

# RULES AND OPERATING PROCEDURE OF THE STUDENT SUPREME COURT

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**Sec. 1. DEFINITIONS** – are herein defined and specified for the Supreme Court of SGA.

- 1.1. Petitioner – the party petitioning the court.
- 1.2. Respondent – the party named (addressed) by the Petitioner’s petition.
- 1.3. Petition for Review – the paper(s) filed by Petitioner requesting opinion or decision from the court.
- 1.4. Counselor – the person or persons who will represent the party as counsel before the Court. Counsel must be students.
- 1.5. Appeal – shall be used to mean either original or appellate jurisdiction.

**Sec. 2. RESPONSIBILITIES AND DUTIES OF SUPREME COURT JUSTICES**

**2.1 SUPREME COURT JUSTICES**

**2.1.1** All Supreme Court Justices are responsible for having a working knowledge of the Rules of the Senate, Rules and Procedures of the Student Supreme Court, and the SGA Constitution.

**2.1.2** The Supreme Court shall consist of no more than (7) justices, including the Chief Justice.

**2.1.3** A simple majority of the justices shall make all rules of procedure for the Court.

**2.2 SUPRME COURT CHIEF JUSTICE**

**2.2.1** The Chief Justice is responsible for keeping the SGA President, Internal and External Vice-Presidents, and Senate up to date with a list of all current Supreme Court Justices.

**2.2.2** 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, the President of the SGA, and in the Senate Journal of the Student Government Association. [(SB 68) 4s: 06 May 1969]

**Sec. 3**

**JURISDICTION**

- 3.1 ORIGINAL JURISDICTION – The Supreme Court shall have original jurisdiction only in cases under which the following stipulations do not apply:
  - 3.1.1 The original jurisdiction for interpretation of the Constitution of the Student Government Association, arising from questions within the Senate, shall reside with the Subcommittee on the Judiciary of the Intergovernmental Relations Committee. [(SB 6.39) 6s: Title I, 05 Nov. 1970]
  - 3.1.2 The original jurisdiction of the interpretation of the Senate Rules shall reside with the Senate Committee on Rules and Administration. [(SB 6.39) 6s: Title II, 05 Nov 1970]
- 3.2 APPELLATE JURISDICTION – The Supreme Court shall have appellate jurisdiction to consider appeals from decisions of the Senate Committee on Rules and Administration. [SGA Const. Article IV, Sec. 5, Cl.2]:[(SB 6.39) 6s: Title III, 05 Nov 1970] The Supreme Court shall also have appellate jurisdiction to consider appeals from decision of the Election Commission. [Elec. Code: Chapter IV, Sub Ch. D, Sec. 4.23]
  - 3.21 The appellate jurisdiction for the Standing Rules of the Senate shall reside with the Student Senate. [(SB 6.39) 6s: Title IV, 05 Nov. 1970]

**Sec. 4**

**INITIATION OF COMPLAINT**

- 4.1 If a student wishes to bring a controversy before the Texas Tech University Supreme Court, they shall submit a Petition for Review. It should state the cause of action, grievance, or complaint, any ground of appeal from a previous decision, all parties involved, any rules which are in question, the date that the incident giving rise to the complaint occurred, and a demand for judgment for relief to which the petitioner deems themselves entitled.
- 4.2 The petition must be e-filed with the Chief Justice in the form of electronic mail
- 4.3 The Chief Justice shall notify the Associate Justices, SGA President, and Student Government Association professional staff within two (2) school days of receipt of the Petition for Review.
- 4.4 The Petition for Review must be served to the party against whom the complaint is made and a statement of receipt of the petition must be signed by a party against whom the complaint is made and filed with the Court.
- 4.5 Seven (7) copies of the Petition for Review and the statement of receipt signed by the Respondent must be presented to the Chief Justice.
- 4.6 The Respondent shall be given five (5) working days to reply to the complaint. Failure to reply will automatically lead to judgment by the Court in favor of the petition. The reply should be worded simply and in the form of a business letter. It should attempt to answer or refute the claims in the complaint, giving clear explanation of the Respondent’s position in the case. In some cases it may be more appropriate or effective to make the reply in the form of a counter-complaint. The reply should be addressed to the Court and delivered to the Student Government Association Office, Room 304, Student Union Building. The Court shall forward one copy of the reply to the petitioner.

