

RULES

OF THE

JUDICIARY

OF THE

STUDENT GOVERNMENT
ASSOCIATION OF THE JOHNS
HOPKINS UNIVERSITY

ADOPTED APRIL 2014

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Part I: Composition and Role of the Judiciary

Section 1: Constitutional Authority, Mandates, and Jurisdiction:

The Student Government Association (“The SGA”) Judiciary (“The Judiciary”) is established by Article II, Section 2.01 of The Johns Hopkins University Undergraduate Student Government Association Constitution (“The Constitution”).

Per the Constitution, the Judiciary is an independent branch of the SGA composed of five Justices. The Justices shall elect a Chief Justice from amongst themselves. This election process is outlined in Part I, Section 3 of these rules.

Students only become duly vested Justices of the Judiciary upon nomination by the Executive President of SGA and the advice of 2/3 of the SGA Senate.

Justices serve for a one-year term, based upon the date of their appointments.

The Judiciary is “responsible for interpreting the Constitution and By-laws, enforcing election procedures, and serve as the final avenue of appeal for all matters relating to the SGA.”

Additionally, the Judiciary may also be asked by the SGA’s Constitution and By-Laws Committee for advisory opinions regarding the constitutionality of any legislation or acts of the SGA. These opinions are not binding but rather shall serve as a tool to guide the SGA’s actions. These opinions may serve as reference for other cases, including cases directly related to the subject matter of the advisory opinion, but they shall not set precedent for future cases.

The Constitution also stipulated that the Judiciary “shall operate according to its own Rules and Guidelines,” which this document henceforth establishes.

Section 2: Amendments to the Rules of the Judiciary:

These Rules of the Judiciary may be amended or changed by a four-fifths (4/5) vote of the Justices of the Judiciary. These Rules are not subject to Senate ratification, nor approval by any other entity.

Section 3: Chief Justice of the Judiciary:

Per the aforementioned provisions in the Constitution in Part I, Section 1 of these Rules, the Judiciary shall select its own Chief Justice from amongst the duly appointed Justices. This selection shall be in the form of an election, with each Justice casting a vote for a duly appointed Justice by secret ballot. The Justice with the most votes shall serve as Chief Justice. Should a Justice fail to receive a plurality of votes for Chief Justice, the Justices shall deliberate and continue to cast ballots until a plurality is achieved.

This election shall take place prior to each case being brought before the Judiciary and the appointment of the Chief Justice shall be effective for the remainder of that case. During a case, the removal of a Justice as Chief Justice shall be successful upon a majority vote of the Judiciary and with a consultation with the Dean of the Office of Student life or his/her delegate.

The Chief Justice shall serve as the head of the Judiciary, responsible for the dissemination and archival of opinions as described in Part VI, Sections 6 &7 of these Rules.

Section 4: Stare Decisis and Effects of Decisions:

As stated in Part I, Section 1 of these Rules, and in conjunction with the Constitution, the rulings of the Judiciary shall serve as the supreme law of the land. They shall have the full force and effect of law.

As such, Opinions of the Judiciary, excluding advisory opinions described in Part I, Section 1 of these Rules, shall carry forth precedent of the Judiciary. Thus the Judiciary shall afford previous decisions weight in examining the merits, employing the Doctrine of Precedent.

Additionally, all Opinions of the Judiciary shall be binding upon all lower tribunals, including bodies such as the SGA and the Committee on Student Elections (CSE). All lower bodies shall employ the Doctrine of *Stare Decisis* in their evaluation of actions and cases, applying the principles articulated by Opinions of the Judiciary in their assessments of cases and actions.

Section 5: Standing:

The Judiciary may only consider cases that involve actual cases and controversies. In this vein, the Judiciary shall not address, and shall dismiss for lack of standing, cases which do not arise out of actual controversy. In order for a party to have standing, the party must meet four separate requirements:

First, the Petitioner must have suffered or will imminently suffer injury in the form of an invasion of a duly-protected interest that is both concrete and actual or imminent (that is to say that it is neither conjectural nor hypothetical nor abstract). An example of such an injury would be a plaintiff's deprivation of a constitutionally protected right and/or a privilege afforded by school policy and/or local, state, and/or federal laws and/or regulations.

