

# **RULES AND PROCEDURES OF THE ASSOCIATED STUDENTS JUDICIAL BOARD OF THE UNIVERSITY OF CALIFORNIA, SAN DIEGO**

These rules and procedures govern the Associated Students Judicial Board, hereinafter referred to as the “Judicial Board.” As described in the Constitution of the University of California, San Diego, hereinafter referred to as the “Constitution,” these rules and procedures may only be amended by both a majority vote of the Associated Students Council and a majority vote of the Judicial Board. These rules and procedures may not be suspended.

## **SECTION 1 Powers and Responsibilities**

The Judicial Board is vested with the judicial authority for the ASUCSD and has the power to resolve any case or controversy arising under the Constitution or any of the rules of the ASUCSD or subordinate bodies.

For cases related to the ASUCSD Elections, the full Judicial Board will oversee appeals only. Initial cases will be heard by the AS Election Committee (see ASUCSD Election Bylaws for additional details).

For cases unrelated to the ASUCSD Elections, members of the Judicial Board will hear initial cases and appeals. Initial cases will be heard by the Vice Chair and two additional members of the Judicial Board (selected on a case-by-case basis by the Vice Chair; the Chair is not eligible for selection for original cases). Appeals will be heard by the Chair and the remaining three members of the Judicial Board. No Judicial Board member can serve on both the initial hearing board and appeals board for the same case.

## **SECTION 2 Membership**

### **Subsection A. Composition**

There shall be seven members of the Associated Students Judicial Board appointed by the Officers with the consent of the Council to a term that expires when the person ceases to be a member of the ASUCSD. Only members of the ASUCSD shall be eligible to serve as a member of the Associated Students Judicial Board. No member of the Associated Students Judicial Board shall also serve in the Cabinet or as a voting member on the Council.

### **Subsection B. Chair**

The members of the Judicial Board shall appoint the Judicial Board Chair, hereinafter referred to as the “Chair,” from the membership of the Judicial Board.. The term of the Chair shall expire with the member’s term on the Judicial Board or upon the appointment of a successor, whichever is earlier.

For cases related to the ASUCSD Elections, the Chair will lead all appeal hearings. If the Chair is not participating in an appeal case, the Vice Chair shall execute all the duties of Chair in

connection with that appeal.

For cases not related to the ASUCSD Elections, the Chair will lead all appeal hearings. If the Chair is not participating in an appeal case, the Judicial Board members shall elect an Acting Chair, who shall execute all the duties of Chair in connection with that appeal.

#### **Subsection C. Vice Chair**

The members of the Judicial Board shall appoint the Judicial Board Vice Chair, hereinafter referred to as the “Vice Chair,” from the membership of the Judicial Board. The term of the Vice Chair shall expire with the member’s term on the Judicial Board or upon the appointment of a successor, whichever is earlier.

For cases not related to the ASUCSD Elections, the Vice Chair will lead all initial hearings and will select two additional members of the Judicial Board to serve on each case. If the Vice Chair is not participating in an initial hearing, the Judicial Board shall elect an Acting Chair from its membership for the duration of the initial hearing, who shall execute all of the duties of the Vice Chair.

#### **Subsection D. President Not a Member**

The President shall not be an ex-officio member of the Judicial Board.

#### **Subsection E. Clerk of the Judicial Board**

The Clerk of the Council shall serve as the Clerk for the Judicial Board.

### **SECTION 3 Filing a Grievance**

#### **Subsection A. Standing**

Any member of the ASUCSD may file a grievance against a party alleging that the party has violated the rules of the ASUCSD.

#### **Subsection B. Process to File and Assignment of Complainant’s Representative**

To file a grievance, the complainant must properly complete the “Judicial Board Grievance Form” and submit the form to the Clerk within twenty-one academic days of the incident. This form must include the complainant’s name and contact information, the appropriate accused party, time, date, and place of specific violations, summary of relevant supporting evidence, reason for seeking a preliminary injunction, and the signature of the complainant.

The complainant shall assign one person to act on behalf of the complainant as their designated representative; this representative may be the complainant.

#### **Subsection C. Withdrawal of a Grievance**

The complainant may withdraw a grievance by notifying the Clerk in writing. Grievances may be withdrawn any time before or during the formal hearing.

