



# University Student Court

Bylaws of the University Student Court

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## **Article I: Established Name**

From this point forward, there is hereby established the University Student Court (USC).

## **Article II: Function**

2.01 As stated in the bylaws of the Student Assembly, the USC shall serve as the judicial branch of the Student Assembly and shall be the highest judicial authority thereof.

2.02 The function of the USC shall be to provide a fair hearing and render fair decisions for students, and by students, in cases arising under Article III of this document.

2.03 Every student in an action under Article III shall have the right to a fair hearing.

## **Article III: Jurisdiction**

3.01 The USC shall have the jurisdiction to hear and enter judgment in suits brought against students, student organizations, and student governing bodies, by other students, student organizations or student governing bodies of Cornell University.

3.02 The USC shall be the final source in all matters concerning the interpretation of the Student Assembly's Charter, bylaws, legislation, and actions.

3.03 The USC shall have jurisdiction over questions arising from the constitutions and bylaws of student organizations.

3.04 The USC shall have jurisdiction over questions arising from bylaws, statutes, and actions of any other student governmental body, such as college councils.

3.05 The USC shall hear procedural appeals which regard the SA Bylaws or Charter or those of any other student organization or student governmental body.

3.06 The USC shall also maintain a mediatory function to help resolve disputes upon petition.

3.07 The USC shall have jurisdiction over disputes when referred to the court by units of the University.

3.08 The USC shall also have the authority to conduct investigative hearings in the event that a concern is raised or referred to the court by a unit of the University.

## Article IV: Powers

4.01 The sitting justices shall have the power to hear and enter judgment in all cases arising under Article III herein.

4.02 In cases arising under Article III the sitting justices shall have the power to fashion appropriate, just and equitable remedies to implement their decisions.

4.02a Consistent with practices of the University, the Student Court shall have the power to request a hold be placed on the records of any student within its jurisdiction.

4.03 The Chief Justice of the USC shall have the power to issue an Order of the Court temporarily restraining parties in disputes arising under Article III herein, upon petitioning, pursuant to 8.03e, of any of the parties and setting a hearing of the continuance of the restraining order with five (5) business days before a two-thirds (2/3) majority of the court. Orders of the Court so issued may be framed as temporary restraining orders, injunctions, orders to show cause, or any form, and in accordance with practices common to courts in the State of New York or bodies within Cornell University. When an Order of the Court issued by the Chief Justice is framed as an injunction, no remedy may be issued until after the continuance hearing in front of a 2/3 majority of the Court. The sitting justices shall have power to make the orders described herein permanent.

4.04 The Chief Justice, upon consultation with the other justices, shall have the power to issue constitutional interpretations to the SA president or upon request by either of the respected parties.

4.05 The USC shall have the power to act in place of the SA Elections Committee in times of extraordinary emergency, as determined by the USC and SA.

4.06 The USC shall have the power to issue a request to appear, requiring the attendance of any witness, to testify in any matter or cause pending in the USC. The USC may also request any items or relevant documents in any pending case.

## Article V: Organization of the Student Court

5.01 The USC shall consist of a panel of five justices, all of whom shall be undergraduate CU students. Each justice shall serve for a period of two (2) years. No justice may serve more than two terms.

5.01a Three (3) of the justices shall be selected in an even year and two (2) justices shall be selected every odd year.

5.02 Of the five justices, one justice shall serve as the Chief Justice, one as the Assistant Chief Justice, the remaining as Associate Justices.

5.03 The USC must consist of at least three (3) serving justices in order to pursue its duties properly. Should the court not have three justices it shall be inactive. The Dean of Students shall be immediately informed of the inactive status of the court.

5.04 The justices of the USC shall be appointed by a committee consisting of three (3) members of the UA Codes & Judicial Committee and two (2) SA members. The Chief Justice shall be appointed by the President of the Student Assembly, subject to the consent of the Student Assembly.

5.05 In the event of a justice vacancy, the Court will then proceed to fill the position, subject to the advice and consent of the SA.

5.05a. If the Court fails to fill the position within 30 days, the SA shall proceed to appoint a new justice to the position in a timely manner subject to the advice and consent of the Court.

## Article VI: Duties of Officers & Associate Justices

6.01 The USC Associate Justices—Case members shall:

6.01a Be present at all student court meetings and hearings to which they have been assigned.

6.01b Perform other such duties as assigned by the Chief Justice or the Assistant Chief Justice in a timely manner.

6.01c Maintain a file of original copies of all the complaints, answers, orders, briefs, and judgments in cases to which they are assigned.