Second, for standing to be present, there must be causation— that is to say that the injury suffered by the Petitioner must be tangibly related to the challenged action of the Respondent and not the result of an action by a third party not a part of the case.

Third, in order to have standing, the injury must have redressability, in that the Judiciary must be likely (as opposed to merely speculatively) able to provide relief in the form of redressing the injury.

Fourth, in order for a party to have standing, the party must have exhausted other avenues of appeal, following the proper procedure for appealing an action. An example of this principle would be a candidate in an election first complaining to the CSE about an election violation before appealing the CSE's decision to the Judiciary.

Part II: Emergency Actions

Section 1: Emergency Injunctions:

In some extraordinary and mitigating circumstances, the Judiciary may need to take immediate action to protect the rights of students, groups, and/or other constitutionally protected entities. Therefore, procedures such as Emergency Injunctions are necessary and exist to protect the rights of students. Such actions may only be exercised in the overwhelming interest of justice.

An Emergency Injunction is an order of the Judiciary that temporarily halts or orders the continuation of an action or actions by a student, group, and/or other entity subject to the Judiciary's purview. This order shall immediately be executed by such an entity and has the full force and effect of an Opinion of the Court, though it must be imposed solely as a temporary measure and may only be made in rare and extreme circumstances.

Any one single Justice may issue an Emergency Injunction upon request from a student, group, and/or entity with standing to make such a request. The Judiciary shall meet as soon as possible to determine if the Injunction shall remain in effect.

Emergency Injunctions shall only be issued by a Justice if waiting for the whole Judiciary to assemble would have a lasting effect on the merits of the case. Additionally, one of the following criteria —as established by federal judicial opinions and synthesized by Wikipedia — must be met in order for a Justice to appropriately file an Injunction:

1. There is a substantial likelihood of the party filing the request for an Emergency Injunction to succeed on the merits of the case
2. The party filing the request for an Emergency Injunction faces a substantial threat of irreparable damage or injury if the Emergency Injunction is not granted
3. The *balance of harms* weighs in the favor of the party filing the request for an Emergency Injunction
4. The grant of an Emergency Injunction serves the *public interest*

If such requirements are achieved, a Justice may issue an Emergency Injunction. In such cases, the Justice must submit, in writing, the Emergency Injunction to all involved parties and to the Judiciary as a whole.

Section 2: Stays:

As with Emergency Injunctions, one single Justice may issue an order to Stay a decision of a lower tribunal pending review by the whole Judiciary. A Stay may only be granted to halt the effect or effects of the opinion or ruling of a lower tribunal, and a party requesting the stay of a decision is subject to the same standing requirements articulated in Part I, Section 5 of these Rules.

Stays are an essential function used to safeguard the Judiciary's ability to make meaningful rulings on cases. One such example would be granting a Stay of a CSE ruling prior to the certification and announcement of election results, thus allowing the Judiciary to hear the case and issue a ruling prior to the officials being certified and announced to the public.

Upon issuing a Stay, the Justice shall transmit, in writing, the order of the Stay to all relevant parties and to the Judiciary as a whole.

As with Emergency Injunctions, while one Justice may issue a Stay, this action may be overturned by the whole judiciary as soon as it is able to assemble.

Section 3: Summary Judgments:

In such cases as it sees fit, and solely upon unanimous consent of all the Justices to do so, the Judiciary may issue a Summary Judgment, ruling on the merits of a case before entertaining Oral Arguments. This process should be reserved for cases such as those that so clearly lack standing or merit as to distract the Judiciary from its important functions. This process should never be used to stifle due process of a case or to thwart input by a legitimate party.

Part III: Writs of Certiorari

Section 1: Procedures for Filing a Petition for a Writ of Certiorari:

In order to call a case before the Judiciary, a party must submit a Petition for a Writ of Certiorari, which is a formal request for the Judiciary to review a case. A Petition for a Writ of Certiorari may be submitted to any Justice, or to all Justices. When a Justice receives a Petition for a Writ of Certiorari, he or she shall forward it to all members of the Judiciary.

