



Judicial Code

2022-2023

Western Student Association

The following regulations shall govern the judiciary of the Western Student Association and operate within the framework outlined within the Constitution of the Western Student Association:

- 1. The Constitutional Authority of the Judicial Council**
 - 1.1. In all cases, the Judicial Council has the constitutional authority to interpret the governing documents of the Western Student Association.
 - 1.2. The Judicial Council shall adhere to the responsibilities outlined in Article XV, section 15.1.1 of the Constitution of the Western Student Association.
 - 1.3. The Judicial Council shall have original jurisdiction in matters pertaining to interpretation, mediation, emendation, and removal from office.
 - 1.4. The Judicial Council shall have final appellate jurisdiction in general WSA concerns and specific matters pertaining to allocation disputes, election grievances, arbitration of inconclusive mediation, and the constitutionality of executive and legislative action.

- 2. Authority, Scope, and Limitations of Rules**
 - 2.1. These rules are binding on the WSA, and any entity subject to the Constitution of the WSA, by the authority of section 5.1.1 of the WSA Constitution.
 - 2.2. This code is subject to the Constitution of the WSA. No Assembly legislation can affect, delete, or otherwise change the nature, scope, or authority of this code.
 - 2.3. These rules intend to encompass all elements of the judicial process of the WSA.
 - 2.4. These rules shall not govern in situations independent of the judiciary or the judicial process subject to written interpretation by the Judicial Council
 - 2.5. Binding Interpretation

- 2.5.1. The Judicial Council is obliged to render binding interpretations of the WSA Constitution and Bylaws.
- 2.5.2. Interpretation of the respective governing documents of any RSO or agency may be requested by the primary executive officer or a group of three executive officers thereof.
- 2.5.3. The Judicial Council may review any amicus curiae brief attached to any case if it so chooses.

3. Ethics and Decorum

- 3.1. The Judicial Council shall, at all times, conduct themselves in a manner consistent with the principles of impartiality, fairness, honesty, integrity, and professionalism.
- 3.2. Officers of the Judiciary shall at all times conduct themselves in a manner consistent with the principles of impartiality, fairness, honesty, integrity, and professionalism. Furthermore, all officers of the council are ethically bound to place the demands of impartial and procedural justice before self-interest, and to respect the authority of the Judicial Council.
- 3.3. All entities subject to adjudication before the Judicial Council shall neither lie by commission or omission, nor shall distort facts, nor shall abuse the system or any weakness thereof for self-benefit.
- 3.4. All entities subject to adjudication before the Judicial Council shall, at all times, act in a dignified and professional manner, and shall not dishonor the Judicial Council nor the WSA through careless or reckless behavior.
- 3.5. All entities subject to the Judicial Council shall observe the standards of decorum set by the Judicial Council.
- 3.6. A majority of justices must agree, in writing, that an ethics violation has occurred before a sanction may be issued.

4. Procedures of the Judiciary

- 4.1. The Chief Justice is to act as the Chief Executive Officer and the Chief Financial Officer of the Judicial branch of the Western Student Association
- 4.2. Only the Chief Justice may issue Judicial administrative orders. However, orders can be nullified by a majority decision of the other Justices

- 4.3. The Chief Justice may select an Associate Justice to serve as their alternate, delegate, and interim replacement. This Associate Justice shall have the title: Senior Justice.
- 4.4. Judicial decisions and records shall use the following filing code: YYYY-NN-MMDD-X. YYYY is the academic year; NN is the case number; MMDD is the month and day of issue; XSS is the case type and document sequence (eg. 0809-04-0423-G) would affix the first Judicial Council Order considering an elections grievance, issued the 23rd of April: the fourth case of the 2008-2009 academic year). Case types are; A: appeal; E: emendation; G: election grievance; I: interpretation; M: mediation-arbitration; R: removal from office; X: miscellaneous.
- 4.5. All justices are required to attend all regular and special meetings of the Judicial Council. More than three unexplained absences from Judicial Council activities per semester will result in disciplinary action.
- 4.6. The Judicial Council shall meet as necessitated by the docket of cases; minimally once every two weeks until the case is completed. If no business is pending, the Chief Justice may waive the meeting.

5. Case Resolution Procedure

- 5.1. Submission of Complaint
 - 5.1.1. All initiation of action must be submitted to the Chief Justice either by sealed envelope delivered to the WSA office in the Student Organization Center of the Bernhard Center or via email to wsa-chiefjustice@wmich.edu.
 - 5.1.2. Upon receipt of a cause of action, the Judicial Council shall meet in conference to determine the validity of evidence, merit of action, and proper process to resolve the case. Granting a method of resolution, hence accepting a case, requires the support of a simple majority of Justices serving on the bench at that time.
- 5.2. Standard Hearing Procedures
 - 5.2.1. The plaintiff begins with their opening statement which presents the points on which they will argue their case. This statement can last up to five minutes. The respondent then has up to five minutes to define their counter points.
 - 5.2.2. Next, the plaintiff has up to eight minutes to present the evidence which advances their case. The respondent then has up to four minutes to cross-examine the plaintiff.
 - 5.2.3. Then, the respondent has up to eight minutes to present their evidence to defend their position. The plaintiff's

cross-examination then has up to four minutes to respond to those points.