6.01d Send all notices and arrange all meetings, conferences, hearings, and trials in cases to which they have been assigned.

6.01e Keep an orderly timetable of events in order to assure efficient movement of the case.

6.01f Act impartial at all times.

6.02 The Chief Justice shall:

6.02a Perform all duties and functions assigned to him/her in these articles.

6.02b Serve as the spokesperson of the Court.

6.02c Appoint the Clerk of Court

6.02d Preside at all meetings of the Court, except whenever the Chief Justice withdraws from a particular case for reasons of personal interest, prejudice, illness or other like exigency. Then the Assistant Chief Justice will be informed in writing that he/she will preside. If neither the Chief Justice, nor the Assistant Chief Justice is able to preside, the Chief Justice shall designate an Associate Justice to preside.

6.02e Call sessions of sitting justices as necessary

6.02f Schedule conferences of the members and officers of the Court, whenever necessary for the efficient administration of the Court. Following the appointment of members and/or officers of the Court, the Chief Justice shall call a meeting of all the members and officers of the Court and discuss the history and functions of the USC. During this meeting, the conduct of trials, general information, the duties and responsibilities of the members and officers, and the general procedures of the USC shall be discussed. A senior justice shall be assigned to help each new justice at his/her first sessions.

6.02g Be responsive to reasonable requests by any Court member for a consensus meeting or session of the full Court. The Chief Justice must call a meeting if a majority of the members request one.

6.02h Appoint, on advice of the total court, any student to fill other staff positions for the efficient administration of the Court, such as Press contact, Council, Parliamentarian and individual case coordinators. When such appointments are made, these officers act officially “For the Court” within the delegated boundaries, and unless in session, the officer normally reports to the Chief Justice, who is responsible for keeping the consensus informed.

6.02i Have the power to issue a request to appear, requiring the attendance of any CU student or employee to testify in a matter that is before the Court. The request may be assigned by the Chief Justice to require the attendance of witnesses and their production of lawful instruments of evidence in any action matter or proceeding pending or to be examined by the USC.

6.03 The Assistant Chief Justice shall:

6.03a Act in place of the Chief Justice when asked to do so in writing by the Chief Justice, or in case of extreme emergency.

6.03b Supervise all case members.

6.04 The Clerk of Court shall:

6.4a Keep all USC records and perform other such duties as are assigned by the Chief Justice or the Assistant Chief Justice.

6.04b Maintain on file the docket and decisions of each session at which the Student Court hears cases under its jurisdiction.

6.04c Maintain an updated list of all cases and their subject matter. This list will include the case number, title and classification.

6.04d Begin a Case Title sheet upon receipt of a complaint.

6.04e Maintain all office supplies and equipment.

6.04f Serve all complaints and requests to appear by giving the defendant a copy thereof and by explaining the deadline to which the response is due.

6.04g The Clerk must make every attempt to serve the defendant within five (5) business days after the Court has found merit to a complaint. If the Clerk is unable to fulfill this duty, the assigned case member shall serve the defendant.

6.04h Maintain and compile the USC budget with the oversight of the Chief Justice, and oversee all purchases of the USC.

## Article VII: Civil Procedure

7.01 The USC may be asked to review a claim or controversy. The Court will then decide if all avenues have been sought to remedy the claim or controversy by the author. If the claim or controversy is considered to have merit, per subsection 3.0 of this document, it will be deemed a case.

7.01a All evidence is expected to be submitted with the complaint. If the plaintiff wants to submit further evidence at a later date, he/she must file a motion with the assigned case member. The case member shall determine whether or not the evidence is relevant, significant, and timely.

7.01b Upon receipt of a complaint, the Chief Justice shall convene a meeting of the Court to discuss its merit within three (3) business days.

7.01c The complaint must be accepted by a majority of the Court members to be deemed a case.

7.01d A justice will be designated by the Chief Justice as the case member for all accepted cases and shall be responsible for the deposition of that case.

7.02 Any student or students, student organization, or any division of student government at CU may be named as parties in the complaint. The names shall remain constant until the settlement has been reached.

### 7.03 Complaint

7.03a A complaint must name at least one plaintiff and one defendant. Such a complaint must be typed.

7.03b It must specify each allegation, supported by evidence, and it must include a specific, reasonable request for relief.

7.03c Such a complaint is not amendable. If there is an error, the plaintiff must refile.

7.03d The Clerk of Court shall begin a Case Title sheet upon receipt of a case. The assigned case member must complete this Case Title sheet as the case progresses.

### 7.04 Service of Complaint

7.04a Upon acceptance of a complaint, the case is initiated when the defendant has been served an exact copy of the complaint, whether electronic or paper.

