

CUSG Judicial Branch BYLAWS

Amended April 11, 2019

Article I: Purpose

Rule 1: Purpose of Rules: These rules should be construed, administered, and employed by the Judicial Branch and the parties to ensure the just and speedy determination of every action and proceeding, to the end of ascertaining the truth and upholding CUSG laws. The Justices' efforts will be generated for the purpose of maintaining legitimacy and continuity of CUSG generally and the Judicial Branch specifically; the Court may issue binding orders to this effect.

Article II: Officers

Rule 2: Chief Justice: At all times, the Court must have a Chief Justice. The Chief Justice shall act as the presiding officer for the Judicial Branch. The Chief Justice will serve as primary liaison and representative of the Court to all outside parties and other branches of the student government. The Chief Justice will ensure efficient administration of justice and may delegate authority in the performance of this duty. The Chief Justice is in-charge of delegating authority and recognizing the needs of the Court and justice on campus.

Rule 3: Deputy Chief Justice: At all times, the Court must have a Deputy Chief Justice. The Deputy Chief Justice shall assume all duties of the Chief Justice when he or she is unable to do so or delegates such power to the Deputy Chief Justice. The Deputy Chief Justice shall assist the Chief Justice in effectuating Court procedure.

Rule 4: Staff Support:

A. The Court may utilize the services of staff assistants provided to the Court by CUSG for clerical and administrative support.

B. The Court, at its discretion, may select interns who are able to support Justices and the Court in its various projects. Interns are not eligible to vote on Court cases or internal matters.

C. Interns can hold office hours, serve as a liaison between other branches and the Judicial Branch, and assist in other Court and Justice administrative duties.

Rule 5: Election of Court Officers: The Chief and Deputy Chief Justices, as officers of the Court, shall be elected by majority vote of the Court as vacancies arise. The presiding Chief or Deputy Chief Justice will have the tie-breaking vote.

Rule 6: Removal of Court Officers: The Court may, upon vote with a majority of Justices, at a previously designated meeting, remove an officer from their position of Chief Justice or Deputy Chief Justice due to just cause. Prior to such removal, the officer is entitled to present arguments at a formal hearing before the Court, where the remaining Justices will determine if cause is

present.

Rule 7: Exemptions and Medical Leave Process

A. If a Justice can no longer perform their Judicial Branch duties due to a medical condition or other unforeseen circumstance, the Chief Justice may grant up to a three-month exemption from all duties of the Court. The Chief Justice, may, at their discretion, consider the following factors: Time served, urgency of the situation, and time requested. After the three-month period, the Justice in question may be granted a further exemption, up to one month, by a majority vote of the Court's active Justices. In considering this exemption, the Court's active justices will assess the reasonableness of this request, the impact on the court by this continued absence, and the likelihood that the additional leave will enable the justice to return. This exemption must be documented in the Judicial Branch Logs and then sent to the Tri-Executives and Legislative Council President. This grant of a further exemption must only occur once, after which point, the Justice is subject to relief from their duties on the court. If the majority of the Court chooses not to grant an exemption, the Justice in question is subject to requested removal from the Court.

B. There is a separate process for disability-related accommodations for campus programs/organizations. Justices may contact the CUSG Administrator and the ADA Office to inform CUSG of a disability-related accommodation need. Once the Justice has informed the ADA Office of a disability-related accommodation need for CUSG, an ADA Coordinator will would work with the Justice directly, handle any medical paperwork, and determine what reasonable accommodations are made to ensure that the Justice may still participate in the organization.

Rule 8: Report on the State of the Judicial Branch: The Judicial Branch may, at the discretion of the Chief Justice, present a report on the state of the Court to the Legislative Council. This report is optional and may be written or oral, or both.

Rule 9: Judicial Decorum

A. Justices shall not discuss a case pending and already documented before the Court with any other person, except another Justice on the Court, prior to an issuance of a judgment on a case. A pending case is one that has been submitted via email to the official Judicial Branch. Justices who are unaware if a case or topic can be discussed should bring it to the attention of the Judicial Branch during the weekly meeting.

B. Justices shall not give substantive legal advice or on matters potentially or actually before the Court. However, Justices are not precluded from assisting a party with procedural matters or discussing past cases and CUSG jurisprudence. In the case a Justice or Judicial Intern is in question for violating this rule, the Chief Justice may issue a warning followed by subjection to removal or impeachment. If the Chief Justice is in question with violation of this rule, the Deputy Chief has the authority to issue a warning followed by subjection to removal, as well.