### **SECTION 4**

## **Processing the Grievance**

### **Subsection A. Notification of the Accused and Assignment of Accused's Representative**

Upon submission of the Judicial Board Complaint Form, the Clerk shall notify the accused party of the charges including a copy of the Judicial Board Complaint Form within one academic day. If the accused party is the Associated Students, the Clerk shall notify the Associated Students Council within one academic day. The accused shall assign one person to act on the behalf of the accused as their designated representative; this representative may be the accused if the accused is a person. If the accused party is the Associated Students, the Advocate General shall act as the designated representative.

### **Subsection B. Scheduling of Hearing**

The Clerk shall request copies of the schedules of the designated representatives of the parties involved for the next three weeks.

The formal hearing on the grievance must take place within fifteen academic days. A date for the formal hearing must be announced and all parties notified at least five academic days before the start of the hearing. Any request by either party to postpone the formal hearing must be submitted to the Clerk, who may grant the request only with good cause.

### **Subsection C. Request for Preliminary Injunction**

A preliminary injunction is a request made by the complainant that, if issued, prevents the accused party from pursuing a course of conduct until after the Judicial Board hearing. A preliminary injunction should only be requested if the complainant can prove that there is probable cause that the complainant's grievance will be found to be true and that the harm to be incurred if the preliminary injunction is not issued is greater than the harm to be suffered by the accused party if the preliminary injunction is issued.

If the complainant is seeking a preliminary injunction, a request must be submitted in writing to the Clerk at the time of submitting the initial grievance. The Judicial Board Chair and Vice Chair, in consultation with the Clerk and A.S. Director, shall determine whether or not a preliminary injunction is determined to be necessary within two academic days. If a preliminary injunction is issued, the Clerk and the A.S. Director will notify all parties involved and will work with the appropriate University constituents to implement the preliminary injunction. The preliminary injunction shall have no impact on the decision made by the Judicial Board during the formal hearing process.

### **Subsection D. Jurisdictional Challenge**

Within five academic days of being notified of the charges, the accused may challenge the jurisdiction of the Judicial Board to hear the dispute by notifying the Clerk in writing. The jurisdiction of the Judicial Board is outlined in Section A. If the accused challenges the jurisdiction of the Judicial Board, the Judicial Board shall hear brief arguments from both parties immediately before the start of the formal hearing.

If the Judicial Board determines that they do not have jurisdiction over the dispute, they shall

notify both the complainant and the accused in writing, the case shall be dismissed and any issued preliminary injunction shall be vacated.

If the Judicial Board determines that they do have jurisdiction over the dispute and there is no jurisdictional challenge, the case shall proceed normally.

#### **Subsection E. Disqualification of Members**

Members of the Judicial Board are disqualified to sit on any case to which they are a party or testifying as a witness. Members of the Judicial Board are expected to use good judgment in determining if they have a conflict of interest in a case to which they have a personal connection and disqualify themselves accordingly.

### **SECTION 6 Formal Hearing Procedure**

For cases unrelated to the ASUCSD Elections, the Judicial Board will hear initial cases and appeals. Initial cases will be heard by the Vice Chair and two additional members of the Judicial Board (selected on a case-by-case basis by the Vice Chair; the Chair is not eligible for selection). Appeals will be heard by the Chair and the remaining three Judicial Board members. No Judicial Board member can serve on both the initial hearing board and appeals board for a single case.

For cases related to the ASUCSD Elections, initial hearings will be held by the AS Election Committee (see ASUCSD Election Bylaws for additional details). The full Judicial Board will oversee appeals only.

The process for initial hearings and appeals for cases both related and unrelated to the AS Elections are described below:

#### **Subsection A. Exchange of Evidence**

The complainant must provide the accused with a comprehensive list of all the evidence and witnesses to be presented at the hearing at least forty-eight hours before the scheduled hearing. The accused may waive this right.

The accused must provide the complainant with a comprehensive list of all evidence and witnesses to be presented at the hearing at least twenty-four hours before the scheduled hearing. The complainant may waive this right.