7.04b When served, the defendant must sign and date two (2) copies of an acceptance letter. Once the defendant has been served, all parties will be given a scheduled date for the mediation conference by the assigned case member. The date for any mediation conference is to be no more than approximately ten (10) business days after service of the complaint.

7.04c The defendant must file an answer to the complaint with the court within five (5) business days after service of the complaint. The answer must contain a response with evidence to each of the allegations made. If the defendant wishes to submit further evidence at a later date, he/she must file a motion with the assigned case member. The Court will notify the defendant that failure to answer within the scheduled time may result in the defendant being found in default. However, the Court or delegated case member may consider reasons for an extension.



7.04d When the defendant is found in default, the Court will move for summary judgment. Both parties shall be given three (3) business days to submit affidavits.

7.05 When the subject matter or the complaint addresses a past act of an organization or its official, the Court will hear arguments to determine upon the defendant's motion, as to a reasonable time limit within which a suit may be brought.

#### 7.06 Mediation Conference

7.06a The purpose of the mediation conference is to acknowledge all uncontested facts, to try to reach a settlement based on these facts, and to set the agenda of the facts remaining to be tried in the event that the case proceeds to a full hearing.

7.06b The case member shall preside over the conference and other parties appearing with the parties must also attend the conference.

7.06c If either party fails to attend the mediation conference without prior consent, the Court will move for summary judgment.

7.06d Either party has the right to file for a request to appear. In order for the Chief Justice to issue such a request, either party must submit a request in writing. This must be done no later than the mediation conference. It must be shown that the witness has pertinent testimony or evidence pertaining to the case. The address and phone number of the witness should be included in the request to appear. If a witness cannot attend at the appointed time, the witness must submit a pertinent reason for not being present before the Trial date. If the Court feels that the witness could have attended the trial, a fine of up to \$25.00 will be assessed to the witness. The Court will also discuss, at the time of the mediation conference, punishments for contempt of court. Any student can be fined up to \$25.00 for contempt.

#### 7.07 Summary Judgment

7.07a A Defined: Rule of Civil Procedure 56 permits any party to a civil action to move for a summary judgment on a claim, counterclaim or cross-claim when he believes that there is no genuine issue of material fact and that he is entitled to prevail as a matter of law. The motion may be directed toward all or part of a claim or defense and it may be made on the basis of the pleadings or other portions of the record in the case or it may be supported by affidavits and a variety of outside material. A genuine issue of material fact is an issue which can be sustained by substantial evidence, if the facts alleged are such as to constitute a legal defense or are of such nature as to affect the result of the action. (Black's Law Dictionary, 5th Ed.)

7.07b Either party may move for judgment on the written pleadings, called summary judgment, and in such event, both parties shall have five (5) business days to submit supporting affidavits. The Court or its delegated case member may subsequently deliberate and enter summary judgment. But where less than a full Court deliberates, the parties are so notified of their reserved right to reconsideration by the full Court provided the request be submitted within two (2) days after the party is notified of the decision.

7.08 The Court or its delegated case member may deliberate and enter appropriate judgments or remedies upon default by the defendant, and the Court or its delegated case member, with the Court's consent to so act, may dismiss a case upon the defendant's or the Court's own motion that the complaint on its face is frivolous.

7.09 At all times the parties are at liberty to settle the dispute. In such case, the parties may draft an out-of-court agreement to be filed with the Court which includes any necessary stipulations and is signed by both parties. The Court will consider further remedy upon failure of the parties to adhere to their stipulation.

## Article VIII: Hearings

8.01 In the event that the parties cannot resolve the complaint at the mediation session, they shall move into a full hearing. The case member will inform the Chief Justice of the need for a hearing panel. The hearing panel shall consist of three justices, one of which is the case member.

8.01a At the hearing, the Court considers the plaintiff's demand of judgment after careful consideration of all evidence and testimony introduced in trial, without regard for the differences in the legal expertise of the parties or those appearing for the parties.

8.01b The method of proceeding is arranged at the pretrial conference. The following procedure is to be used unless the parties agree to an alternate procedure:

1. Introduction of the Court
2. Introduction of Plaintiff and the Defendant
3. Opening statements by Plaintiff
4. Opening statements by Defendant
5. Witnesses and collateral evidence for Plaintiff
6. Cross-examination by Defendant
7. Witnesses and collateral evidence for Defendant
8. Cross-examination by Plaintiff
9. Summation by Plaintiff
10. Summation by Defendant

8.01c Parties are expected to bring whatever material or documents agreed to in the mediation conference and to restrict their arguments to the prepared agenda of facts and issues.

