



**The Bylaws of the
Student Government Association
Judicial Branch**

The University of Tennessee, Knoxville

September 20, 2015

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ARTICLE I. PREAMBLE

We, the Judicial Branch of the University of Tennessee Student Government Association, in sound mind, in order to better uphold the integrity of our noble organization and better ensure the prosperity and impact of the Student Government Association, do hereby draft these bylaws. This branch, having been entrusted with the power and responsibility of original jurisdiction concerning questions of constitutionality, as they may pertain to: legislation, internal conflicts and grievances, and election ethics of the Student Government Association, sets forth to ensure a fair and just due-process for all members of the Student Government Association. The goal of this branch is to exist in perpetuity with the other branches of the Student Government Association so as to hold the entirety of the organization to a higher standard. We anticipate, by providing rulings and setting precedents, to erase the errors that have occurred in the past.

ARTICLE II. MEMBERSHIP

Section 1. Oath of Office

- A. Incoming members of the Judicial Court shall be sworn into office by the current Chief Justice during SGA Transitions.

Section 2. Appointment Procedures

- A. All Justices must be appointed by the Student Body President and approved by the Student Senate.
- B. A minimum of one graduate student must serve on the Judicial Branch at any given time.

Section 3. Restrictions on Justices

- A. No member of the Judicial Court shall be on scholastic or conduct probation with the university.
- B. All members of the Judicial Court must comply with the academic policies set forth in the University Rules and Regulations.
- C. All Justices must have at least a 2.5 cumulative grade point average while in office.
- D. Justices may not be an active member in any other branch of Student Government Association, including the Election Commission, during their term in the Judicial Branch.
- E. Justices may not be affiliated with nor publicly support or degrade any SGA political campaign or potential campaign, including independent candidates.

- F. Justices may not run for or be elected for an Executive or Senatorial position during their term in the Judicial Branch.

Section 4. Roles & Responsibilities

- A. It shall be the responsibility of all justices to interpret, uphold, protect, and comply with the Constitution of the Student Government Association and the bylaws of the Judicial Branch.
- B. The Chief Justice shall be primarily responsible for organizing and maintaining the day-to-day operations of this Branch, directing hearings, and ruling with Associate Justices.
- C. Associate Justices shall be responsible for adjudicating hearings and assisting the Chief Justice in the day-to-day operations of the Branch.

ARTICLE III. INTERNAL PROCEDURES

Section 1. General Guidelines

- A. The Student Government Judicial Branch shall convene at the discretion of the Chief Justice in order to conduct normal business matters. Three or more Justices may ask the Chief Justice to call a meeting. Should the Chief Justice refuse to act, the Justices may call the meeting independently with same quorum and procedure guidelines in effect.
- B. The Chief Justice will decide which activities and meetings of the Branch require mandatory attendance from the Justices.
- C. The Chief Justice shall appoint one Associate Justice to keep minutes for each meeting. Minutes shall be emailed to the Chief Justice within 24 hours of the meeting's end and shall be filed appropriately.
- D. Upon accumulating more than three unexcused absences, the Justice in question will only continue to serve on the Branch at the discretion of the Chief Justice.
- E. After more than three absences, the Chief Justice may request a Removal Hearing for the Justice in question.

Section 2. Removal of Justices

- A. A member of the Judicial Branch may be removed if the Justice has shown gross negligence in their duties as outlined in the SGA Constitution or the Judicial Branch bylaws.
- B. A Justice may be removed if it is shown that the accused individual has engaged in egregious abuse of their position in the Judicial Branch.
- C. Following the removal of the Chief Justice, the SGA President will appoint a current Associate Justice to act as Chief Justice for the remainder of the term.

- D. If any Justice shall enter as a candidate for a position within SGA elections, that Justice shall be found in violation of the Neutrality Agreement. The Justice shall be removed from the Judicial Court and shall be ineligible to run for or serve within SGA for the following academic year.
- E. If any Justice is found to have supported, degraded, or otherwise been affiliated with a political campaign or candidate they shall be found in violation of the neutrality agreement.
- F. In the event that a Justice violates their duties or responsibilities, they may be reprimanded or removed through a Removal Hearing conducted by the Chief Justice, Student Body President, and Vice President.
 - (1) Such a hearing shall not include other Associate Justices, except in the case that the Chief Justice is in question, when an appointed Associate Justice shall replace the Chief Justice.
- G. If a Justice is removed from the Judicial Branch, the Student Body President shall appoint a new Justice to fill the vacancy for the remainder of the term, provided confirmation of the Student Body Senate.

