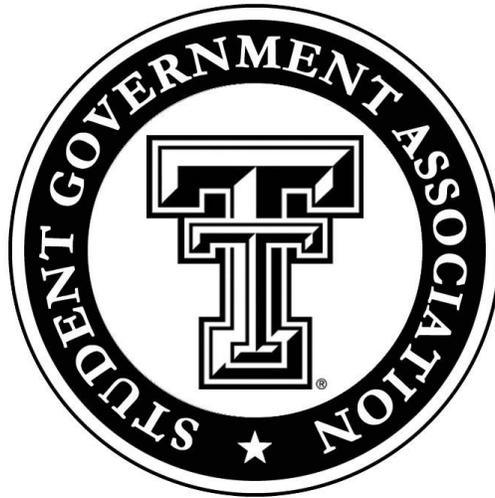


Student Supreme Court of Texas Tech University

Rules & Operating Procedures

Revised: February 17, 2015



Fiat justitia, ruat caelum.

CERTIFICATION

Pursuant to its rulemaking authority under Article IV, Section 6, Clause 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 Court.

These rules and operating procedures take effect immediately and supersede any previous rules or procedures established by this Court. These rules shall remain in effect continuously until they are modified or replaced by the Court in accordance with the provisions of Rule 2.1.4 (page 5 below).

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 SUPREME COURT

Sec. 1 Definitions

- 1.1 Appellant – the party bringing an appeal to the Court.
- 1.2 Appellee – the party named (addressed) by the Appellant’s petition for review.
- 1.3 Petition for Review – the paper(s) filed by Appellant seeking an appeal and requesting an opinion or decision from the Court.
- 1.4 Counselor – the person or persons who will represent a party before the Court.
- 1.5 Court – The Student Supreme Court of Texas Tech University (aka: Student Supreme Court, SGA Supreme Court, Supreme Court, etc.), unless otherwise specified.
- 1.6 SGA – The Student Government Association of Texas Tech University.

Sec. 2 Duties of Supreme Court Justices

- 2.1 Associate Justices
 - 2.1.1 The Supreme Court shall consist of no more than seven (7) justices. There shall be one Chief Justice, one Senior Associate Justice, and five Associate Justices. (*SGA Const. art. IV, sec. 2*). Justices other than the Chief Justice shall be ranked by seniority according to their date of confirmation by the Student Senate, with the Senior Associate Justice being the longest serving of the Associate Justices. When Justices are confirmed to the Court on the same date, seniority shall be determined by the alphabetical order of their last name.
 - 2.1.2 All Supreme Court Justices are responsible for having a working knowledge of the SGA Constitution, the Rules & Operating Procedures of the Student Supreme Court, the Rules & Operating Procedures of the Student District Court, the Rules of the Student Senate, and existing precedent (case law) of the Supreme Court.

- 2.1.3 Supreme Court Justices are expected to make all reasonable efforts to attend meetings and hearings of the Court when ordered by the Chief Justice, and should participate fully in any business of the Court unless they are excused by the Chief Justice for exceptional circumstances.
- 2.1.4 The Supreme Court shall have the duty to promulgate all rules of procedure for itself and for any lower courts of Texas Tech University. A majority vote of five (5) Justices shall be required to create, delete, or amend any rule.
- 2.2 The Senior Associate Justice
 - 2.2.1 The Senior Associate Justice shall have all of the same responsibilities and duties of the Associate Justices.
 - 2.2.2 In cases where the Chief Justice is unavailable due to impeachment, recusal, or other exigent circumstances, the Senior Associate Justice shall temporarily assume all of the duties of the Chief Justice until such a time as the Chief Justice resumes her/his duties or a new Chief Justice is confirmed by the Senate.
- 2.3 The Chief Justice
 - 2.3.1 The Chief Justice shall have all of the same responsibilities and duties of the Associate Justices in addition to the specially enumerated duties of the Chief Justice.
 - 2.3.2 The Chief Justice shall preside over all meetings and hearings of the Court unless she/he is unavailable or recused for a personal conflict.
 - 2.3.3 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.
 - 2.3.4 The Chief Justice is responsible for filing all decisions and opinions 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. [*Senate Bill 68 4s: 06 May 1969*].

