

# Standing Rules of the Judicial Branch

2017 – 2018

## Undergraduate Student Government The Ohio State University

*For the purposes of establishing conduct and order within the USG Judicial Branch, these rules are herein created.*

August 23, 2017

SUBMITTED BY CONNOR GREENWOOD, CHIEF JUSTICE PRESIDING

### **I Acknowledgement of Superseding Documents**

i All rules contained herein are superseded by and shall not conflict with the USG Constitution and Bylaws.

### **II Membership of the Judicial Panel and Judicial Panel of Appeals**

i The Chief Justice and four Associate Justices shall hear initial claims for alleged bylaw violations equal to or over Type III; all other initial claims will be heard by the Chief Justice.

ii. The Judicial Branch of the Undergraduate Student Government shall be divided between a Judicial Panel with original jurisdiction and a Judicial Panel of Appeals with appellate jurisdiction.

a For all panels, justices shall be chosen at random. All parties involved at the hearing have the right to be present during justice selection.

- b Any Justice who exhibits a conflict of interest may recuse him or herself or may be forcibly recused by the Chief Justice.
- ii Three Associate Justices shall be chosen at random to serve on the Judicial Panel of Appeals from the Justices who did not hear nor who have conflict with the original claim.
  - a The Chief Justice shall moderate the appeals hearing.
  - b A representative from the Office of Student Life who does not have a conflict of interest, shall be present to hear appeals. The Judicial Branch shall ensure this.

### **III Clerks of Court**

- i The Judicial Panel shall select Clerks of Court to facilitate its operations and to improve the quality of rulings and the judicial process as a whole.
  - a Clerks can be confirmed or removed by a majority vote of the Judicial Panel at any time.
  - ii Clerks of Court shall have the following responsibilities:
    - a Act as liaisons between the Judicial Panel and all parties.
    - b Schedule a time and place for all hearings.
      1. Schedule a time and place for all hearing and notify all parties, the Judicial Panel or the Judicial Panel of Appeals and officers of the court.
    - c Receive and distribute all briefs submitted to the Judicial Panel and Judicial Panel of Appeals to members of both Panels and all parties.
    - d Research relevant precedent prior to hearings and brief the Judicial Panel on the facts of the case, precedent, expected evidence, and other crucial information that has the potential to aid the Judicial Panel.
    - e Help the Judicial Panel write opinions when requested.
    - f Compile written opinions of the Judicial Panel and prepare an official Records of the Judicial Panel, which shall contain all important documents of the judiciary.
    - g Ensure that all parties and witnesses remain accessible and informed during initial and appellate hearings.
      1. Clerks of Court shall arrange a designated meeting area outside of the courtroom for both parties and witnesses.
    - h Assist the Judicial Panel in any other way that it deems necessary for the facilitation of its operations.
    - i Shall give a contact phone number and/or e-mail address for all parties involved in proceedings.
    - iii All Clerks of Court shall retain the same responsibilities toward the Judicial Panel of Appeals.
    - iv The Chief Justice of the Judicial Panel shall be responsible for coordinating all procedures followed by and actions of the Clerks of Court.
    - v Clerks of Court shall not attend deliberations of the Judicial Panel or Judicial Panel of Appeals if they are acting as a party in the hearing.

### **IV Decorum**

- i The proceedings before this panel are to be respectful and orderly at all times, including but not limited to the following:

- a Parties are encouraged to address the Chief Justice as “Chief Justice [his or her last name].” Parties are encouraged to address Associate Justices as “Justice [his or her last name].”
- b Parties are encouraged to be on time for proceedings in which they are to participate, or are encouraged to notify the clerk in such case that they will be tardy or absent.
  - 1. Should a party not be present, the proceedings may continue at the discretion of the Chief Justice.
  - ii Breach of decorum before this panel may result in removal of a party from the proceedings in which they are present. The panel may proceed if a party is removed due to violation of decorum.
    - 1 If the party in question is a candidate in the USG Elections, they may be subject to a Type I bylaw fine.
    - 2 A party removed due to violating decorum can not use removal as a reason for appealing
  - iii All hearings shall be closed to the public and the press to preserve the integrity of decisions and privacy of involved parties subject to the discretion of the Chief Justice of the Judicial Panel.

