of an action, a party may file a motion requesting that an order be issued striking from the pleading of the adverse party any matter which is immaterial, impertinent, scandalous, or redundant.

(b) A motion to strike a matter from a pleading shall be granted if it is determined that the matter to be strike is clearly immaterial, impertinent, scandalous, or redundant.

VIII. PRETRIAL AND TRIAL

Rule 43. Pretrial Hearing

(a) The Chief Justice may convene a pretrial hearing to determine the merits of any motion to be granted before trial. A pretrial hearing shall be open to the public, and a recording published by the Court.

(b) Before trial of an action, the Chief Justice shall convene a pretrial hearing before the whole Court or in chambers to consider:

- (1) the simplification of issues;
- (2) the necessity or desirability of amendments to pleadings;
- (3) the possibility of obtaining admissions of fact and of documents which avoid unnecessary proof;
- (4) limitation of the number of witnesses;
- (5) setting a trial schedule; and/or
- (6) such other matters as may aid the disposition of the action.

(c) Notice of the time and place of a pretrial hearing shall be given to the parties and their counsel, if applicable. Each party shall have the right to appear and argue the merits of the matter to be determined.

(d) The Court may issue an order which recites the action taken at the pretrial hearing, the amendments permitted to the pleadings, and the agreements made by parties as to any of the matters considered, and which limits the issues for trial for those not yet adequately briefed in the parties' filings.

(1) such an order shall control the subsequent course of the action unless modified at trial to prevent manifest injustice;

(2) if applicable, such an order shall be written by a member of the majority vote selected by the Chief Justice or may be written *per curiam*.

Rule 44. Setting Date for Trial

The date for the trial of an action before the Court shall be set by the Chief Justice who shall take into consideration the convenience of the parties, witnesses, and Justices. Appropriate notice shall be given to the persons concerned and local media.

Rule 45. Place of Trial

The Court shall convene for trial in the Kenan Courtroom of the Law School unless the Chief Justice shall designate another appropriate, accessible place. Trial proceedings shall be open to the public.

Rule 46. Convening of Court for Trial

The trial of an action before the Court shall be opened by the call of the Chief Justice.

Rule 47. Recording of Proceedings

The Clerk of the Court shall keep an accurate record of the proceedings at trial before the Court. In the absence of a Clerk, this task shall be one by the most-junior Justice present.

Rule 48. Proof of Facts

(a) In any action before the Court in which facts are in dispute, the parties must provide any proof of the facts upon which their case relies.

(b) A party shall have the right to cross-examine witnesses of the adverse party after the examination of the witness by said party.

Rule 49. Calling Witnesses

(a) Witnesses shall be called first by the plaintiff(s) to testify as to facts in the plaintiff(s)'s case. After the plaintiff(s)'s witness(es) have testified and been cross examined by the defense, the defense may call its witnesses. Upon the agreement of both parties and a majority of the Justices present, however, this schedule may be altered in order to accommodate scheduling conflicts.

(b) Each party shall have, at minimum, ten (10) minutes to examine and cross-examine witnesses.

Rule 50. Oath of Affirmation for Witnesses

All witnesses before the Court shall affirm an oath to tell the truth: "I [name] do affirm to tell the truth, the whole truth, and nothing but the truth under penalty of Honor Code violation."

Rule 51. Trial Agenda

(a) Oral arguments should emphasize and clarify the written arguments on the merits. Counsel shall assume that all Justices have read the briefs and other documentation before oral argument. Oral argument read from prepared text is permitted, but not favored.

(1) Once the Chief Justice has acknowledged counsel and invited them to begin their argument, Counsel shall acknowledge the Court by the usual: "Mr./Ms. Chief Justice, and may it please the Court. . ." Do not introduce yourself;

(2) Counsel, parties, and witnesses shall address justices as "Justice [Justice Name]" or "Your Honor";

(3) Expect questions from the Court throughout your argument after a brief opening statement of the case and questions presented.

(b) The Court shall allot an equal amount of time to the parties for the purposes of oral arguments. The parties may reserve a portion of their allotted time, not to exceed one-fourth (1/4), to rebut the arguments made by the adverse party.

