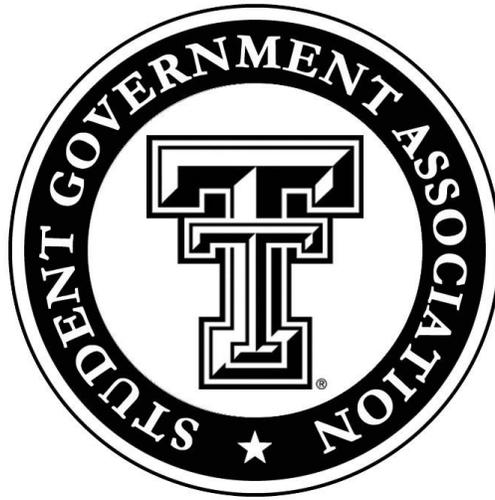


Student District Court of Texas Tech University

Rules & Operating Procedures

Enacted: February 17, 2015



Fiat justitia, ruat caelum.

CERTIFICATION

Pursuant to its rulemaking authority under Article IV, Section 6, Clause 1 (and its jurisdiction over inferior courts under Article IV, Section 1) of the Constitution of the Texas Tech University Student Government Association, the Student Supreme Court of Texas Tech University hereby promulgates these rules and operating procedures for the newly established District Court of Texas Tech University.

These rules and operating procedures take effect immediately and shall remain in effect continuously until they are modified or replaced by the Supreme Court in accordance with the provisions of Rule 2.1.4 of the Supreme Court Rules & Operating Procedures.

Dated: February 17, 2015

A handwritten signature in black ink, appearing to read "Andrew Robertson", written over a horizontal line.

Hon. Andrew Robertson, Chief Justice

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RULES & OPERATING PROCEDURES OF THE DISTRICT COURT

Introductory Note

The SGA Constitution vests the Student Senate with the power to create courts inferior to the Supreme Court. [*SGA Const. art. IV, sec. 1*]. In December 2014, the President of the SGA signed a bill into law establishing the District Court of Texas Tech University. [*Senate Bill 50.05, Title I: 12 Dec. 2014*]. Under this legislation, the Student Senate removed the Supreme Court's original jurisdiction and vested it exclusively in the District Court. [*Senate Bill 50.05, Title I: 12 Dec. 2014*]. Pursuant to its rulemaking authority and supremacy over inferior courts, the Supreme Court now promulgates these rules of operation for the District Court in compliance with the provisions of the SGA Constitution and Senate Bill 50.05. [*SGA Const. art. IV, sec. 1 & 6*].

Sec. 1 Definitions

- 1.1 Petitioner – the party bringing a case before the district court.
- 1.2 Respondent – the party named (addressed) by the Petitioner's complaint.
- 1.3 Complaint – the paper(s) filed by Petitioner stating the grounds for a claim and requesting a decision from the Court.
- 1.4 Court – The District Court of Texas Tech University (aka: Student District Court, SGA District Court, District Court, etc.), unless otherwise specified.
- 1.5 Justice – a Justice of the Student Supreme Court sitting as part of the District Court panel to hear a case.
- 1.6 Presiding Justice – the Chief Justice of the Student Supreme Court, or the most senior Justice of the Supreme Court sitting on the District Court panel, responsible for governing the proceedings.
- 1.7 SGA – The Student Government Association of Texas Tech University.

Sec. 2 Composition of the Court & Duties of Justices

2.1 The Panel

- 2.1.1 The District Court shall consist of a panel of three (3) Supreme Court Justices sitting with original jurisdiction over a case or controversy. In no case may more than three Justices or less than three Justices convene the Court or reach a decision.
- 2.1.2 All Justices sitting on the District Court are bound by the regular duties and responsibilities of Supreme Court Justices (see Section 2 of the Student Supreme Court Rules & Operating Procedures).
- 2.1.3 In addition to their duties as a Supreme Court Justice, Justices sitting on the District Court shall have the duty to decide all cases or controversies arising under the SGA Constitution in a fair and impartial manner, listening to all of the testimony and reviewing all of the evidence in order to reach a fair and equitable resolution in the interest of justice.
- 2.1.4 It shall take a majority vote of the panel to reach a decision in any case.