Petitions for a Writ of Certiorari shall, in essence, present, in writing, a party's arguments to the Judiciary. Petitioners shall include a description of the injury alleged; the details surrounding such an injury; the constitutional, policy, and/or legal provisions being deprived; the err of a lower tribunal; a proposed remedy; and/or any other relevant information or arguments the Petitioner would like the Judiciary to consider. While there is no given format for a Petition for a Writ of Certiorari, Petitioners should be as clear, accurate, and full in their descriptions as possible. Petitions for a Writ of Certiorari should be addressed to the Judiciary as a whole and should be formal.

Section 2: Rule of One:

The Judiciary shall impose a so-called "Rule of One." If any one single Justice would like to grant a Petition for a Writ of Certiorari, the Judiciary shall issue a Writ of Certiorari and examine the case fully. Should no single Justice be willing to issue a Writ of Certiorari, the Petition for a Writ of Certiorari shall be denied and the case shall be summarily dismissed. It is important to note, however, that such a denial of a Petition for a Writ of Certiorari does not create any binding precedent and does not imply consent or approval of lower tribunals' decisions, nor of the status quo. It simply means that no Justice of the Judiciary was willing to accept the case at the time of the Petition.

Section 3: Notification of Parties:

Upon the denial of a Petition for a Writ of Certiorari, the Judiciary shall inform the Petitioner of such a denial, and may include an explanation but is not require to do so.

Upon granting a Petitioner a Writ of Certiorari, the Judiciary shall inform the Petitioner, and the respective Respondent, of the Judiciary's decision. The Judiciary shall additionally submit the Petition for a Writ of Certiorari to the Respondent and allow for them to submit their refutation and/or response to the Judiciary for review.

Section 4: Written Inquiries:

Upon reviewing both the Petitioner's Petition for a Writ of Certiorari and the Respondent's response, the Justice shall submit, individually, inquiries of the parties to the Chief Justice, who shall compile such inquiries and submit them to the respective parties. The parties shall have ten (10) days to answer the inquiries, in writing, of the Justices.

After receiving the written responses to the Justices' inquiries from the parties, the Justices shall review such responses.

Part IV: Amicus Curiae

Section 1: Procedure and Eligibility for Filing an Amicus Curiae Brief:

Amicus Curiae, or "Friends of the Court," are parties that are not the Petitioner or the Respondents but that are directly related to the merits of the case. *Amicus Curiae* should be able to add valuable contributions to the discussions of the merits of the case.

Students, groups, and/or entities may file *Amicus Curiae* Briefs, which are statements that the *Amicus Curiae* would like the Judiciary to consider in its review of a particular case. These *Amicus Curiae* should have a vested interest in the case — that is to say that *Amicus Curiae* should have more than just a view on the case but rather should have a stake in the outcome. A fictitious example of an appropriate *Amicus Curiae* would be the College Republicans in a case filed by the College Democrats alleging an injury related to the exercise of political speech against the SGA Senate. Should any one Justice view an *Amicus Curiae* Brief as appropriate, the Brief shall be considered by the whole Judiciary in their review of the case.

Amicus Curiae Briefs should be filed with any Justice of the Judiciary prior to the scheduling of Oral Arguments. *Amicus Curiae* Briefs submitted to a Justice shall be forwarded by that Justice to the whole Judiciary.

Additionally, any one Justice may request an *Amicus Curiae* Brief from an individual, group, and/or entity, who may decline to submit such a Brief. However, should the individual, group, and/or entity choose to submit such a Brief upon the request of a

Justice, the Brief shall automatically be entered into the files of the case and submitted to all Justices for consideration thus bypassing the eligibility requirements enunciated in this section.

Approved *Amicus Curiae* Briefs shall be submitted by the Chief Justice to all other parties of the case upon their approval and prior to Oral Arguments.

Section 2: Approval of Amicus Curiae for Oral Arguments:

After *Amicus Curiae* Briefs have been filed with the Judiciary, Justices should review the Briefs and determine their weight upon the merits of the case. Should any one single Justice determine that a certain *Amicus Curiae* is of such particular significance to the case as to merit time at Oral Arguments, that Justice shall inform the Judiciary as a whole and the Chief Justice shall invite the *Amicus Curiae* to partake in Oral Arguments before the Judiciary.