- (c) The arguments shall proceed in the following order:
- (1) opening argument by the plaintiff(s), which shall not exceed forty-five (45) minutes;
 - (2) opening argument by the defendant(s), which shall not exceed forty-five (45) minutes;
 - (3) calling of plaintiff(s)'s witnesses;
 - (4) calling of defense's witnesses;
 - (5) rebuttal by the parties if so reserved;
- (d) Justices may only begin questioning Counsel following their introductory statement of the case or their argument and shall seek to avoid interruption. Justices shall not interrupt counsel with questions during any rebuttal less than five (5) minutes in length.

Rule 52. Court to Retire at Conclusion of Trial

Following the conclusion of the arguments of the parties, the Court shall retire to confer on the merits of the action.

IX. DELIBERATION

Rule 53. Presumption of Legality

Every act of an executive, legislative, election, or other student government body at issue before the Court shall be presumed legitimate and valid unless and until proven illegitimate. The burden of proof rests with the Plaintiff to demonstrate that an act is illegitimate.

Rule 54. Preponderance Standards

For a fact to be established on the record, a party must demonstrate that it has occurred by a preponderance of the evidence. If plaintiff alleges and defendants fail to deny that an action has occurred, the Court shall presume that action to have taken place and the defendant's omission shall have the effect of admission.

Rule 55. Conference

(a) The Conference shall consist of the Justice serving on the Student Supreme Court assigned to hear and adjudicate the action. The Conference shall seek to determine the validity of the facts presented and appropriate action. No other person shall be permitted to be present in the meetings of the Conference, and the proceedings of the Conference shall be confidential;

(b) The Conference shall be convened immediately at the conclusion of trial.

Rule 56. Vote Required

The concurrence of a majority of the Conference shall be necessary to make any decision.

Rule 57. Decisions and Opinions

(a) The final disposition of an action before the Court shall be stated in a written opinion (“Opinion of the Court”).

(1) The Chief Justice shall assign a member of the majority the task of writing the Opinion of the Court and the applicable Order or Decree;

(2) A Justice who agrees with the decision reached in a particular action but disagrees partially or completely with the reasoning supporting the decision as stated in the main opinion, may file a concurring opinion;

(3) A Justice who disagrees partially or completely with the decision reached in a particular action may file a dissenting opinion;

(4) Justices may file opinions concurring with respect to some parts of the Opinion or Judgement of the Court and dissenting from parts of the Opinion of the Court;

(5) Each opinion may indicate the Justice who authored and delivered it. If it does, it shall also indicate (even if only in the Syllabus) the other Justices serving on the Action who joined in the reasoning stated by the opinion;

(6) The Court may also deliver a *per curiam* opinion.

(b) The announcement of the decision of the Court in an action before it and the reading of the opinions shall not be made on the same day on which the trial of the action was held. The parties shall be informed as to the day on which the Court shall reconvene for the rendering of its decision and the reading of opinions and whether they shall be required to be present. Rendering of decisions and the reading of opinions shall be made from the steps of South Building when possible and at the discretion of the Court;

(c) If the Court determines that an immediate decision is necessary to preserve the rights and remedies of the parties or to otherwise preserve the legal status quo, it may, after conference or at trial, announce its decision in the action or as to particular issues of the action on the same day on which the trial was held. The reading of opinions shall be made on another day to be announced by the Court and the parties shall be required to be present.

X. AUTHORITY**Rule 58. Stare Decisis**

Previous decisions of the Court on issues of law shall be binding on the Court in its determination of questions of law except in cases of altered textual authority, altered factual circumstances, macro-scale

legal alterations, or determinations that a previous decision was erroneous.

Rule 59. Enforcement of Judgement by Injunction

In any action, the Court may enforce its judgement by the issuance of an appropriate mandatory or prohibitory injunction to the person to be required to do an act or restrained from doing an act. An injunction may be enforced by appropriate contempt proceedings.

Rule 60. Enforcement of Judgement by Honor Code

In any action in which a party fails to honor the enforcement authority of the Court, the Chief Justice may refer the matter to the Attorney General of the appropriate constituency as a violation of the Honor Code. *See e.g.*, Student Const. ch. 1 art. IV, §1; I I.S.J.G. §§II(A), (C)(3)(b).

Rule 61. Enforcement Power Generally

The enforcement powers enumerated in this section shall not be considered exclusive.

XI. JUSTICES

Rule 62. Number and Title of Justices

(a) The full Court is comprised of three (3) undergraduate Justices and two (2) graduate and professional student Justices.