2.2 The Presiding Justice

- 2.2.1 The Presiding Justice shall have all of the same responsibilities and duties of the Associate Justices in addition to the specially enumerated duties of the Presiding Justice.
- 2.2.2 The Presiding Justice shall be the Chief Justice of the Student Supreme Court. If the Chief Justice is recused for a personal conflict or otherwise unavailable to perform her/his duties, then the Presiding Justice shall be the most senior Justice serving on the panel. [*Senate Bill 50.05, Title II: 12 Dec. 2014*].
- 2.2.3 The Presiding Justice is responsible for presiding over the hearing and maintaining order in the room. The Presiding Justice shall rule on all objections and admission of evidence, with the advice and consent of the rest of the panel.

- 2.2.4 The Presiding Justice is responsible for writing a formal decision of the Court stating the nature of the case and the Court's rulings of fact and law (see Section 9 below) unless she/he chooses to delegate this task to another member of the panel. The Presiding Justice is responsible for filing all decisions of the Court (signed by all Justices participating) with the Office of the President of the University, the President of the SGA, and the Senate Journal of the SGA. [see *Senate Bill 68 4s: 06 May 1969*].
- 2.2.5 The Presiding Justice is responsible for uploading all District Court decisions into the online database (OrgSync) of Court precedent.

Sec. 3 Ethical Rules for District Court Justices

- 3.1 Justices should act at all times in a manner that respects the integrity of the District Court, the Student Government Association, and Texas Tech University.
- 3.2 When any action is brought before the Court, Justices should not discuss the case with anyone who is not a fellow Justice on the District Court. This includes other Justices of the Supreme Court not sitting on the District Court case.
- 3.3 No Justice should sit in judgment of a case in which they have a personal interest or bias which would prevent their objective consideration of the merits of the parties' arguments.
- 3.3.1 The Supreme Court shall be the sole judge of the qualifications of its members to hear District Court cases. If a Justice knows that they have a conflict, they should recuse themselves upon learning of the conflict by informing the Chief Justice of the Supreme Court. If the Chief Justice has a conflict, then she/he should recuse herself/himself by informing the Senior Associate Justice.
- 3.3.2 In any case where a Justice believes that they might have a conflict, but are uncertain whether it would disqualify their participation, the Court should vote on whether the Justice's continued participation in the case is appropriate. All Justices of the Supreme Court, including those not participating in the District Court case (but excluding the justice with a potential conflict), must cast a vote with a simple majority determining the outcome.

- 3.3.3 In any case where a party challenges the objectivity of a Justice for good cause, the Supreme Court should vote on whether the Justice's continued participation in the case is appropriate. All Justices on the Supreme Court (except the Justice with a potential conflict) must cast a vote with a simple majority determining the outcome.
 - 3.4 Justices have a responsibility to decline any favors, gifts, or bribes offered by the parties of a pending or potential case, and should not communicate with those parties outside of a judicial hearing. The Presiding Justice may communicate with parties for administrative purposes, but should make each party aware of her/his communications with the other and should not discuss the substance or arguments of the case in any way.
 - 3.5 Justices should not affiliate with student political parties at Texas Tech University and should not associate themselves with political campaigns or interest groups within the SGA. Justices should not endorse candidates for SGA office or otherwise participate in SGA elections except to exercise their voting rights as a Texas Tech student.
 - 3.6 Justices should not hold any other office or position in or out of SGA which would substantially conflict with their duties or responsibilities as a District Court Justice.

Sec. 4 Jurisdiction

- 4.1 Original Jurisdiction.
 - 4.1.1 The District Court of Texas Tech University shall have all original jurisdiction over disputes arising under the Student Government Association Constitution. [*Senate Bill 50.05: Title I, 12 Dec. 2014*].
 - 4.1.2 The decision and order of the District Court shall be final and enforceable upon all parties unless a party files a petition for review with the Student Supreme Court.

4.2 Appellate Jurisdiction.

4.2.1 The District Court shall have no appellate jurisdiction whatsoever. All decisions of the Student Senate Committee on Rules and Administration, Election Commission, or other tribunal of Texas Tech University are appealable only to the Student Supreme Court. [*Senate Bill 50.05: Title III, 12 Dec. 2014*].