Part V: Oral Arguments

Section 1: Time Allotment:

Both Petitioners and Respondents shall always be allotted equal amounts of time to present their Oral Arguments before the Judiciary. The Petitioners and Respondents shall each receive thirty minutes to present their Oral Arguments unless the Judiciary decides to afford them equal amounts of additional time prior to hearing.

Any *Amicus Curiae* afforded time to present Oral Arguments shall receive amount of time decided by the Judiciary. Therefore, unless the Judiciary affords the parties additional time before the commencement of Oral Arguments exceeding the standard allotment of time, *Amicus Curiae* shall receive fifteen (15) minutes to present Oral Arguments.

The Chief Justice shall be responsible for monitoring and enforcing these time allotments.

Section 2: Format and Procedure of Oral Arguments:

The format and procedure for Oral Arguments shall be similar to those of the United States Supreme Court; parties shall present their arguments, one at a time, to the Justices, who may and should ask questions intermittently. The Justices should ask the parties questions surrounding the case, the relevant ancillary statutes and information, and any other inquiries significant to the case. The Justices may also make points that they would like the parties to address and question the parties' interpretations and representations.

Each party shall only have one - two individuals present Oral Arguments to the Judiciary.

The Petitioner shall first present Oral Arguments to the Judiciary and shall be the only party able to reserve time for rebuttal.

After the Petitioner has exhausted his or her time allotment, or has reserved the balance of his or her time for rebuttal, any *Amicus Curiae* will make their Oral Arguments to the Judiciary. These Oral Arguments shall transpire in a predetermined order if there are multiple *Amicus Curiae* granted time for Oral Arguments.

After any *Amicus Curiae* have presented their Oral Arguments to the Judiciary, the Respondent shall present his or her Oral Arguments to the Judiciary.

Following the Respondent's Oral Arguments, if the Petitioner has a reserved balance of time for rebuttal, he or she may exercise this time now. Following this, the Judiciary shall adjourn Oral Arguments.

During Oral Arguments, parties should refer to the Justice, who shall have nameplates, by "Justice" followed by the Justice's last name. They should refer to the Chief Justice as "Mister/Madam Chief Justice." The Justices, in turn, should refer to the parties as "Mister/Misses/Miss" followed by the litigator's last name. Arguments shall be urbane in deportment and presided over by the Chief Justice, who shall facilitate discussion when necessary.

Section 3: Venue and Public Accessibility of Oral Arguments:

The Constitution holds, "Students have a right to attend all meetings of the SGA, and all minutes and proceedings of the SGA shall be open to student inspection, except those deemed secure." This sentiment shall extend to Oral Arguments before the Judiciary; the public shall be able to reasonably observe Oral Arguments before the Judiciary unless the Judiciary unanimously agrees to holding such proceedings behind closed doors. Should any one single Justice object to hold Oral Arguments in private, such proceeding shall be held publicly.

Public Oral Arguments shall be held in a venue accessible to the public and shall be adequately advertised to the student body via campus email systems, in addition to other methods determined prudent by the Judiciary. The Chief Justice shall send out notices of such Oral Arguments to all members of the student body.

Section 4: Audio and Visual Recordings of Oral Arguments:

The Judiciary shall make audio recordings of all Oral Arguments that are available to public upon a written request after the conclusion of such Arguments, granted all recordings are posted in full and are not subject to truncation, editing, altering in any form, or otherwise disturbing the entirety of the recordings.

Additionally, members of the public and/or news media shall be permitted to create audio recordings of Oral Arguments open to the public, so long as such recordings are not altered in any way, as described above. The Judiciary does not consent to any recording of Oral Arguments by any individuals that would alter, or distribute such recordings to those that would alter the recordings in any way as described above. Such recording could constitute a violation of Maryland State Wiretapping Laws.