(b) *Acting Chief Justice.* The senior-most justice where the Court does not have the ability to elect a Chief Justice, or cannot reach a determination in an election, shall serve as the Chief Justice, and shall bear the title of “Acting Chief Justice”;

(c) *Chief Justice.* The Chief Justice may only be elected when the Court has five (5) Justices.

Rule 63. Instrument Obligations Binding

(a) The Student Constitution confers Judicial power in the *Instrument of Student Judicial Governance*. *See* ch. 1 art. IV, §2.

(b) Justices and Officers of the Court shall be expected to abide by the standards of conduct binding on the Student Honor System Officers as delineated by V I.S.J.G. §A (rev. 2021).

(c) Justices and Officers of the Court shall be expected to honor Students’ Rights of Privacy and Free Expression. *See* I.S.J.G., app. D.

XII. APPEALS

Rule 64. Notice of Intent to Appeal

(a) Any party appealing (“appellant”) an order, judgement, opinion, decree, or otherwise dispositive decision of a quasi-judicial body of any student organization deriving authority from the Student Constitution or receiving Mandatory Student Activity Fee Funding may file with the Clerk or a Justice of the Court, a Notice of Intent to Appeal (“Intent to Appeal” or “Notice” in this Title) within fourteen (14) calendar days of the date of the order, judgement, decree, opinion, or decision’s finalization or issuance.

(1) upon showing of cause and a subsequent majority vote of the Court, a Notice may be accepted out of time;

(2) this rule shall not apply to the BOE, as per Rule 5(a).

(b) The Notice of Intent to Appeal shall:

(1) specify the party of parties taking the appeal by naming each one in the caption of the Notice;

(2) designate the judgement or appealable order;

(3) indicate whether the appellant requests a hearing before the full Court; and

(4) indicate whether the appellant requests oral argument;

(c) The Court may not dismiss an appeal for informality of form or title of the Notice of Intent to Appeal, for failure to name a party whose intent to appeal is otherwise clear from the Notice, or for failure to properly designate the judgement if the Notice was filed after the entry of the judgement and designates an order that merged into that judgement.

(d) If the Court determines that the appeal does not present a justiciable issue or that it lacks jurisdiction, the Court may issue an order dismissing the appeal which shall so state;

(e) If the Court determines is has jurisdiction to hear the appeal, the Court shall issue an order which:

(1) states the deadline for the submission of briefs from the appellant and appellee;

(2) grants the appellee between three (3) to seven (7) days beyond the deadline of the appellant;

(3) shall end this order to the appellant and appellee’s counsel (if applicable) through electronic mail.

Rule 65. Preparation of Record and Transcripts

The record and transcripts of the quasi-judicial body must be filed with the Court or the appellant may submit a motion for a subpoena requiring the appellee to produce all available, pertinent records and transcripts.

Rule 66. Privacy

(a) If the records required to be reviewed by Rule 65 are subject to privilege, confidentiality, or other protection, the Court shall not make public these records, Briefs, case documents, nor any recording of the oral argument on the appeal, though the parties may, under some circumstances, produce waivers of certain privileges to enter evidence into the record.

(b) Nothing in this Rule shall be interpreted to allow for the dissemination of protected or privileged information beyond the Court;

(c) The only public record of an appeal before the Court where privileged information is considered shall be the Opinion of the Court which shall be appropriately redacted in accordance with University Policy, to strike confidential or privileged information.

Rule 67. Briefs

(a) Briefs filed in the Court shall contain in concise and clear language the following:

(1) a table of contents if the brief exceeds 1,500 words;

(2) an index to statutory, judicial, and other authorities cited within the brief if the brief exceeds 1,500 words;

(3) a statement of the facts or controversy presented by the case;

(4) a concise statement of the jurisdictional issues including statutory provisions and scheduling factors on which jurisdiction relies;

(5) a statement of the question of law presented;

(6) a statement of the standard of review or standard of review proposed;

(7) the argument(s) of the party submitting the brief; and

(8) a conclusion consisting of a petition for the relief to which the party submitting the brief feels themselves entitled.

(b) A brief shall be signed by the Counsel of the party submitting the brief or the party submitting the brief if they do not retain counsel.

(c) A brief shall comply in all respects with Rule 31.

(d) A reply brief shall conform to those portions of this rule applicable to the brief for an appellee, but need not contain a summary of the argument.