Sec. 5 Complaint & Initiation of Proceedings

- 5.1 Any student may initiate a proceeding in the District Court by filing a complaint. The complaint shall state (1) the cause of action or grievance, (2) a thorough and accurate description of the facts giving rise to the cause of action, (3) all parties involved in the case, (4) any rules or constitutional provisions in question, (5) copies of all relevant physical evidence, (6) a list of all persons whom will be called to testify as witnesses, and (7) a plea for a particular form of relief sought.
- 5.2 The complaint must be electronically mailed to the Chief Justice of the Student Supreme Court.
- 5.3 The Chief Justice shall notify the Court, SGA President, and SGA professional staff within two (2) school days of receiving the complaint and shall assign a panel of three (3) Justices to convene the District Court within that time. The Chief Justice shall designate herself/himself as the Presiding Justice or (if the Chief Justice is not on the panel) shall determine the most senior Justice on the panel to serve as Presiding Justice. The Presiding Justice shall be responsible for presiding over all further action in the case.
- 5.4 The Petitioner must serve the complaint on the Respondent within two (2) school days. A statement of receipt of the complaint must be signed by the Respondent and filed with the Court. Failure to properly serve the petition upon Respondent will result in dismissal of the case.
- 5.5 The Respondent shall be given five (5) school days from the time of service to reply to the complaint by filing with the Presiding Justice a response or denial of the charges in the complaint and submitting any additional evidence, witnesses, or counter-claims.

- 5.6 The Respondent's brief should be electronically mailed to the Presiding Justice and served upon the Petitioner. Failure to reply by the deadline or serve the brief upon the Petitioner will result in a default judgment for the Petitioner by granting the relief sought without a hearing.

Sec. 6 Rights & Responsibilities of the Parties

- 6.1 All parties appearing before the District Court are required to submit themselves to the authority of the District Court and agree to be bound by its decisions unless an appeal is granted by the Student Supreme Court.
- 6.2 Parties have a right to have a copy of the SGA Constitution, the District Court Rules & Operating Procedures, and any other rules of procedure established by the Supreme Court.
- 6.3 To facilitate a more accurate fact-finding process, parties (other than the SGA) appearing before the District Court shall have no right to be represented by counsel and will be responsible for making their own presentations to the Court. The SGA shall have the right to be represented by its Attorney General.
- 6.4 Parties have the right and the obligation to file briefs with the District Court, explaining their cause of action and presenting a statement of the facts giving rise to the case.
- 6.5 Parties have the right to inspect all evidence presented against them and to have a copy of any documentary or physical evidence whenever possible.
- 6.6 Parties have the right to call witnesses to testify on their behalf and to cross-examine any witnesses called by the opposing party. If adequate justification can be shown for why a witness may not be present, parties may present a signed deposition from the witness providing their testimony. The District Court shall determine whether adequate justification exists for allowing deposition testimony.
- 6.7 Parties have the right to present an opening and closing argument, and to make oral argument during their case-in-chief, in accordance with the time limits imposed by these Rules or by order of the District Court.

- 6.8 Parties have the right to move for a delay or extension of a hearing set by the Presiding Justice. The Court maintains the discretion to deny such a motion for any or no reason.
- 6.9 Parties have the right to move for the suspension of any rule or procedure created by the Supreme Court due to extenuating circumstances. The District Court maintains the discretion to deny such a motion for any or no reason.
- 6.10 Parties have the right to move or dismissal in cases where insufficient evidence has been presented to support the claim or counter-claim of the opposing party. The District Court maintains the discretion to deny such a motion when it believes sufficient evidence exists.
- 6.11 Parties have the right to object to testimony or evidence presented by an opposing party. In doing so, they must convince the Court of a compelling reason why such testimony or evidence should not be admitted. The District Court shall have no formal rules of evidence and all evidence will be presumed admissible so long as it has *any tendency* to make a fact more or less probable. Evidence that is proven to be forged or materially altered from its original form shall not be admissible.
- 6.12 Parties have the right to challenge the objectivity of any Justice for good cause. The Supreme Court shall be the sole judge of the qualifications of its members to hear cases in the District Court. (See Rule 3.3.3 above).
- 6.13 Parties have the right to move for an injunction to temporarily prevent another party from taking some defined action until the District Court issues a decision.
- 6.13.1 The non-moving party is entitled to a hearing on the injunction to oppose its issuance.
- 6.13.2 Parties do not have an absolute right to an injunction.
- 6.14 Parties have the right to move for a new hearing if they believe that a prior hearing was unfair or involved a misapplication of law.
- 6.14.1 Any motion for a new hearing must be filed within 24 hours of the District Court issuing its final decision and must state the reason why a new hearing is appropriate.