## **V Standards of the Courts and Rights of Parties**

- i Standards
  - a The Panels shall use a preponderance of evidence standard in evaluation of all claims and appeals.
  - b The Judicial Panel and Panel of Appeals shall use a reasonable person standard when arbitrating disputes of fact.
- ii Rights
  - a The Respondent shall be considered not in violation until determined otherwise by the Judicial Panel.
  - b The burden of proof for all cases is on the complainant.
  - c The burden of proof for all proceedings of the judicial panel of appeals is on the appellant.
  - d Both the complainant/appellant and the respondent/defendant shall be given due notice of all charges and hearings.
  - e Both the complainant/appellant and the respondent/defendant shall have the right to legal counsel.
    - 1. Each party must notify the Clerk of Court when they have appointed legal counsel.
  - i. Legal counsel must be a current undergraduate student of the Ohio State University.
  - 2. Each party is responsible for all actions undertaken by their legal counsel.
  - 3. Each party may only have one legal counsel per hearing.
- f Respondents / defendants shall exclusively have the following rights:
  - 1. Confront accusers and witnesses against them.
  - 2. Refuse to answer any question, without the presumption of guilt.
  - 3. Not be subjected to a hearing for an offense against them already heard by the Undergraduate Student Government Judicial Panel.
  - 4. See all evidence and witness lists to be used against them in the hearing.
- g Should multiple defendants be named in one complaint, those parties have the right to separate their hearings.
- h All parties shall retain all rights guaranteed to them as students of The Ohio State University.

## **VI Notification**

- i Once a brief is filed, the Clerk of Courts shall provide a copy of the brief to the accused, or responding party and the Chief Justice within 24 hours of filing.
- ii The Respondent / Defendant shall be given at least 24 hours notice of the hearing date, time, and location.
- iii The hearing shall be heard within 10 business days of the brief being filed.
- iv The Judicial Panel and Judicial Panel of Appeals shall render a decision within one academic week of the hearing.
- v Once the decision is received, should the respondent/defendant choose to appeal, he or she shall do so within 48 hours of the decision of the Panel.
  - a For appeals based on discovery of substantial new facts that were unavailable at the time of the hearing, the respondent/defendant shall file his or her appeal within five days of receipt of the decision of the panel.

## **VII Briefs**

Complainants shall submit briefs to the Clerks of Court when filing all

- i Claims and appeals.
  - a Briefs shall include:
    1. A cover page
    2. The specific bylaw alleged to have been violated. For appeals, the specific procedural error committed by the Judicial Panel.
    3. A short summary of Complainant's case.
    4. Evidence and witnesses Complainant intends to introduce.
    5. Relevance of all witnesses Complainant intends to question on direct examination.
    6. Any discussion of precedent or statute that Complainant wishes the Panel to examine prior to hearing the claim.
    7. A conclusion.
  - b Briefs may be submitted in electronic format through the template provided on the USG website.
- ii Defendants may submit briefs to the Clerks of Court.
  - a Briefs submitted by Defendant shall follow the same format and guidelines as those submitted by Complainant.
  - b If a brief is not submitted, the Defendant must still inform all parties of any evidence it intends to bring at least 24 hours before a hearing.

## **VIII Procedures for Hearings**

- i Hearings shall begin when the Clerk of Court permits both parties to enter the courtroom. Hearings shall formally begin when the Chief Justice calls them to order.
  - a The Chief Justice shall act as chief spokesperson for the Judicial Panel.
  - b The Chief Justice shall retain all constitutionally and statutorily permitted powers that are necessary for ensuring a fair and impartial judicial process and not granted in these Standing Rules.
- ii Opening statements by both parties, beginning with Complainant and followed by Respondent / Defendant, shall follow the Chief Justice's call to order.

- a Statements will be limited to seven minutes.
- iii Complainant's introduction of evidence shall follow opening statements where appropriate.
- a All witness testimony shall be considered evidence.
- iv Respondent's / Defendant's cross examination of evidence shall follow Complainant's introduction of that evidence where appropriate.
- v Respondent's / Defendant's introduction of evidence shall follow his cross examination where appropriate.
- vi Complainant's cross examination shall follow Respondent's / Defendant's introduction of evidence where appropriate.
- vii The Panel shall follow presentations of and cross examinations of evidence with Investigation, in which first Complainant and then Respondent/ Defendant may ask the Panel to inquire further clarification from the other party to refine specific points raised prior to Investigation where appropriate.
- viii Closing statements, first by Complainant and then Respondent / Defendant, shall follow Investigation.
- ix
  - a Statements will be limited to seven minutes.
- x Hearings shall conclude when the Chief Justice adjourns the Court.
- xi The Judicial Panel shall meet after the hearing has concluded and discuss how it will rule on that case. The Chief Justice shall set the procedure for such meetings at his or her discretion.
- xii Members of the Judicial Panel and Judicial Panel of Appeals may ask questions of all parties at any time during hearings.
- xiii The Chief Justice of the Judicial Panel retains the sole authority to deem any question asked by a party during a hearing as irrelevant or inadmissible and may instruct the Judicial Panel and Judicial Panel of Appeals to disregard it.
- xiv The Judicial Panel, or Judicial Panel of Appeals shall issue a written majority opinion after each ruling on a case, which shall be circulated to both parties, and all justices on the Judicial Panel.