8.02 The Justices have a maximum of five (5) business days to decide a case, though they may submit a notice of the need for an extension if there are circumstances that prevent a timely decision.

8.03 Temporary Restraining Orders/Injunctions

8.03a A party has the right to request a temporary restraining order by the Court. The Chief Justice has the power to issue such an order when it includes a date of hearing before a 2/3 majority of the Court to consider continuance of the Order.

8.03b A Temporary Restraining Order (TRO) is extraordinary in nature and not normally granted unless it appears that a party is entitled to judgments and the commission or continuance of the act during litigation would injure the petitioning party or it appears that during the litigation a party is doing or about to do some act that would result in irreparable harm to the petitioning party in violation of what is owed to the party or in harm that would tend to render a later judgment ineffectual. Evidence must be provided for allegations of irreparable harm.

8.03c A TRO is an emergency remedy of brief duration which may be issued only in exceptional circumstances and only until the Court can hear arguments or evidence on the subject matter of the controversy and otherwise determine what relief is appropriate.

8.03d A TRO may also be termed as an Injunction. A TRO is termed an interlocutory injunction and as such, supplies the need for remedy in those situations in which the petitioner will suffer irreparable injury if remedy is not granted immediately. If termed as an injunction, relief may be specified, but not granted to the individual until after the Continuance hearing before 2/3 majority of the Court. Remedy in this case refers to the means by which a right is enforced or the violation of a right is prevented, redressed or compensated.

8.03e A TRO should be requested in complaint form. A copy will then be made available to the defendant for use in the TRO Continuance Hearing before 2/3 majority of the Court. Within five business days after the Continuance Hearing the TRO should be followed by the submitting of a Complaint to further decide the matter in the Court. If this is not done within five business days, the Restraining Order will be dropped.

## **Article IX: Appeals of Court Actions/Decisions**

9.01 Parties not satisfied with the outcome of the decision of the trial may appeal the decision to the full court provided the appeal follows the guidelines outlined in 9.04.

9.02 The Chief Justice shall call all of the sitting justices to hear the case.

9.03 Appellant hearings shall follow the same procedures outlined for full hearings.

9.04 Grounds for Appeal

9.04a Parties may only appeal decisions of the court under the following conditions:

9.04 a (1) Procedural Violations

9.04 a (2) Violations of Due Process

9.04 a (3) Violations of Viewpoint Neutrality

9.04 a (4) Demonstrated bias that influenced the outcome of the decision

9.04b The burden of proof of these conditions is placed on the appellant.

9.05 Should the Court accept to hear the appeal, the Court may take the following actions at the conclusion of the appeal hearing:

9.05a Reverse the Decision of the Court

9.05b Uphold the Decision of the Court

9.05c Dismiss the case

9.05d Remand the case to another authority

9.06 Appeals must be submitted to the court within five (5) school days of the issue of the decision.

## **Article X: Finances**

10.01 All receipts from penalties imposed by the USC shall be paid to the Office of Assemblies to be credited to the SAF general fund for student organization allocations.

10.02 The accounting books of the USC shall be open to audit in full at the end of each academic year by the proper University authority.

10.03 The Chief Justice shall hold financial authority for the USC.

## **Article XI: Transparency**

11.01 All full hearings shall be open to the public, unless one or more parties request to have the hearing closed in extraordinary circumstances, such as confidentiality of documents.

11.02 All Court opinions shall be made public and may be edited to protect privacy of either party.

11.03 The Court shall be required to submit a report to the Student Assembly at the end of each semester outlining the major findings of the Court and any changes the Court seeks to make.

## **Article XII: Removal of Justices**

12.01 The conduct of each Court Justice is answerable to the consensus of the total Court. Appropriate disciplinary action may be decided by the panel of no less than the other sitting justices observing normal due process.

12.02 Three (3) unexcused absences from an Official Court hearing or meeting within a semester, as determined by the USC, shall be grounds for dismissal from the USC.

12.03 An unexcused absence is not chargeable if the justice has not been personally notified of an obligation to be present, if it exceeds any demand for presence over and above that required of any other member, or if the member's academic requirements prevent attendance.

## **Article XIII: Ratification & Amendments**

13.01 These Bylaws shall be effective when ratified by a simple majority of the Student Assembly.

13.02 Amendments to these bylaws must be approved by a 2/3 majority vote of the USC and a majority vote of the Student Assembly.



*“Justice may be blind, but she has very sophisticated listening devices.”*

-Edgar Argo