#### **Subsection B. Objections to Aforementioned Procedures**

If any of the aforementioned procedures are not followed, any objections must be made in front of the Judicial Board before the start of the formal hearing. The Judicial Board will rule on the objection and may offer any proper remedy including but not limited to a postponement of the formal hearing.

#### **Subsection C. Objections to Proceedings During the Hearing**

Either party's designated representative may raise an objection to hearing proceedings at any time during the hearing including but not limited to admissibility of evidence. The Chair shall

rule on any such objections.

#### **Subsection D. Quorum for Formal Hearings**

For initial hearings regarding cases not related to the ASUCSD Elections, the Vice Chair and two additional Judicial Board members (selected by the Vice Chair on a case-by-case basis), must be present to conduct a formal hearing.

For appeals of cases not related to the ASUCSD Elections, a majority of the Judicial Board members not involved with the initial hearing must be present to conduct an appeal hearing.

For appeals of decisions made by the Election Committee, the majority of the entire Judicial Board must be present to conduct a formal appeal hearing.

#### **Subsection E. Failure of Either Party to Appear**

If the designated representative of the accused party fails to appear to the formal hearing, then the case will be decided based upon the evidence presented at the hearing. If the designated representative of the complainant fails to appear to the formal hearing, then the case will be dismissed.

#### **Subsection F. Hearings Open to the Public**

All formal hearings will be open to the public unless requested otherwise by one of the parties. Hearings may only be closed with good cause, including but not limited to the safety of either of the parties. The Chair shall have the final judgment on any such requests.

#### **Subsection G. Audio Record of Formal Hearing**

An audio recording of all formal hearings shall be made and maintained by the Clerk.

#### **Subsection I. Order of Presentation**

If either party is not their own designated representative, they may only speak as a witness.

The order of presentation for a hearing for cases unrelated to the AS Elections is as follows:

1. Vice Chair introduces case (2 min)
2. Designated representative of complainant presents case, including witnesses (7 min)
3. Designated representative of accused cross-examines complainant and witnesses (7 min).
4. Designated representative of complainant re-questions any witness concerning issues discussed during cross-examination (5 min)
5. Designated representative of accused presents case, including witnesses (7 min)
6. Designated representative of complainant cross-examines accused and witnesses (7 min)
7. Designated representative of accused re-questions any witness concerning issues discussed during cross-examination (5 min)
8. Closing statements by designated representative of complainant (3 min)
9. Closing statements by designated representative of accused (3 min)
10. Vice Chair adjourns hearing and the Judicial Board goes into closed deliberations (no more than 45 min)

The order of presentation for a hearing for appeals of cases related to the AS Elections is as follows:

1. Chair of Election Committee introduces case (2 min)
2. The Judicial Board will hear statement from the accused party (5 min)
3. The Judicial Board asks questions of both the complainant and the accused party (20 min)
4. Chair/Vice Chair adjourns hearing and goes into closed deliberations (no more than 45 min)

### **Subsection J. Questioning by the Board During a Hearing**

Any member of the Judicial Board will have the right to ask questions to clarify any testimony at any time.

## **SECTION 7 Decision**

### **Subsection A. Determining the Outcome**

The decision on the grievance will be based on the preponderance of the evidence that was presented at the formal hearing only. All deliberations shall be open only to the membership of the Judicial Board.

The Board will make its decision by majority vote of those members participating in the case.

### **Subsection B. Written Opinions**

The members on the prevailing side shall designate someone to write the Opinion of the Board. The Opinion of the Board must be endorsed by at least a majority of the members on the prevailing side. The Opinion of the Board shall not exceed 500 words.. The Opinion of the Board shall serve as precedent for future cases and controversies.

In delivering a decision and opinion, members must adhere to precedent unless they explicitly reverse themselves or the circumstances are significantly different.

Judicial Board members may use other campus judicial board decisions and federal and state court decisions as an aid in their decision-making, but shall not be required to use those decisions as binding precedent.

### **Subsection C. Notification and Publication of Decision**

The Opinion of the Board shall be published within one academic day of the formal hearing. All parties to the dispute and the Associated Students Council shall receive a copy of the Opinion of the Board

The official copy of the Opinion of the Board shall bear the signatures of the members who endorse it.. The official opinion shall be filed with the Clerk within one academic day of the formal hearing. All decisions and opinions of the Judicial Board shall be open to the public for viewing.