- 4.7 A party may be represented in all matters connected with the case by spokesmen, called counselors.
- 4.8 The parties' choices of counselors shall be subject to the approval of a majority of the Court. Counselors may act for their clients in all matters, except that no Counselors may reach agreements with the other parties concerning the facts in the case, without the approval of his/her client. Such approval must be filed with the Court in writing. Counselors shall accept no material or financial compensation for their services.
- 4.9 The Court will set a date for a preliminary hearing within fourteen (14) days of the receipt of the petition on whether to hear the case on its merits.
- 4.10 The Chief Justice shall notify all parties named in the petition of the time and place of the preliminary hearing.
  - 4.10.1 Credentials of Counselors for both Petitioner and Respondent shall be reviewed for consideration of their Admittance to the Bar by the Court, and notification of admittance shall occur at the time of notification of the preliminary hearing.

**Sec. 5 RIGHTS OF PARTIES** – All litigants before the Supreme Court, by their act of bringing a case to the Supreme Court, do submit themselves to the authority of the Supreme Court and are bound to adhere to the decision(s) of that body. The right of all litigants are described by but not limited to the following:

- 5.1 To have a written copy of the student Supreme Court Rules and Operating Procedure, Judicial Branch constitutional powers, and any other rules of procedure established by the Supreme Court.
- 5.2 To be represented by a Counselor who is a student at Texas Tech University of their own choosing, including representing his/her self. [SGA Const: Amendment X]
- 5.3 To file typed briefs outlining arguments.
- 5.4 To cross-examine witnesses and inspect evidence. [SGA Const. Amendment X]
- 5.5 To have reasonable oral argument.
- 5.6 To present signed a deposition if adequate justification can be shown for a witness not appearing.
- 5.7 To introduce procedural motions including:
  - 5.7.1 for delay or extension of hearing.
  - 5.7.2 for dismissal due to lack of evidence
  - 5.7.3 for mistrial due to evidence offered.
  - 5.7.4 for rejection of evidence offered.
  - 5.7.5 for objection to actions of the opposing party.
  - 5.7.6 for suspension of any rule of order.
  - 5.7.7 for extra ordinary actions as they may occur.

**Sec. 6 RIGHTS AND RESPONSIBILITES OF SUPREME COURT** – The Court shall have the following rights and responsibilities described by but not limited to the following:

- 6.1 To reject an appeal that is either unwarranted or not under the Court's jurisdiction by majority vote of the Court.
- 6.2 To officially notify the Court and persons involved of the time and place of meetings and hearings through the Chief Justice.

- 6.3 To provide a means whereby witnesses can be sequestered during the course of the hearing.
- 6.4 To officially receive and certify the receipt of documentary evidence, exhibits, and depositions and provide for their safekeeping.
- 6.5 To ensure that hearsay shall not be admissible in any and all hearings
- 6.6 To maintain reasonable order in the courtroom during the process of the hearings
- 6.7 To question those witnesses that have been previously called by the parties involved, or to request further documentation of evidence presented.
- 6.8 To request consolidation of similar cases in order to promote efficiency without sacrificing justice.
- 6.9 To write both Majority and Minority Opinions, specifically stating reasons for decisions and have them returned to the parties involved and on file in the SGA office, Office of the President of Texas Tech University, and the Senate Journal.
- 6.10 To create other procedural guidelines, and to make those guidelines as well as these rules available to the parties involved prior to the hearing.
- 6.11 By the determination of a majority of the sitting justices of the Court, the incidental procedural rules set by the Court may be suspended in any case when the best administration of justice dictates.

**Sec. 7                    STRUCTURE OF HEARINGS** – The following procedural guidelines and structure of hearings shall apply to all hearings before the Court.

- 7.1 The purpose of the preliminary hearing will be to determine if an issue exists over which the Court has jurisdiction for hearing the case on its merits. The preliminary hearing shall be held no later than fourteen (14) days from the receipt of the Petition for Review. The procedure of the preliminary hearing shall be as follows:
  - 7.1.1 The Chief Justice shall check to determine if quorum has been established and shall enter the names of those present or absent into the record.
  - 7.1.2 Either the Petitioner or his/her counselor will read or state the contentions of the Petitioner.
  - 7.1.3 Either the Respondent or his/her counselor will read or state the contentions of the Respondent.
  - 7.1.4 Two rebuttal periods will be allowed each party, the Petitioner and the Respondent in the following order: (1) Petitioner, (2) Respondent, (3) Petitioner, (4) Respondent.
  - 7.1.5 The Court shall deliberate in private in order to make the necessary decisions and to provide for the execution of those decisions.
  - 7.1.6 There will be no hearing during the official exam periods, or during holidays, except in an emergency and only when a majority of the Court agrees to the hearing.
  - 7.1.7 There must be a minimum of three Justices present at the preliminary hearing.
- 7.2 The procedure for the trial or formal hearing shall be as follows:
  - 7.2.1 A hearing on the merits (or trial) must be held within ten (10) days of the preliminary hearing, if the Court determines that the Petitioner states a valid cause of action.