6.14.2 Parties do not have an absolute right to a new hearing.

6.15 Parties have an absolute right to appeal the decision of the District Court to the Student Supreme Court.

Sec. 7 Powers & Duties of the District Court

7.1 The District Court shall have the right and the duty to hold hearings in any case submitted to it, consistent with its jurisdictional limitations.

7.2 All parties have a right to be heard, and no case may be dismissed by the District Court except where (1) no jurisdiction exists, (2) a party fails to comply with a filing deadline in these Rules, or (3) there is insufficient evidence to support the claim or counter-claim of a party.

7.3 The District Court shall have the duty to notify all persons involved in a case of the time and place of hearings through the Presiding Justice.

7.4 The District Court shall have the duty to sequester witnesses during the course of the hearing and shall not allow a witness in the case (other than a party) to hear the testimony of any other witness.

7.5 The District Court shall have the duty to officially receive and certify the receipt of documentary evidence, exhibits, and depositions and to provide for their safekeeping during the hearing.

7.6 The District Court shall have the right and the duty to maintain reasonable order in the courtroom during all hearings.

7.7 Justices sitting on the District Court, subject to their discretion, have the right to question a witness or party about any fact or opinion relevant to the case.

7.8 The District Court shall have the power to consolidate similar cases in order to promote efficiency without sacrificing justice.

7.9 The District Court shall have the duty to keep an accurate audio recording of all its hearings. Upon certification of an appeal by the Student Supreme Court, the District Court shall provide a copy of this audio recording, along with any evidence, exhibits, depositions, or notes of the hearing to all Justices on the Supreme Court.

- 7.10 The District Court shall have the duty to issue a decision in every case, establishing its findings of fact and stating the legal reasons for its decision.
- 7.11 The District Court shall have the power to delay or suspend hearings or to suspend any of these rules of procedure whenever it is in the best interest of justice by a majority vote of the District Court Justices. This may be done on the motion of a party, or *sua sponte* by the Court.
- 7.12 The District Court shall have the right to issue injunctions as it deems necessary for the proper administration of justice.
- 7.12.1 An injunction may be requested by any party and issued after an adverse hearing. The District Court may not issue an injunction *sua sponte*.
- 7.12.2 Each injunction issued by the court must be specific as to its content and scope, and must state a termination date.
- 7.12.3 No injunction may issue for more than three (3) weeks and must be lifted upon the District Court's final decision in a case. The District Court may, at its discretion, extend a previously issued injunction after holding a second hearing to determine if it is necessary.
- 7.13 The District Court shall have the right to grant or deny any motion for a new hearing, subject to its discretion. In any case where a new hearing is granted, the same three (3) Justices shall preside over the second hearing. This ensures that the remaining four (4) Justices remain neutral and detached in order to potentially overrule the case during a Supreme Court appeal.
- 7.14 The District Court is bound by the SGA Constitution, these Rules, any applicable legislation of the Student Senate, and all case law issued by the Student Supreme Court.

Sec. 8 Hearings

- 8.1 The purpose of a District Court hearing shall be to determine if an issue exists over which the Court has jurisdiction and, assuming that jurisdiction exists, to decide any issues of fact or law pertaining to the matter. The District Court shall be the fact finders in every case and shall conclusively establish a record of official facts and appropriately apply relevant SGA law to those facts in order to issue a ruling.