## **SECTION 8**

## **Appeals**

All decisions of the Election Committee and Judicial Board are intended to be final; however, if extraordinary circumstances arise (see details below), either party may submit a formal written request for an appeal to the Clerk within five academic days of the publication of the official opinions from the initial hearing. The appeal hearing decision is final and no further requests for additional appeals will be permitted.

Extraordinary circumstances include, but are not limited to newly discovered important evidence not known at the time of the hearing; the decision of the Judicial Board is not supported by the findings; misapplication or misinterpretation of the Constitution or rules made pursuant to it; or unfairness in the proceedings including but not limited to the denial of due process that prejudiced the result.

### **Subsection A. Appeals Cases Related to the ASUCSD Elections**

For appeals of rulings made by the Election Committee, the full Judicial Board will participate in the appeals process. The following process will be followed:

1. The AS Judicial Board will hear appeals of rulings made by the Elections Committee. If a Judicial Board member is a candidate or is affiliated with any slate or candidate, they have an opportunity to recuse themselves from the proceedings. If the Judicial Board member refuses to recuse themselves, the rest of Judicial Board may dismiss the Judicial Board member affiliated with a slate or candidate by a simple majority vote.
2. A party may appeal a decision of the Election Committee by either:
  - A. Appealing the sanctions set by the Election Committee
  - B. Appealing the decision of the Election Committee by demonstrating that the Committee acted in inappropriately. This includes but is not limited to:
    - (i) a decision rendered by an Election Committee member who is a candidate or who has publicly endorsed a slate or candidate
    - (ii) evidence of partiality in the election by a member of the Election Committee
3. The Judicial Board shall hear appeal cases only after the Election Committee has issued an initial ruling.
4. The Judicial Board shall decide to hear an appeals case if at least three members vote to hear said case. This decision shall be made within five academic days of its submission.
5. The Judicial Board shall have access to all rulings and recordings by the Election Committee prior to deciding whether or not to hear a case.
6. Appeals shall follow the procedure below:
  - A. Chair introduces case (2 min)
  - B. Party filing the appeal explains grounds for appeal (5 min)
  - C. Chair of Election Committee speaks on behalf of the Elections Committee (5 min)

- D. Members of the Judicial Board asks questions of both parties (20 min)
- E. Chair adjourns appeal hearing and goes into closed deliberations (no more than 45 min)

7. The Judicial Board shall have the authority to impose an alternative sanction or to overturn the sanction of the Election Committee. The Judicial Board has sole jurisdiction over whether or not the Election Committee acted inappropriately and this decision cannot be appealed further.

8. Should any vote of the Judicial Board result in a tie, the decision and/or sanction of the Election Committee shall remain in place.

9. The Judicial Board will issue an Opinion of the Board as outlined earlier in this document.

### **Subsection B. Appeals Cases Unrelated to the ASUCSD Elections**

In the following section, the three members of the Judicial Board who served on the initial hearing are referred to as the “Judicial Board.” The remaining members who did not serve on the initial hearing are referred to as the Appeals Committee of the Judicial Board.

For appeals of decisions not related to the AS Elections, only the members of the board who were not involved in the initial hearing shall participate in the appeals process. In these cases, the Chair of the Appeals Committee of the Judicial Board shall decide whether or not to grant the appeal request within five academic days of its submission. If the request is granted, the following appeals process will be followed:

1. Chair of the Appeals Committee of the Judicial Board introduces case (2 min)
2. The party filing the appeal provides grounds for appeal (5 min)
3. Vice Chair of Judicial Board speaks on behalf of Judicial Board (5 min)
3. Members of the Appeals Committee of the Judicial Board ask questions of both parties (20 min)
4. Chair of the Appeals Committee of the Judicial Board adjourns appeal hearing and goes into closed deliberations (no more than 45 min)

## **SECTION 9 Meeting to Conduct Business**

The Clerk and/or A.S. Director shall convene the Judicial Board for the purpose of conducting business, including but not limited to, approving the appointment of a Chair or approving changes to these Rules and Procedures.