- 7.2.2 The Chief Justice shall check to determine if a quorum has been established and shall enter the names of those present or absent into the record.
- 7.2.3 The Chief Justice shall announce the case and inquire whether the parties are ready. If all parties are ready to proceed, the Chief Justice shall open the hearings. At this time the Chief Justice shall give a short statement, urging the parties to feel free to ask questions of the Court as the hearing proceeds, and that the interest of the Court is justice, not necessarily form or procedural rules.
- 7.2.4 The Chief Justice shall determine if the Petitioner's and Respondent's briefs have been distributed to the Supreme Court Justices and to opposing parties.
- 7.2.5 Parties shall present additional depositions, exhibits, enclosures, or other evidence that needs to be filed with the Court, if allowed by the Court.
- 7.2.6 Any Justice of the Supreme Court who wishes to declare him/herself recused due to personal involvement shall do so at this time. No Justices shall sit in judgment on cases in which they have a personal interest or bias which would prevent their objective consideration of the merits of the litigants' arguments. The Court shall be the sole judge of the qualifications of its members to try cases. It is the responsibility of the individual Justices to decline any favors offered by parties to pending cases, and to refrain from discussing any pending cases outside the presence of all parties in the interest of integrity and his/her judicial independence so that he or she not bring dishonor upon his/herself or the position. The remaining Justices shall make the decision without regard to quorum. At no time can a single justice render a decision. It will become the obligation of the Supreme Court to reschedule the hearing, if deemed necessary.
- 7.2.7 Thirty minute oral argument shall be given to each side, with the Respondent proceeding first, during which the Court may ask questions concerning the case.
- 7.2.8 Each side is encouraged to be represented by one person who will be the spokesman of that group.
- 7.2.9 A bailiff shall be appointed to maintain order in the Court, and a clerk shall be appointed to record the proceedings.
- 7.2.10 Each party shall submit a brief summary of his case, showing the requested finding of fact and/or points of law for use in the deliberation of the Court.
- 7.3 The Supreme Court shall render a decision at a time set by the Court at the conclusion of the proceedings. It shall require the concurrence of a majority of the participating Justices to render a decision.

**Sec. 8 WRITS**

- 8.1 Certiorari. The writ of certiorari is to be defined as a court order from the Supreme Court to a lower court which orders the lower court to certify and return to the Supreme Court the record of the previous proceedings in the lower court. [(14.3) 14s: Title I, 02 Nov 1978]
- 8.2 Coram Nobis. The writ of Coram Nobis is to be defined as a court order from the Supreme Court to a lower court in which the injustice was allegedly done. It states that a defense existed in facts which were not brought to the court's attention through fraud,

duress, or excusable mistake. These facts, if known in time, would have prevented the judgment rendered. [(14.3) 14s: Title II, 02 Nov 1978]

8.3 Injunction. The writ of injunction includes the temporary restraining order, and/or the injunction itself.

8.3.1 The temporary restraining order: may be requested by one party and granted without a hearing; preserving the present outcome, and must have a definite time limit included as part of the order. [(14.3) 14s: Title III, 02 Nov 1978]

8.3.2 The restraining order: requires an adversary hearing; may restrain anticipated actions; and must have a definite time limit included as part of the order. [(14.3) 14s: Title III, 02 Nov 1978]

8.3.3 The injunction: requires an adversary hearing; may restrain anticipated actions; and must have a definite time limit included as part of the order. [(14.3) 14s: Title III, 02 Nov 1978]

8.4 Mandamus. The writ of mandamus is to be defined as a court order from the Supreme Court to a student government official completing the performance of an act which is recognized as a duty of the official's office. [(14.3) 14s: Title IV, 02 Nov 1978]

8.5 Prohibition. The writ of prohibition is to be defined as a court order from the Supreme Court to a lower court which prevents the lower court from overstepping its jurisdiction or usurping the jurisdiction in an area with which it had not been vested by law. [(14.3) 14s: Title V, 02 Nov 1978]

**Sec. 9 DECISIONS OF THE SUPREME COURT** – When an action is brought before the Court, there will be no discussion of the case with a Justice, except among the Justices themselves.

9.1 The Chief Justice shall provide for the writing of the Opinion of the Court, except in the cases in which he is not with the Majority. Those Justices voting in the majority will then select one of their members to write the Opinion of the Court. Each justice must concur in an opinion or write a separate opinion and file it with the Opinion of the Court. It shall require the concurrence of a majority of the Justices participating to render a decision.

9.2 The Court will be responsible for writing and announcing opinions, and copies will be delivered to (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 Senate, (5) Director of Student Government Association.

9.3 The Supreme Court decisions shall be updated at the end of each legislative session by the Journal Clerk and listed in the Senate Journal. [(SB 68) 4s: 06 May 1969]