- 8.2 Hearings shall be held no later than fourteen (14) school days from the receipt of the Complaint, except where a delay is in the best interest of justice.
- 8.3 All hearings of the District Court shall be recorded by audio recording.
- 8.4 The Presiding Justice shall check to determine that all three (3) Justices of the panel are present. A case may not proceed without three sitting Justices.
- 8.5 The Presiding Justice shall ensure that all Justices and parties have been provided copies of the briefs, witness lists, and any documentary or physical evidence submitted by the parties.
- 8.6 The Presiding Justice shall ensure that both parties are present and ready to proceed and shall call the hearing to order.
- 8.7 The Petitioner shall be allowed to present a five (5) minute opening statement, briefly reciting the facts and grounds for the claim to the Court. The Respondent shall then be given a five (5) minute opening statement to do the same.
- 8.8 The Petitioner shall be given a thirty (30) minute case-in-chief to present evidence, question witnesses, and make oral argument to the Court. No particular order need be followed and a Petitioner is not required to call any witnesses or make any direct arguments, but may present their case in a manner of their choosing, provided they do not go longer than thirty (30) minutes in total.
- 8.9 The Respondent shall be allowed five (5) minutes to cross-examine each witness of the Petitioner before they step down. This does not count against the Petitioner's or the Respondent's case-in-chief time limits.
- 8.10 At the conclusion of the Petitioner's case, the Respondent may move for dismissal if there has been insufficient evidence presented. The Court maintains the discretion to dismiss a case for lack of evidence, but should only dismiss where no evidence has been presented that could possibly support Petitioner's claims.

- 8.11 The Respondent shall be given a thirty (30) minute case-in-chief to present evidence, question witnesses, and make oral argument to the Court. No particular order need be followed and a Respondent is not required to call any witnesses or make any direct arguments, but may present their case in a manner of their choosing, provided they do not go longer than thirty (30) minutes in total. The Respondent may use this time to rebut the Petitioner's case-in-chief, present any counter-claims against the Petitioner, or both.
- 8.12 The Petitioner shall be allowed five (5) minutes to cross-examine each witness of the Respondent before they step down. This does not count against the Respondent's or the Petitioner's case-in-chief time limits.
- 8.13 Justices may question witnesses called by either party. Any time taken by the Justices for questioning witnesses will count against the party's case-in-chief time limit, so the Justices should use this power only when they believe it necessary.
- 8.14 At the conclusion of Respondent's case-in-chief, each party will be allowed a ten (10) minute closing argument, with the Petitioner going first. The Petitioner may reserve no more than five (5) minutes of their time for a rebuttal after the Respondent's closing argument.
- 8.15 Following the conclusion of the hearing, the District Court shall render a decision at a time set by the Court. It shall require the concurrence of a majority of the Justices to render a decision.

Sec. 9 Decisions of the District Court

- 9.1 A majority of the three (3) Justices will constitute the decision of the District Court. The names of each Justice participating and the Justice acting as Presiding Justice should be stated in the decision.
- 9.2 The Presiding Justice shall issue the Decision of the Court in writing as soon as possible and not later than three (3) school days after the hearing. The decision should lay out the official findings of fact of the District Court and state any relevant application of law or reasoning that led the Court to its decision.
- 9.3 The decision of the Court will be the official record of the hearing. No majority or dissenting opinions will be written by the District Court, but if the Court is not unanimous in its decision then a brief note of the dissenting Justice should be included in the decision.

- 9.4 The Presiding Justice will ensure that copies of each Decision of the Court are delivered to the (1) Editor of the *Daily Toreador*, (2) Office of the President of Texas Tech University, (3) President of the Student Government Association, (4) President of the Student Senate, (5) Attorney General of the Student Government Association, and (6) Director of the Student Government Association.
- 9.5 The Presiding Justice shall further ensure that all decisions of the District Court are uploaded into the online database (OrgSync) of Court precedent.
- 9.6 If a petition for review is filed in the Student Supreme Court, then the Presiding Justice shall forward a copy of the audio recording, evidence, exhibits, depositions, and any notes of the hearing, along with a copy of the Decision of the Court, to all Justices on the Supreme Court.

Sec. 10 Right to Appeal

- 10.1 The Student Supreme Court has appellate jurisdiction over all decisions of the District Court, and each party has a right to appeal the District Court's decision to the Supreme Court. [*SGA Const. art. IV, sec. 1*].
- 10.2 Appeals to the Student Supreme Court may not be precluded by an order of the District Court or by agreement of the parties.
- 10.3 Any appeal to the Student Supreme Court shall conform to the requirements of the Student Supreme Court Rules & Operating Procedures. The Supreme Court may grant or deny the appeal in accordance with its own rules.