(e) The Brief shall be concise, logically arranged with proper headings, and free of irrelevant, immaterial, or scandalous matters. The Court may disregard or strike non-compliant briefs.

Rule 68. Oral Argument

(a) *Standard.* Oral argument shall be scheduled in every case unless the assigned Justice(s) determines that oral argument would be unnecessary for any of the following reasons:

- (1) the appeal is frivolous;
- (2) the dispositive issues have been authoritatively decided;
- (3) the facts and legal arguments are adequately presented in the briefs and record such that adjudication would not be significantly aided by oral argument;

(b) *Notice.* The Court shall advise all parties of whether or not oral argument will be scheduled within two (2) calendar day of the submission of all parties' briefs.

(c) Each side, a Court order to the contrary, shall be allotted thirty (30) minutes for oral argument after which the Court shall enter Conference.

Rule 69. Deliberation in Appellate Cases

(a) After conclusion of the Conference, if applicable, the Chief Justice shall conduct a vote. A majority of the Justices sitting for oral argument shall be necessary to take any action other than affirming the judgement of the lower body.

(b) In the case of a tie, the Court shall issue a judgement saying only "The decision of the [lower body] is affirmed by an equally divided Court."

(c) The final opinion shall be appropriately redacted

(d) The Court shall deliver a copy of the opinion, order, and/or judgement to the parties via electronic-mail within twenty-four (24) hours of the entry of the judgement. The copy shall include a notice of the date and time when the judgement was entered.

XIII. PERSONNEL

Rule 70. Clerk

The Chief Justice shall appoint a Clerk subject to the majority of Justice's approval. The Chief Justice may also appoint an Acting Clerk during the temporary absence of a Clerk.

Rule 71. Clerk's Duties

The Clerk of Acting Clerk shall:

- (a) maintain an accurate record of the proceedings of the Court;
- (b) maintain an individual file for each case or controversy before the Court and any other relevant material, as deemed necessary by the Chief Justice;

(c) Ensure that records of the Court are archived on the website and at the University Archives in Wilson Library at the end of the Court's term; and

(d) Maintain approval to handle funding matters for the Court before all constituencies of Student Government.

Rule 72. Removal

The Chief Justice may remove the Clerk at any time.

Rule 73. Standards

The Clerk or Acting Clerk shall not:

(a) divulge any information learned by them concerning any action before the Court, except when the information is of general public knowledge;

(b) seek to influence the outcome of any controversy or case before the Court or any issue to be decided by the Court; and

(c) do any act or make any statement out of Court which would tend to compromise the impartiality of the Court.

XIV. ETHICS

Rule 74. General Prohibitions

(a) Justices and Court Personnel shall be prohibited from:

(1) discussing out of court the merits and issues of controversies or cases before the Court or to be before the Court (*e.g.*, unresolved, novel, or advisory answers);

(2) taking any action on behalf of the Court without proper authority to do so;

(3) accepting any material or immaterial compensation in return for official actions;

(4) urging the amendment, passage, or defeat of any measure before any organ of Student Government;

(5) campaigning or publicly endorsing any candidate for student-office, student-constitutional amendment, or student-referenda; or

(6) providing political or strategic advice to any candidate for office or party to litigation.

Rule 75. Dual Service Prohibition

(a) No member of the Court or its personnel shall concurrently hold any other office of honor, trust, or profit in any organ of Student Government.

(b) Should a member of the Court or its staff hold additional Student Government office(s) upon their confirmation, they shall be

required to stop exercising official powers and resign from those positions as soon as reasonably possible.

Rule 76. Conflicts of Interest

(a) Should any case come before the Court involving a student organization in which a Justice holds a position of leadership or is otherwise unable to regard with impartiality, they shall be obliged to recuse themselves from all relevant proceedings.

(b) Should the Chief Justice recuse themselves, the most senior Associate Justice shall preside.

Rule 77. Removal

(a) Gross malfeasance, gross nonfeasance, or other repeated and egregious violations of the Student Constitution or these Bylaws shall constitute grounds for a Justice's impeachment and removal.

(b) Legislation calling for the impeachment of a Justice shall originate in either the Undergraduate Senate (UGS) or GPSG Senate. A two-thirds (2/3) vote of either Senate shall be necessary to prompt impeachment consideration by the Joint Governance Council.

(c) A two-thirds (2/3) vote of the Joint Governance Council shall be required to remove a Justice from Office.