Part VI: Opinions of the Judiciary, Concurrences, and Dissents

Section 1: Deliberations:

Following Oral Arguments, or if the Judiciary has accordingly unanimously waived consideration of Oral Arguments as described in Part II, Section 3, the Justices shall enter into deliberations. The deliberations of the Judiciary are private, attended only by the Justices themselves with no recording of minutes of discussions. During deliberations, the Justices shall discuss the merits of the case, talk about their views on the cases with each other, and ultimately arrive at a decision or decisions. Decisions are arrived at through each Justice casting a vote to adopt a certain opinion. These decisions can come in four (4) different forms: Opinions of the Judiciary, Concurring Opinions, Dissenting Opinions, and Plurality Decisions.

Section 2: Opinions of the Judiciary:

Opinions of the Judiciary are decisions for which a majority of the Justices cast votes. Opinions of the Judiciary are the ultimate decisions that the Judiciary has arrived at, and they command the full force and effect of law. SGA, all subsidiary organizations, and all other individuals, groups, and entities that fall under the jurisdiction of the Judiciary are compelled to respect, carry out, and execute the rulings of the Judiciary, which are expressed through Opinions of the Judiciary.

Opinions of the Judiciary set precedence and shall be afforded as such under the Doctrine of *Sine Diem*.

The Justices voting in the majority shall decide amongst themselves which Justice shall author the Opinions of the Judiciary, but a single Justice shall write the Opinion of the Judiciary. This author shall sign his or her name under the Opinion of the Judiciary. The other Justices voting in the majority shall be listed as joining in the decision. Should the

Justices in the majority fail to elect a single authority from amongst themselves by plurality vote, the Chief Justice (if he or she is in the majority) or in his or her absence, the most senior Justice in the majority (as determined first by time on the Judiciary, then by class, then alphabetically by last name), shall decide who shall author the Opinion of the Court.

Section 3: Concurring Opinions:

Justices may also individually author opinions. One such opinion is a Concurring Opinion, which expresses agreement with the tenets of the Opinion of the Judiciary. A Concurring Opinion can be used to express complete agreement with the Opinion of the Judiciary, or it can represent that a Justice is “Concurring in Part,” meaning that the Justice only agrees with certain aspects of the Opinion of the Judiciary. Concurring Opinions, like all opinions, are only written by one Justice individually, but any Justice can join in an opinion. A Concurring Opinion shall be signed by their author, followed by a list of Justices that join in the opinion.

Section 4: Dissenting Opinions:

Justices disagreeing with the Opinion of the Judiciary may file Dissenting Opinions, articulating their disagreement. Much like Concurring Opinions, Justices may “Dissent in Part” and “Concur in Part.” These Dissenting Opinions, like Concurring Opinions and Opinions of the Court, must be authored by a single Justice but may be joined by additional Justices. A Dissenting Opinion shall be signed by their author, followed by a list of Justices that join in the opinion.

Section 5: Plurality Decisions:

In rare circumstances, a majority of Justices may not be able to reach a decision. In these rare cases, the Judiciary may issue a Plurality Decision, which holds that more Justices agree with a certain view than with any other view, but that a majority of the Judiciary does not accept such a holding. These Plurality Decisions, when no majority decisions can be reached, have the holding of the law of the land. However, these decisions lack the ability to set precedence for future cases and are not accepted under the Doctrine of *Sine Decisis*. They are simply employed to settle the specific dispute before the Judiciary, not to issue an overarching interpretation of the principles of law by the Judiciary. Plurality decision are only written by one single Justice, but any Justice can join the plurality decision. The same procedure to determine the author of Opinions of the Judiciary shall be used to determine the same for Plurality Decisions. The author of the Plurality Decision shall sign the Decision, and all justices joining in the Plurality Decision shall be listed below.

Section 6: Dissemination of Decisions:

All Opinions of the Court, Concurring Decisions, Dissenting Opinions, and Plurality Decisions shall be disseminated by the Chief Justice to the entire student body via the campus email systems. Additionally, the Chief Justice shall submit all of such decisions to the Executive Secretary of the SGA for distribution among the Legislative and Executive officers of the SGA.

Section 7: Archival of Decisions:

The Chief Justice shall be responsible for seeing to it that all Opinions of the Court, Concurring Opinions, Dissenting Opinions, and Plurality Decisions are properly archived, accessible to both the public and Justices, so that such decisions may be drawn upon for future cases and uses.

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