APPENDIX A: SENATE BILL 50.05 (12 Dec. 2014)

TEXAS TECH UNIVERSITY
Senate Bill 50.05

A Bill to Be Entitled

Establishing a District Court of Texas Tech University Bill

WHEREAS, the Supreme Court of Texas Tech University currently has original and appellate jurisdiction over disputes arising under the Student Government Association Constitution, and

WHEREAS, the student senate possesses the authority under Article IV Section I of the Student Government Association Constitution to create inferior courts as it sees appropriate, and

WHEREAS, allowing the Supreme Court to have both original and appellate jurisdiction over constitutional matters provides for the unjust administration of SGA law,

**BE IT HEREBY ENACTED BY THE STUDENT SENATE OF
TEXAS TECH UNIVERSITY THE FOLLOWING:**

TITLE I. The District Court of Texas Tech University shall have all original jurisdiction over disputes arising under the Student Government Association Constitution.

TITLE II. The Chief Justice of the Supreme Court shall preside over the District Court, unless the Chief Justice has a conflict of interest or is unavailable. In such a case, the Chief Justice shall appoint the senior most Associate Justice to preside over the matter.

TITLE III. Let it be known, this bill does not affect the appellate jurisdiction granted to the Supreme Court under the Constitution.

Authors: HOUSER
WILSON

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(Signatures and Senate record information omitted)

APPENDIX B: RELEVANT CONSTITUTIONAL PROVISIONS

Article I: The Student Government Association

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Section 3. Distribution of Powers. The powers of the Texas Tech Student Government Association are divided into three distinct departments: The Legislative, Judicial, and Executive. No person or collection of persons being in one of these departments shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

Article IV: Judicial

Section 1. The Judicial power of the Student Government Association shall be vested in a Supreme Court, and other such courts as may be set up by the Student Senate and has jurisdiction over any inferior courts created by the Senate.

Section 2. The Supreme Court shall be composed of a Chief Justice and six Associate Justices. They shall be appointed by the President of the Student Government Association. Justices serve 2-year terms. Every odd year, the President shall appoint three Justices and every even year the President shall appoint four. All appointed Justices would be interviewed and recommended by the Rules and Administration Committee, before being presented to the Senate. The Chief Justice position will be a second year Justice. The Senate will confirm the appointments by a 2/3 vote of those who are present and voting.

Section 3. Undergraduate members of the Supreme Court must be enrolled for at least twelve (12) semester hours of resident credit courses. Graduate members of the Supreme Court must be enrolled for at least six (6) semester hours of resident credit courses. Each member of the Supreme Court must have a 2.5 overall grade point average. Each member shall be officially classified as at least a junior by the end of the semester in which he is appointed. A court member must maintain a 2.5 grade point average throughout his entire term in office.

Section 4. Term: Members of the Supreme Court shall be appointed two weeks prior to the first fall meeting of the Student Senate.

Section 5. Duties of the Supreme Court. The Supreme Court shall:

1. Upon written request signed by the President of the Student Government Association or any member of the Senate advise and consent as to the constitutionality of any existing or proposed legislation or render an advisory opinion to the Senate of interpretation of this Constitution.
2. Consider appeals from decisions of the Committee on Rules and Administration.
3. Settle any disputes as may arise under this Constitution.

Section 6. Procedure:

1. The Supreme Court shall promulgate such rules of procedure and appoint such officers as it shall deem necessary for the conduct of its business, provided that the jurisdiction of the Supreme Court, including the various writs, shall be established by this Constitution or Student Government Association law.
2. Any member of the Student Government Association who may be party to any action before the Court shall have prior notice of charges involved in the action; shall have ample time to prepare his case; shall be entitled to the assistance of counsel; shall be confronted by and have the right to compel witnesses to appear in his behalf.
3. All decisions and opinions of the Court shall be in writing, signed by members participating and put on file by the Chief Justice in the Office of the President of the University and of the Student Government Association.
4. A member of the Court may be removed by a 2/3 vote of the Student Senate.

Article VI: Supreme Student Law

Section 1. This Constitution, and the laws of the Student Government Association which shall be made in pursuance thereof, shall be the supreme law of the Student Government Association, and the judges in every court established under this Constitution shall be bound thereby, anything in the Constitution or laws of any organization or other campus group to the contrary notwithstanding.