

Judicial Procedure

THE UNIVERSITY OF TULSA STUDENT ASSOCIATION

SA Judicial Council Rules of Procedure (2008/2009 Revision)

Pursuant to section 1.60 of the Judicial Code of the Student Association of the University of Tulsa (hereinafter referred to as SA) the SA Judicial Council does hereby establish the Federal Rules of Civil Procedure and Federal Rules of Evidence to guide the exercise of powers of the SA Judicial Council; except where said rules conflict with existing SA law, University of Tulsa policies as published in the Student Handbook or elsewhere, or other procedures contained in this document. These rules shall remain in effect until such time where new rules can be promulgated and adopted.

Section 1: Filing a petition

In order for the Judicial Council to make determinations or issue writs of mandamus or election, a petition must be filed as described in this section. Petitions to be heard by the Judicial Council shall be filed with the SA Secretary in the SA office between 8:00 am and 5:00 PM Monday through Friday excluding University or legal holidays. An electronic copy of the petition and any supporting documentation as outlined below shall also be e-mailed to the Chief Justice. If supporting documentation cannot be transmitted electronically, the e-mail should contain the petition and description of documents already on file in the SA office. The petition shall include the following:

- A) A short and plain statement of the claim showing that the filing party is entitled to relief as prescribed by the governing documents of the Student Association,
- B) A demand for a Writ of Mandamus, Writ of Election, or Appeal from the Election Board or other governing body which provides for appeal directly to the Judicial Council;
- C) Any documentation or evidence which will or should be used to support the petition, and;
- D) If the filing party of the petition believes time is of the essence, a request for an emergency hearing should be identified as such.

The Chief Justice will, upon receipt of the petition, make every effort to contact all parties involved and inform them of the date and time of all hearings. If the Chief Justice is unable to make contact with all parties within 24 hours, the Chief Justice may grant a continuance until such time that all parties can be contacted. In accordance with § 1.40 of the Judicial Code, the Judicial Council shall meet to discuss the petition and schedule either the settlement conference or hearing within 72 hours of the filing of a petition. If an emergency hearing is requested, the Chief Justice shall make a determination whether time is of the essence and notify all parties immediately for settlement conference or hearing to be convened within 24 hours of the petition being filed.

For a writ of election demand, they shall proceed directly to the hearing process and settlement conference requirements shall not apply.

For writs of Mandamus, within 72 hours, excluding Saturdays, Sundays, and holidays recognized by the University, the Judicial Council shall convene a settlement hearing with the parties involved. If the petition is not resolved at the settlement hearing, then a date for a further hearing will be set. In order for a petition for a Writ of Mandamus to be considered, all other remedies should be exhausted as prescribed by the governing documents of the Student Association.

Notwithstanding deadlines provided for filing a petition in other governing documents, a petition shall be filed no later than five business days from final action giving rise to the petition.

For purposes of the settlement conference, the evidence as presented and discussions had will be confidential as governed by the Federal Rules of Procedure.

Settlement hearings shall be conducted in an informal setting outside the scope of the rules of civil procedure. The method to be employed during settlement hearings shall be determined by the judicial council. As settlement conferences are non-binding except by agreement of both parties, a minimum of three members of the judicial council shall be present to conduct the conference.

All parties shall have a representative present that has settlement authority at settlement hearings. Either the party filing the petition or defending against the petition can be considered to negotiate in good faith even if final approval of the settlement requires affirmation from their executive council or full governing body. Failure to have a representative with full settlement authority can result in a default judgment in favor of the opposing party at the determination of the Judicial Council. Such a determination shall be made by the full Judicial Council subject to the Constitutionally mandated quorum rules.