ARTICLE IV. HEARINGS AND PROCEDURES

Section 1. Pre-Hearing Judicial Documents

A. Writ of Injunction

- (1) A signed, written, and witnessed statement shall be required from a Justice in order to authorize an injunction in cases pertaining to the Constitution, legislation, elections, or any other matters.
- (2) The purpose of the writ of injunction will be to forbid those named in the writ or any other relevant parties to (1) do, (2) threaten, (3) attempt, or (4) continue an act which is unjust, inequitable, or injurious and which cannot be immediately addressed by action of the Judicial Branch.
- (3) If a hearing is requested, the status of the writ shall be determined by the outcome of the hearing.

B. Writs as Truancy and Removal Tools

- (1) Writs of Mandamus may be issued by the Judicial Branch to inform SGA officials that adequate evidence of negligence and/or abuse of their duties and responsibilities has been shown. A case for remedial action or removal may be submitted to/by the Branch if adequate evidence is shown that the writ has been ignored.

C. Notification of Writs

- (1) The Chief Justice will be notified of any and all writs before they are served for the purpose of ensuring proper protocols are followed by all

parties involved. If a writ is issued without prior notification of the Chief Justice, the status of the writ will be determined by the Court once the Chief Justice is aware of the writ.

D. Subpoenas

- (1) The Chief Justice or two Associate Justices may issue subpoenas requesting an individual to appear in a hearing before the Judicial Branch.

Section 2. Initiation of Hearings and Complaints

A. Procedure for Submission

- (1) All hearings and complaints will be initiated by the plaintiff and shall be filed using the Judicial Branch hearing form located on the SGA website. When completed, this form should be submitted to the Chief Justice. This procedure will be followed in all general hearings and in cases pertaining to elections when the Judicial Branch will serve as the Ethics Committee, as stated by the SGA Constitution.

B. Electronic Communication Between Branch and Parties

- (1) Email will be the primary form of communication between the branch and all parties involved. The Branch will send all notification via email unless specifically requested to do otherwise by a party involved.

C. Hearing Time Frame

- (1) All general hearings will be scheduled to allow at least 48 hours notice to all parties.
- (2) If there are no objections from all parties involved, the Judicial Branch may schedule a hearing prior to the 48 hour window.
- (3) Because of time constraints and a dire need for timely rulings, the Judicial Branch reserves the right to schedule hearings with only 12 hours notice when the appeals and complaints pertain to violations of the current SGA Election Rules and Procedures.

Section 3. Party Representation

- A. All parties will represent themselves and counsel will not be provided to them by the Judicial Branch.
- B. If a party is unable to be present at hearing proceedings, the party may appoint a representative of their choosing to represent them in front of the Judicial Branch. Failure to appoint a party with relevant knowledge of the complaint may result in the Branch's dismissal of the complaint.

Section 4. Pre-Hearing Procedures

- A. A pretrial hearing date may be set by the Judicial Branch in order to determine the legitimacy and relevancy of the complaint or appeal and to provide consideration of the following:
 - (1) Evidence;
 - (2) Motions to disregard evidence by either party;
 - (3) To determine if evidence was obtained legally and in accordance with Hilltopics and the SGA Constitution;
 - (4) Witness List;
 - (5) Written Communication;
 - (6) Motion to Dismiss Case.
- B. Each party and/or their representative must be in attendance to raise claims against any of the preceding.
- C. The Judicial Branch will only hold a pretrial hearing if requested or if deemed necessary to consider the proceeding.

Section 5. Hearing Procedures

- A. *Failure to Appear*: The failure of the plaintiff or their representative to appear before the Judicial Branch without justifiable cause, approved by the Judicial Branch, shall terminate his or her right to a hearing.
 - (1) In the event that the defendant fails to appear at the scheduled oral arguments, the Judicial Branch reserves the right to conduct an ex parte hearing consisting of presentations by only one side.
- B. *Quorum*: A quorum for the Judicial Branch shall be established as 5 of 7 Justices and a hearing may only begin when the Judicial Branch has reached that quorum.
 - (1) Any justice may recuse themselves from a case if they feel that a conflict of interest exists.
 - (2) The Chief Justice may approve or deny requests for recusal, in order to maintain quorum.
 - (3) Should a Justice recuse him or herself from a case, a document from both parties can be acquired to indicate their approval of the Justice presiding over the hearing. At that time, the Justice may choose to preside over the case. If such a document is acquired, neither party shall be able to bring up the potential conflict of interest during the hearings or appeals.
- C. *Opinion Writing*: When the Chief Justice is in the majority in a given case, he or she shall write the majority opinion or delegate another Justice within the majority to do so. When the Chief Justice does not vote with the majority of the Judicial Branch, the majority coalition shall delegate the responsibility of writing the majority opinion to one member of the majority. Individual Justices are able to write or join concurring or dissenting opinions.