- 2.3.5 The Chief Justice is responsible for uploading all Supreme Court decisions and written opinions into the online database (OrgSync) of Court precedent.

Sec. 3 Ethical Rules for Supreme Court Justices

- 3.1 Justices should act at all times in a manner that respects the integrity of the Supreme 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 Supreme Court.
- 3.3 No Justice should sit in judgment of a case in which they have a personal interest or bias that 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 cases. If a Justice knows that they have a conflict, they should recuse themselves upon learning of the conflict by informing the Chief Justice. 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 participating in the case (except 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 Court must vote on whether the Justice's continued participation in the case is appropriate. All Justices participating in the case (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 Chief Justice (or the acting Chief 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 Supreme Court Justice.

Sec. 4 Jurisdiction

- 4.1 Original Jurisdiction.
 - 4.1.1 Upon written request signed by the President of the Student Government Association or any member of the Senate, the Supreme Court shall have original jurisdiction to render an advisory opinion to the Senate on the constitutionality of existing or proposed legislation or on the interpretation of the Constitution. [*SGA Const. art. IV, sec. 5, cl. 1*]. The Supreme Court shall have no original jurisdiction to decide any case or controversy. [*Senate Bill 50.05: Title I, 12 Dec. 2014*].
 - 4.1.2 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. [*Senate Bill 6.39 6s: Title I, 05 Nov. 1970*].
 - 4.1.3 The original jurisdiction of the interpretation of the Senate Rules shall reside with the Senate Committee on Rules and Administration. [*Senate Bill 6.39 6s: Title II, 05 Nov. 1970*].
 - 4.1.4 The original jurisdiction for cases or controversies arising under the SGA Election Code shall reside with the Election Commission. [*Elec. Code: Chapter III, Sec. 3.01 & Sec. 3.13*].

4.1.5 The original jurisdiction for all other cases or controversies arising under the Constitution of the Student Government Association shall reside with the District Court of Texas Tech University. [*Senate Bill 50.05: Title I, 12 Dec. 2014*].

4.2 Appellate Jurisdiction.

4.2.1 The Supreme Court shall have appellate jurisdiction to consider appeals from decisions of the Senate Committee on Rules and Administration. [*SGA Const. art. IV, sec. 5, cl. 2; Senate Bill 6.39 6s: Title III, 05 Nov. 1970*].

4.2.2 The Supreme Court shall have appellate jurisdiction to consider appeals from decisions of the Election Commission. [*Elec. Code: Chapter IV, Sub Ch. A, Sec. 4.01 & Sub Ch. D, Sec. 4.36*].

4.2.3 The Supreme Court shall have appellate jurisdiction to consider appeals from decisions of the District Court of Texas Tech University by sitting in *en banc* review. [*SGA Const. art. IV, sec. 1 & art. IV, sec. 5, cl. 3; Senate Bill 50.05: Title III, 12 Dec. 2014*].

4.2.4 The appellate jurisdiction for the Standing Rules of the Senate shall reside with the Student Senate. [*Senate Bill 6.39 6s: Title IV, 05 Nov. 1970*].

Sec. 5 Appeals & Initiation of Proceedings

5.1 A student shall have the right to appeal any decision of a lower tribunal (including the District Court of Texas Tech University, the Election Commission, the Senate Committee on Rules and Administration, or any other court established by the Student Senate) by filing a petition for review in the Student Supreme Court. [*SGA Const. art. IV, sec. 5*].

5.2 The petition for review shall state (1) the cause of action, grievance, or complaint, (2) all parties involved in the case, (3) any rules or constitutional provisions in question (4) the decision of the lower tribunal and the grounds for appeal of that decision, and (5) a plea for a particular form of relief sought.