- 5.2.4. Following the positive and negative constructs and cross-examinations, the judges may ask questions of either party or review any evidence.
- 5.2.5. After the questions have been exhausted, the plaintiff has up to five minutes to present their closing arguments. The respondent then has up to five minutes to present their closing.
- 5.2.6. The presiding judge has complete authority to:
 - 5.2.6.1. Control the proceedings, including granting recesses, continuances, sustaining or overruling objections.
 - 5.2.6.2. Remove disruptive entities from the chamber.
 - 5.2.6.3. Exclude or allow evidence or witness testimony.
 - 5.2.6.4. Engage any other function necessary to the efficient and just administration of the hearing
- 5.2.7. No party may intimidate, harass, demean, or insult a witness. Neither party may ask leading questions of a witness without proving to the satisfaction of the presiding judge that the witness is hostile.
- 5.2.8. Any party may object on procedural grounds to evidence and the questioning and testimony of witnesses. The presiding judge will either sustain or overrule all objections.
- 5.3. Case Determinations
 - 5.3.1. Upon a determination of a case as validly evidenced and meriting consideration, a judicial instrument will be issued which sets the date and time of future processes.
 - 5.3.2. Upon a determination of a case as invalidly evidenced and not meriting consideration, a summary judgment will be issued dismissing the case either with or without prejudice. Cases dismissed with prejudice cannot be brought again before the Judicial Council, those without can.
- 5.4. Mediation Procedures
 - 5.4.1. Mediation processes can be engaged if a cause of action presented to the Judicial Council has merit but lacks a natural adversarial position, or per the wishes of the parties involved.
 - 5.4.2. Mediation occurs between minimally two disputing parties, supervised by a judge, attempting to collaboratively find an amenable resolution to their dispute. The judge assists the disputing parties to craft the settlement.

5.4.3. If the settlement of mediation remains in dispute despite the efforts of the parties and their mediating judge, then arbitration may be engaged.

5.5. **Arbitration**

5.5.1. Arbitration occurs between the disputing parties, the mediating judge, and a panel of other justices, or of peers not selected by the disputing parties. The mediating judge presents the mediation settlement, and then the parties explain how it is lacking, what more is required. The parties again attempt to find an amenable solution to their dispute; however settlements crafted with arbitration panels are binding.

5.6. **Appeals**

5.6.1. The following entities are expected as viable for appeal: allocations decisions, election control rulings, executive policy decrees and actions, and legislation.

5.6.2. All appeals must be initiated within ten working days of the date of notification of the initial decision.

5.6.3. The Judicial Council shall meet within five working days of receipt of the appeal to consider it. The appeal will either merit a hearing or be denied without further review.

6. Elections

6.1. The EPC (Election Promotion Committee) Chair shall be appointed following the procedures outlined in the WSA constitution

6.2. Only the Judicial Council may disqualify a candidate.

6.3. All EPC sanctions remain in effect until they are overruled or modified by the Judicial Council.

6.4. All candidates are responsible for the behavior of their organized supporters.

6.5. Attempts to circumvent official SEC (Student Election Code) rules, or attempts to exploit any loophole in the rules, shall result in immediate disqualification.

6.6. A meeting between the OSE, EPC, and Chief Justice will certify the results of elections and referendums.

7. Removals From Office

7.1. Impeachment Trials

- 7.1.1. The Impeachment Trial gives the Assembly the power to retract the confirmation of any position within the Western Student Association.
- 7.1.2. Articles of Impeachment must be presented to and passed by the assembly prior to the start of an Impeachment Trial.
- 7.1.3. The Trial is chaired by the Chief Justice, with exceptions in cases where this would create a conflict of interest.
 - 7.1.3.1. In cases where a member of the Judicial Council is on Trial, a line of succession is introduced as follows:
 - 1. Speaker of the Assembly
 - 2. The line of succession as written in article 6.1.1 of the Constitution of the Western Student Association
- 7.1.4. The burden of proof lies on the sponsor of the Articles of Impeachment.
- 7.1.5. The right to bring in a witness shall be afforded to both the Defendant and the Sponsor of the Articles of Impeachment. The quantity of witnesses shall be determined by the Chair of the Impeachment Trial, but shall be at least one witness each.
 - 7.1.5.1. This right is not required to be exercised by either party.
- 7.1.6. A two-thirds majority concurrence is required for Articles of Impeachment to be passed.
- 7.2. Expulsion Trials
 - 7.2.1. The Expulsion Trial gives the Assembly the power to remove a member of the Western Student Association for the remainder of the academic year as defined by Western Michigan University.
 - 7.2.2. Articles of Expulsion must be presented to and passed by the Assembly prior to the start of the Expulsion trial.
 - 7.2.3. The Trial is chaired by the Chief Justice, with exceptions in cases where this would create a conflict of interest.
 - 7.2.3.1. In cases where a member of the Judicial Council is on Trial, a line of succession is introduced as follows:

1. Speaker of the Assembly
2. The line of succession as written in article 6.1.1 of the Constitution of the Western Student Association

7.2.4. The burden of proof lies on the sponsor of the Articles of Expulsion.

7.2.5. The right to bring in a witness shall be afforded to both the Defendant and the Sponsor of the Articles of Expulsion. The quantity of witnesses shall be determined by the Chair of the Expulsion Trial, but shall be at least one witness each.