- D. *Filing and Posting of Opinions*: Every opinion issued by the Court, whether majority, concurring, or dissenting opinion must bear the signature of each Justice joining the opinion. After approval, a copy of each opinion is to be placed in the Student Government Association Judicial Branch permanent file. Similarly, each opinion shall be issued to all parties involved, as well as posted on the SGA website.
- E. *Amicus Curiae Briefs*: Any entity is permitted to submit to the Judicial Branch, for any case, an amicus curiae brief that outlines the outcome sought by the submitting party and the reasoning supporting that outcome. All briefs must be submitted to the Chief Justice after the complaint for the respective case has been filed and at least five hours before the beginning of oral arguments for the same case.
 - (1) Amicus curiae briefs are in no way binding upon the Judicial Branch's ultimate decision in the case.

Section 6. General Hearing Provisions

- A. This article applies to any hearing that may be convened by the Judicial Branch.
- B. If the information presented is of a nature that is deemed confidential by FERPA, HIPAA, or any other educational confidentiality laws or policies of the University of Tennessee, then the Judicial Branch shall move into executive session.
 - (1) Either party may make a motion for the Judicial Branch to enter into executive session if they provide valid cause related to the preceding.
 - (2) Executive Session is defined as members of the Judicial Branch and the party presenting any confidential information.
 - (3) The Judicial Branch may request, but may not require, a party to present any information that is deemed confidential by FERPA, HIPAA, or any other educational confidentiality law or policy of the University of Tennessee. All confidential disclosures must be presented only with the written permission of the respective party.
 - (4) Information discussed in executive session is to be treated with the highest level of confidentiality by all persons involved with said session. This applies during and after executive sessions.
- C. The amount of people allowed to attend a general hearing shall be limited to the capacity of the room.
 - (1) Entry preference shall be given to witnesses and other relevant parties as deemed by the Judicial Branch.
 - (2) Further entry into the hearing will be granted on a first-come, first-serve basis.
- D. The Judicial Branch reserves the right to remove any person in attendance on the grounds of disruptive behavior, as deemed by the Judicial Branch.

- (1) Outside disruptions will not count against either party's total time limit.
- E. The Judicial Branch shall be able to sequester itself at any point before, during, or after a case for any reason deemed necessary. A motion and a second to the motion shall be deemed sufficient for the Judicial Branch to sequester. No record shall be kept of Judicial Branch proceedings while the Branch is sequestered.
 - F. Any opinions by a Justice given outside of the Judicial Branch setting, otherwise known as advisory opinions, are not binding on either that Justice or the Judicial Branch.
 - G. All decisions of the Judicial Branch shall also be accompanied with a copy of the original complaint posted on the SGA website.

Section 7. Appeal Procedures

- A. Motion for appeal will only be entertained if a procedural fault has been found.
 - (1) This motion shall be made in the manner of any appeal and should follow the same procedures listed in Article IV, Section 2.
 - (2) The appeal should specifically list any procedural errors in question.
 - (3) This motion must be made within seven days of the opinion being written.
- B. If the Judicial Branch refuses to hear an appeal and a party believes there has been a procedural error, the party may take evidence of said procedural error and pursue an appeal with the Student Tribunal.

ARTICLE V. ELECTION ETHICS

Section 1.Original Jurisdiction

- A. All original judicial authority pertaining to student elections shall rest with the Judicial Branch. Members of the Judicial Branch shall be prohibited from maintaining any affiliation with candidates and political campaigns and shall be required to certify neutrality upon their appointment to the Branch.
- B. The Election Commissioner shall serve as an ex-officio member of the Judicial Branch during times of election, but shall be barred from voting in all disputes.
 - (1) Another member of the Election Commission may serve as the Commissioner's proxy in the event the Commissioner cannot attend a proceeding of the Judicial Branch.
 - (2) If any member of the Election Commission is a party in a hearing, then ex-officio status is waived for that respective hearing.

Section 2. Adjudication of Election Matters.