- 5.3 The petition must be electronically mailed to the Chief Justice.
- 5.4 The Chief Justice shall notify the Court, SGA President, and SGA professional staff within two (2) school days of receiving the petition for review.
- 5.5 The Appellant must serve the petition for review on the Appellee within two (2) school days. A statement of receipt of the petition must be signed by the Appellee and filed with the Court. Failure to properly serve the petition upon Appellee will result in dismissal of the appeal.
- 5.6 The Appellee shall be given five (5) school days from the time of service to reply to the petition by filing a brief in opposition stating the reasons that the decision of the lower tribunal should be affirmed.
- 5.7 The Appellee's brief should be electronically mailed to the Chief Justice and served upon the Appellant. Failure to reply by the deadline or serve the brief upon the Appellant will result in the Court deciding the appeal based only on the petition for review, and will forfeit the Appellee's right to a response or oral argument.

Sec. 6 Rights & Responsibilities of the Parties

- 6.1 All parties appearing before the Supreme Court are required to submit themselves to the authority of the Supreme Court and agree to be bound by its decisions.
- 6.2 Parties have a right to have a copy of the SGA Constitution, the Supreme Court Rules & Operating Procedures, and any other rules of procedure established by the Supreme Court.
- 6.3 Parties have the right to be represented by a counselor who is a full-time undergraduate or graduate student at Texas Tech University, or to represent themselves. [*SGA Const. art. IV, sec. 6, cl. 2*].
 - 6.3.1 Counselors must have a working knowledge of the SGA Constitution, the Rules & Operating Procedures of the Student Supreme Court, and any other applicable rules and regulations.

- 6.3.2 Counselors must seek admittance to the Bar of the Student Supreme Court prior to filing any briefs or motions with the Court (or appearing in any hearing) by submitting their credentials and a request for admittance to the Chief Justice. A party may oppose the admittance of any counselor for good cause. The Supreme Court shall have the final decision regarding who is admitted to the Bar, but shall not deny the admission of any counselor except where good cause is shown.
- 6.3.3 The Student Government Association shall have an absolute right to be represented by the Attorney General of the SGA. An Attorney General appointed by the President and confirmed by the Senate shall be entitled to automatic admission to the Bar of the Supreme Court.
- 6.4 Parties have the right and the obligation to file briefs with the Supreme Court, unless they have failed to comply with a deadline imposed by these rules.
- 6.5 Parties have the right to have oral argument, unless they have failed to comply with a deadline imposed by these rules.
- 6.6 Parties have the right to move for a delay or extension of a hearing set by the Chief Justice. The Court maintains the discretion to deny such a motion for any or no reason.
- 6.7 Parties have the right to move for the suspension of any rule or procedure created by the Supreme Court due to extenuating circumstances. The Court maintains the discretion to deny such a motion for any or no reason.
- 6.8 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. (See Rule 3.3.3 above).

Sec. 7 Powers & Duties of the Supreme Court

- 7.1 The Supreme Court shall have the power to reject an appeal that is either unwarranted or not under the Court's jurisdiction by a majority vote of the Court. The Supreme Court shall have the power to accept or reject any request for an advisory opinion by a majority vote of the Court.

- 7.2 The Supreme Court shall have the right and the duty to hold hearings in any case that it chooses, consistent with its jurisdictional limitations.
- 7.3 The Supreme Court shall have the duty to notify all persons involved in a case of the time and place of hearings through the Chief Justice.
- 7.4 The Supreme Court shall have the right to maintain reasonable order in the courtroom during all hearings.
- 7.5 The Supreme Court shall have the power to consolidate similar cases in order to promote efficiency without sacrificing justice.
- 7.6 The Supreme Court shall have the duty to issue a decision in every case and to write both majority and dissenting opinions when appropriate, stating the reasons for its decision.
- 7.7 The Supreme 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 Court. This may be done on the motion of a party, or *sua sponte* by the Court.