Section 2: Powers of the Chief Justice of the Judicial Council

- A) The Chief Justice of the Judicial Council shall preside over all activities of the Judicial Council, and in the absence of the Chief Justice, his/her designate shall assume the powers of the Chief Justice. In the event the Chief Justice does not provide a designee, the most senior justice by appointed terms shall assume powers of the Chief Justice. Should all Justices have served an equal number of terms, then the designee shall be decided by a majority vote of the council.
- B) The Chief Justice of the Judicial Council shall have in addition to the subpoena power listed in § 1.30.5 of the Judicial Code, the power to subpoena any SA document or other item deemed relevant to petition,
- C) The Chief Justice shall rule on procedural matters of the Judicial council as they arise, including, but not limited to objections raised by those before the judicial council,
- D) The Chief Justice of the Judicial Council shall have the power to grant continuances as deemed necessary,
- E) The Chief Justice of the Judicial Council shall have the power to declare any proceeding of the Judicial Council a mistrial for violation of procedure or rights as defined in § 3, and order that a new hearing be convened within 48 hours,

- F) The Chief Justice of the Judicial Council shall have the power to issue orders necessary to ensure the operation of the Judicial Council and enforce the decisions of the Judicial Council including citations for contempt of the Judicial Council.
- G) The Chief Justice of the Judicial Council shall not vote when there is a possibility of a tie vote.
- H) The Chief Justice of the Judicial Council shall have the power to appoint judicial clerks. Judicial Clerks shall be approved by the President of the Student Association. Judicial Clerks will serve as ex-officio members of the Judicial Council and shall have no voting rights. The clerks will be subject to the rules of confidentiality as described in Section 7. To be considered, a clerk should meet all qualifications of a Judicial Council member as prescribed in the Constitution and Judicial Code. Additionally, a clerk should have at least one academic year remaining at the University of Tulsa following their academic year appointment.
 - a. *The purpose of the Judicial Clerks is to develop and train potential judicial members to be considered for either replacement of council members who resign or leave the University. Additionally, the clerks will provide a pool of experienced potential judicial members for the following academic year.*
- I) The Chief Justice shall have one judicial presentation to the Senate in the fall and spring semesters following the installation of new senate members. The presentation should include the process of filing complaints and overall functions of the judicial council.

Section 3: Rights of those before the Judicial Council

Individuals before the judicial council shall have the following rights:

- A) To be informed of the charges being heard at a given hearing,
- B) Present any and all evidence deemed relevant as defined in rules 401 (definition of relevance), 402 (irrelevant evidence inadmissible), and 403 (Exclusion of relevant evidence on grounds of prejudice, confusion, or waste) of the federal rules of evidence,
- C) Bring an objection to a procedural matter to be ruled on by the Chief Justice,
- D) Be informed of Appellate procedures in the course of any hearing,
- E) To be given a fair and equitable hearing- based on the evidence presented.

A violation of the rights of those before the Judicial Council may result in the hearing being declared a mistrial by the Chief Justice.

Section 4: Judgments

The Judicial Council shall decide cases brought before it based on the evidence presented and shall have the power to decide the credibility of said evidence.

A) In cases where a Writ of Mandamus is petitioned for, the cases shall be decided on a preponderance of the evidence.

B) In such cases where a Writ of Election is petitioned for, cases shall be decided shall be decided based on clear and convincing evidence.

C) In all cases the burden of proof shall be on the party bringing the petition before the Judicial Council.

Section 5: Exchange of Evidence

Both the party filing the petition and the party defending against the petition shall exchange all evidence relevant to the pending petition within 24 hours of the scheduled date of the hearing. Failure to do so may result in dismissal of a petition or a citation of contempt by the Judicial Council and/or other order(s) as the Chief Justice may require.

Section 6: Recusal Policy

If a petition filed with the Judicial Council involves an organization which a Judicial Council member is an officer, they shall recuse themselves from the case. If a Judicial Council member is a member of an organization whose petition is being heard by the Judicial Council, they shall disclose this information to the Council and recuse themselves if they do not believe they can render an unbiased decision.

Section 7: Confidentiality

The proceedings, minutes, and other documents of the Judicial Council shall be considered confidential property of the Judicial Council, and cannot be released. The written opinion of the Judicial Council shall be filed with the Secretary of the Student Association, distributed to the party filing the petition, and the responding party to the petition. Any opinions which involve individuals not serving in an official capacity representing an organization shall not have the written opinion filed with the Secretary of the Senate.

The Judicial Council will comply with the 1974 Federal Educational Rights and Privacy Act (FERPA), and all relevant University of Tulsa policies. Any determination for FERPA compliance shall be made by the office of the Dean of Students for the University of Tulsa.