- A. *Authority of the Judicial Branch:* The Judicial Branch shall have the authority to adjudicate all controversies arising from or pertaining to campaign activities and any injury thus resulting.
- B. *Justices as Parties in Election Disputes:* Neither the Judicial Branch, nor members thereof, except the Election Commissioner, shall have standing to act as a party in disputes arising from or pertaining to alleged illegal campaign activities.
- C. *Determination of Sanctions:* In determining sanctions against campaigns and individuals for violations of the election packet, the Judicial Branch will consider both the spirit and the letter of the statutes presented in the current Election packet.
- (1) The severity of sanctions pronounced by the Judicial Branch against offending parties will be proportional to the relative advantage gained by the violation, the level of damage from the violation to the integrity of the election process, and the repeatability of instances.
 - (2) The level of damage to the integrity of the election process will be subject to the judgment of the Judicial Branch.
 - (3) Upon finding an individual or party guilty of a specific violation, the Judicial Branch shall recommend an appropriate sanction that may include but is not limited to: disqualification from the election, and/or disciplinary action by the University as outlined in *Hilltopics*.
 - (4) The Judicial Branch decisions may be appealed to the Student Tribunal pursuant to guidelines outlined in Article IV, Section 7.
- D. *Deadline for Filing of Charges:* While charges may be filed with the Judicial Branch during the course of the election period, all charges must be registered with the Judicial Branch within an hour of polls closing on the last day of voting.
- (1) All charges must be filed online at <http://votesga.utk>.
 - (2) Charges may be registered by anyone observing an irregularity.
 - (3) Regarding complaints filed prior to the election, the Judicial Branch will meet within 24 hours of the time that the complaint was registered and promptly render judgment.
- E. *Hearings as Privilege:* The Judicial Branch shall make an effort to hear all filed complaints, but reserves the right to rule on summary judgment. This is to ensure the efficacy and timeliness of rulings during the time constraints of the election process.

Section 3. Challenging Election Results

- A. Complaints that challenge the results of the Student Government Association elections shall be filed online at <http://votesga.utk.edu> with the Judicial Branch.

The complainant or respondent may then appeal the Judicial Branch's decisions to the Student Tribunal as laid out in Article IV, Section 7.

Section 4. Errors Made by Election Commission

- A. In the case of an alleged violation or error by the Election Commission, the Judicial Branch shall determine the following:
- (1) Whether or not there was substantial irregularity; and
 - (2) Whether or not said irregularity could have changed the results of the election;
 - (3) If above criteria are met, the election shall be invalidated and a new election ordered for the affected candidate(s) and position(s).

ARTICLE VI. TERMS AND DEFINITIONS

Adjudication

The legal process of resolving a dispute. It implies a hearing by a court of legal evidence on the factual issue(s) involved. It indicates that the claims of all the parties thereto have been considered and set at rest.

Amicus Curiae

"Friend of the court." A person with strong interest in or views on the subject matter of an action, but not a party to the action, may petition the court for permission to file a brief on behalf of a party or to suggest a rationale consistent with its own views.

Concurring Opinion

A written opinion filed by a Justice which agrees with the majority decision, but which expresses his or her different reasons for the decision, or a different view of the facts of the case, or of the law.

Dissenting Opinion

An explicit disagreement by one or more Justices with the decision of the majority on a case before them. Dissents carry no precedential weight and are not relied on as authority in subsequent cases.

Election Period

The election period will take place during the Spring semester, beginning at the first SGA campaign interest meeting and ending at the verification of the election results.

Ex-Officio Member

An ex-officio member is considered a member of a body or branch, simply by virtue of holding another office.

Injunction

A court order by which an individual is required to perform, or is restrained from performing, a particular act. A writ framed according to the circumstances of the individual case.

Jurisdiction

The area over which authority extends; legal authority; the authority to hear and determine causes of action.

Majority Opinion

The opinion joined by a majority of the court; the legal document stating the reasons for a judicial decision. Can be used as legal precedent.

Sequester

To set apart. To keep a person or group apart from other people.

Subpoena

A writ issued by the court, to request testimony by a witness or production of evidence. There are two common types of subpoena:

- (1) *Subpoena ad testificandum* requests a person to testify before the ordering authority. The subpoena can also request the testimony to be given by phone or in person.
- (2) *Subpoena duces tecum* requests a person or organization to bring physical evidence before the ordering authority.

Summary Judgment

A judgment rendered by a court for one party and against another party summarily, *i.e.*, without a full trial. Such a judgment may be issued on the merits of an entire case, or on discrete issues in that case.

Writ

A document from a court ordering someone to do something or not to do something.

ARTICLE VII. AMENDMENTS

Section 1. *Bylaw Amendment Policy*

- A. Amendments to the Judicial Branch Bylaws shall be voted on and approved by a two-thirds vote of the members.
- B. A revision date shall be implemented in the bylaws, no votes shall be necessary to change the revision date directly. This date shall reflect the same date in which the last time the Judicial bylaws were amended.