## **IX Procedures for Appeals**

- i The Chief Justice shall have the final ruling on all procedural matters considered by the Judicial Panel of Appeals.
  - a The Chief Justice shall act as chief spokesperson for the Judicial Panel of Appeals.
  - b The Chief Justice shall retain all constitutionally and statutorily permitted powers that are necessary for ensuring a fair and impartial appellate process and not granted in these Standing Rules.
- ii Rulings of the Judicial Panel may only be appealed on the grounds of a procedural error or discovery of substantial evidence unavailable at the time of the *filing*. The Judicial Panel of Appeals shall only determine if a procedural error has occurred and shall rule accordingly, unless discovery of substantial evidence unavailable at the time of the hearing. The Panel of Appeals shall not rule on the facts of the case, respecting finding and interpretation of facts found.
  - a The Judicial Panel of Appeals may only find that a procedural error has occurred when:
    1. The Judicial Panel has improperly allowed or not allowed the introduction of critical evidence.

2. The Judicial Panel's ruling conflicts with the USG Constitution or bylaws.
3. The Judicial Panel's ruling is inconsistent with other rulings of the Judicial Panel.
4. The Judicial Panel has exhibited a demonstrated bias toward a party.
5. The Judicial Panel has imposed a penalty disproportionate to Defendant's violation.
6. The Judicial Panel has committed another serious procedural error resulting in the loss of a fair and impartial judicial process.
  - i. Appeals filed for this reason must be filed within 48 hours after the initial hearing.
  - b. When the Judicial Panel of Appeals does not find that the Judicial Panel has committed a procedural error, it shall uphold the Judicial Panel's original decision, except when there is a finding of substantial new evidence unavailable at the time of the filing.
    - i. Appeals filed for this reason must be filed within 5 days after the initial hearing.
    - iii. The Judicial Panel of Appeals may remand any appeal back to the Judicial Panel to acquire further clarification of key facts on which a fair ruling in the initial claim rests. Remanded cases may be appealed.
      - a. Remanded cases shall be heard by the same Justices who heard the original claim.
1. In the event that a Justice is indisposed, another justice shall serve on the panel.

### **X Procedures for Elections**

- i. The Panel must hold at least four meetings for candidates intending to run in a election before the Election Time.
  - a. These meetings will cover all pertinent information regarding the election materials.
  - ii. The clerk will be responsible for ensuring the legitimacy of the petitions and other papers turned in per the Election By-Laws.
  - iv. The elections shall be run per the approved timeline and documents under Title 1.
  - v. Per the Constitution, the Judicial Panel reserves any other power not herein listed with respect to the elections. The Judicial Panel is the sole authority on the elections and is responsible for the operation of it.

### **XI Records of Initial and Appellate Hearings**

- i. Audio recordings or transcripts of initial and appellate hearings shall be made available to all undergraduate students within 24 hours of those hearings. Neither audio records nor transcripts shall be altered in any way that makes those records misleading.
- ii. No transcripts or recordings of the deliberations of the Judicial Panel, or the Judicial Panel of Appeals, shall be made available at any time.

### **XII Opinions**

- i. Majority Opinions of the Judicial Panel shall include an overview of the facts of the case, acknowledgement of relevant precedent, arguments and evidence presented by both parties, and the Judicial Panel's ruling and reasoning.
- ii. Majority Opinions of the Judicial Panel of Appeals shall include a discussion of the Judicial Panel's initial ruling, any alleged procedural errors, relevant precedent, and the Judicial Panel of Appeal's ruling and reasoning.

- a The Judicial Panel of Appeals may not issue any opinion on the soundness or practicality of the Judicial Panel's initial ruling on the facts of the case. Majority Opinions of the Judicial Panel of Appeals are limited to discussions of alleged procedural errors.
- iii All Majority Opinions shall include the vote margin by which the case was decided and shall disclose which Justices dissent.
- iv Dissenting Justices may write a dissenting opinion.
- v Concurring Opinions may be written if a Justice agrees with the Majority Opinion but for different reasons.

### **XIII Autonomy**

- i If any ruling made by the Judicial Panel of Appeals is overruled by any other body of the Ohio State University, the Judicial Panel and the Judicial Panel of Appeals may disregard that body's opinion as binding precedent.

### **XIV Transparency**

- i These Standing Rules shall be made available to all undergraduates and shall be circulated to all parties.

### **XV Amendments to the Election Bylaws**

- i The Chief Justice and other justices may propose amendments of the Judicial Panel Standing Rules to the General Assembly or an iteration of the G.A. for approval.
- ii Amendments to the Election Bylaws shall be approved by a majority vote of the Justices.

### **XVI Amendments to the Standing Rules of the Judicial Branch**

- i The Chief Justice and other justices may propose amendments of the Judicial Panel Standing Rules to the Senate for approval.
- ii Amendments to these Standing Rules shall be approved by a majority vote of the Justices.