7.2.5.1. This right is not required to be exercised by either party.

7.2.6. A two-thirds majority concurrence is required for Articles of Expulsion to be passed.

7.2.7. The only position an expelled individual may hold within the Western Student Association is Non-Voting Assembly Member.

8. Procedural Rights and Liberties

- 8.1. Students of Western Michigan University enjoy the right to a speedy and fair hearing, and to unbiased adjudication.
- 8.2. Adherence to due process includes, but is not limited to: notification of charges or complaints directed against individuals; right of an individual to speak in their defense; to present and confront witnesses; protection against double jeopardy; vigorous defense and access to counsel.
- 8.3. Students of Western Michigan University enjoy free engagement of the judicial processes of the Western Student Association.

9. Sanction Guidelines

- 9.1. The following sanctions are available to the Judicial Council:
 - 9.1.1. Removal from elected or appointed office and the stop of compensation disbursements
 - 9.1.2. Indeterminate loss of privileges and rights granted by held office
 - 9.1.3. Fines up to \$200 or restitution for lost, stolen, or damaged property
 - 9.1.4. Warnings or reprimands to correct actions
 - 9.1.5. Referral to the Office of Student Conduct or the Dean of Students
 - 9.1.6. Referral to the Department of Public Safety, Kalamazoo County Sheriff's Department, its auxiliaries, or the United States Attorney for the Western District of Michigan

- 9.1.7. Permanent injunctions or restraining orders relating to an individual's affiliation to a registered student organization
 - 9.1.8. Deregistration of a student organization
 - 9.1.9. A freeze or charge back on any SAF monies distributed to a registered student organization
 - 9.1.10. Disqualification from an election
 - 9.1.11. A remedy carefully tailored to correct an injustice
 - 9.2. Sanctions can be subject to appeal, but they may be commuted, reduced, or suspended by a majority of the Judicial Council.
 - 9.3. The Judicial Council may grant pardons or reprieves as it sees fit.
- 10. Absences in the Judicial Branch**
- 10.1. In the event of absences in the Judicial branch, cases can still undergo deliberation
 - 10.1.1. If there are temporarily three or less Justices, a decision must be made by unanimous consent of a Judicial Committee
 - 10.2. A judicial committee can be formed following the procedures outlined in the WSA constitution in order to facilitate the Judicial process, however, official decisions cannot be made by the committee
 - 10.2.1. The Judicial Committee shall be chaired by the Chief Justice, and shall consist of the Chief Justice, the Secretary of the Assembly, the President, and other members approved by the Chief Justice, preferably previous associate justices,
- 11. Constitutional Amendments**
- 11.1. Proposed amendments shall follow the procedures outlined in Article IX and X of the Constitution of the Western Student Association.
 - 11.2. Proposed Amendments can be submitted to the Judicial Council for review and advising. However, the Judicial Council cannot strike down a proposed amendment.

Glossary

Administrative Order: a species of judicial instrument issued from the Office of the Chief Justice regarding the administration and the policy of the Judicial Council.

Amicus curiae brief: a brief presenting a theory of law, filed by an entity not a party to the action that is the subject of the brief. This type of brief may be filed for any matter before the Judicial Council.

Counsel: any person certified by the presiding judge to represent or act on another's behalf before the Judicial Council. To gain this certification and become a permanently recognized officer of the court, the individual must meet the requirement established by the Chief Justice.

Judicial Council Order: a species of judicial instrument issued by the Judicial Council acting en banc regarding a specific case and the required ends to resolve that case.

Dismissal: A motion that results from a case's claims losing their merits. Cases may be dismissed with prejudice, which bars those cases from being resubmitted to the Judicial Council or without prejudice which allows for those cases to be resubmitted.

Judicial Instrument: any order, injunction, subpoena, interpretation, or opinion issued by the Judicial Council as indicated in these rules.

Officer of the Judicial Council: Any person selected to serve the court as a bailiff, recorder, secretary, or clerk; any member of any lower court approved by the Assembly; any person certified as counsel.

Opinion: A judicial document that provides the Judicial Council's or any justice's view of a matter. Aggregated opinions are classified as majority, plurality, concurring, and dissenting. A majority opinion presents the holdings and rationale of the Judicial Council as joined by a majority of Justices. A plurality opinion presents the holdings and rationale joined by a plurality of Justices. A concurring opinion agrees with a holding but relies on a different rationale, and a dissenting opinion disagrees with both a holding and its rationale. An opinion may concur in part and dissent in part from the majority or plurality opinion.

Perjury: Any statement that is factually incorrect either by deliberate lying or omission, or was uttered to deliberately mislead others into believing implies facts not supported by the evidence. Perjury only applies to sworn statements, either written or oral.

Summary judgment: The determination that a case lacks legal or factual dispute. May be based on pleadings, or the results of the preliminary hearing