Sec. 8 Writs

- 8.1 The Supreme Court shall have the power to exercise writs of certiorari and writs of mandamus to provide for the better administration of justice within the SGA.
- 8.2 Certiorari: The writ of certiorari is a court order from the Supreme Court to a lower tribunal that orders the lower tribunal to certify and return to the Supreme Court the record of the previous proceedings in the lower tribunal. [*Senate Bill 14.3 14s: Title I, 02 Nov. 1978*].
- 8.3 Mandamus: The writ of mandamus is a court order from the Supreme Court to a student government official compelling the performance of an act that is recognized as a duty of the official's office. [*Senate Bill 14.3 14s: Title IV, 02 Nov. 1978*].

Sec. 9 Hearings

- 9.1 A hearing on any case that the Court decides to accept must be held within fifteen (15) school days of the final decision of the lower tribunal.

- 9.2 At the beginning of the hearing, 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. A quorum shall be six (6) Justices when the Court is full, five (5) Justices when there is one vacancy on the Court, or four (4) Justices when there are two vacancies on the Court. In no case may a panel of less than four Justices render judgment.
- 9.3 The Chief Justice shall determine if the briefs of all parties and any relevant exhibits have been distributed to all of the Justices and to each party.
- 9.4 The Chief Justice shall announce the docket number and name of the case, determine that all of the parties are present and ready to proceed, and then shall open the hearing.
- 9.5 Thirty (30) minutes of oral argument shall be allocated to each side, with the Appellant proceeding first, during which the Court may interrupt to ask questions. The Appellant is entitled to reserve no more than five (5) of their thirty (30) minutes for rebuttal following the Appellee's argument, provided that they request this rebuttal before beginning their argument.
- 9.6 Parties may be represented by one or two counselors, dividing their time as they see fit. In no case should more than two people be allowed to speak for a party.
- 9.7 A bailiff shall be appointed to maintain order in the Court, and a clerk shall be appointed to record the proceedings with an audio recording device.
- 9.8 All hearings of the Supreme Court (other than deliberations or chamber meetings of the Justices) shall be open to the general public and any university official, student, or other person shall be entitled to attend.
- 9.9 Following the conclusion of oral arguments, the Supreme Court shall render a decision at a time set by the Court. It shall require the concurrence of a majority of the participating Justices to render a decision.

Sec. 10 Decisions of the Supreme Court

- 10.1 A majority of the Justices participating in a hearing will be required to issue a decision. In cases where a majority of Justices agree on the outcome of a case, but not the legal reasoning for the outcome, then the court may issue a plurality opinion with multiple concurring opinions.
- 10.2 The Chief Justice shall issue the Decision of the Court briefly stating the Court's ruling as soon as possible following the conclusion of oral arguments, except in cases in which she/he is not with the majority. In those cases, the most senior Justice in the majority should issue the Decision or delegate another Justice in the majority to do so. Justices dissenting from the decision may include a brief note of their dissent.
- 10.3 Following the Decision of the Court, the Chief Justice shall choose a Justice (or appoint herself/himself) to write the majority opinion, except in cases where she/he is not in the majority. In those cases, the most senior Associate Justice in the majority shall choose a Justice (including herself/himself) to write the majority opinion. The most senior Justice dissenting in the judgment shall choose a Justice (including herself/himself) to write the dissenting opinion, unless each dissenting Justice chooses to write a separate dissenting opinion.
- 10.4 Each Justice participating in a hearing must join the majority opinion, join a concurring or dissenting opinion, or write their own concurring or dissenting opinion. These opinions may be whatever length the Justice desires, but should accurately state the facts of the case (or adopt the factual statement of the majority or dissenting opinion) and thoroughly provide the legal reasoning for the Justice's opinion.
- 10.5 The Chief Justice will ensure that copies of each Decision of the Court and each written opinion 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.
- 10.6 Supreme Court decisions shall be updated at the end of each legislative session by the Journal Clerk and listed in the Senate Journal. [*Senate Bill 68 4s, 06 May 1969*].
- 10.7 The Chief Justice shall further ensure that all Supreme Court decisions and written opinions are uploaded into the online database (OrgSync) of Court precedent.

APPENDIX: RELEVANT CONSTITUTIONAL PROVISIONS

Article I: The Student Government Association

...
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.