C. A Justice shall recuse oneself to avoid conflicts of interests in pending cases.

Rule 10: Judicial Censure

A. If a Justice does not recuse oneself voluntarily or by the Court's request, any person involved in the proceedings may request that a Justice of the Court be removed from participation in a case if the person believes there is a conflict of interest due to valid evidence. The remainder of the Court, with a quorum of five affirmative votes, shall uphold or deny the request based on the evidentiary support.

Rule 11: Terms of Office

A. Appointments to the Court shall last for as long as the Justice is a CUSG fee-paying student.

B. The Chief Justice and Deputy Chief Justice shall hold office hours in the Judicial Branch office or other designated site at least four hours per week. The Chief Justice is able to grant excused absences to Justices on an individual basis regarding hours.

C. All other Justices will be required to hold office hours in the Judicial Branch office or other designated site for at least two hours per week. Special dispensations of this rule will be granted by a majority vote of the Court. If a Justice does not request special dispensation at least a week before the absences should start, they will be subject to requested removal or impeachment from the Court.

D. The Chief Justice and/or the Deputy Chief Justice shall be required to attend all hearings or delegate authority to another Justice to preside over the meeting if they are unable to attend.

E. All Justices will be expected to hold themselves to the highest standards of personal conduct both in and away from Judicial Branch duties.

F. All Justices will work to promote the Court through attendance at official CUSG, campus, and University functions.

G. Justices will participate in all aspects of Court business by actively asking questions during interrogatories, writing opinions, etc.

H. Justices will attend and receive all required University and CUSG trainings in addition to those supplied by the Court.

I. Justices must complete CUSG training after a month of receiving access to the trainings.

Rule 12: Meetings

A. The Court shall decide to meet every week during regular academic weeks. The time and place of the meeting is at the discretion of the Chief Justice. The frequency of meetings can be amended with a majority vote of the Court, or decision of the Chief Justice, throughout the semester in accordance with the academic calendar.

B. All Justices will be allowed a total of two absences from any meeting per semester. After that, the Chief Justice must receive a notification within twenty-four hours of excused event, with an appropriate justification for their absence. Failure to attend without just cause will result in ground for removal from office. This provision will be enforced and monitored at the discretion

of the Chief Justice or a delegated Justice.

Rule 13: Court Business

- A. The Chief Justice will work with the other branches of government to secure the Court's budget in any given fiscal year.
- B. The Judicial Branch budget will be approved by a majority vote of the Court.
- C. All salaries will be reviewed by the Court every fiscal year if changes are pending, and will be increased in line with other CUSG salaries.

Article III: Pleadings

Rule 13: Standing to Bring an Action: Any student may request a decision or relief of the Court on a matter either requiring Constitutional interpretation or concerning a fundamental student right.

Rule 14: Constitutional Questions

- A. Students may consult Justices regarding constitutional questions through the cusg.appellatecourt@edu email address. Justices have one week to issue non-binding responses to questions, and have the power to ask students to submit formal petitions if the Justices find it necessary.

Rule 15: Commencement of Action

- A. A case before the Court is activated by filing a petition with the Court.
- B. The person or party filing the petition with the Court shall be known as the "Petitioner." The person or party against whom relief is sought shall be designated the "Respondent."
- C. Should there exist no party against whom relief is sought, the Court will designate the case as "In re," followed by the name of the petitioner.
- D. The Court may order the petitioner to name or clarify a respondent against whom relief would issue, should the Court find in favor of the petitioner.
- E. The Petitioner and Respondent may be defined as a Student Group or Student Government. In that situation, the petitioner should note the name and "Colorado.Edu" address of that group's President or senior official.
- F. Petitioner must submit the petition via electronic mail to Cusg.ChiefJustice@colorado.edu to the Chief Justice, and to the CUSG Office Manager. The Chief Justice will then notify the petitioner if there is a defect in the petition or deliver the petition to the "Colorado.Edu" address of the named respondent.

Rule 16: Requirements of Petition

- A. A petition should clearly state, in order and by numbered paragraphs, all facts which are not generally recognized through judicial notice, and which are pertinent to the action; the

Constitutional arguments upon which the claim(s) is based; and the specific remedies sought. In the case that the petitioner or the respondent needs a template, they can email the Court and request it.

B. The petition shall include the name, “Colorado.Edu” address, and phone number of each petitioner, and respondent, if known to the petitioner.

C. An action which has not commenced within one academic year (cycling fall, spring, and summer) of the known factual allegations shall not be heard by the Court, except upon a showing of good cause and where justice requires a remedy.

Rule 17: Response to the Petition

A. Once served with a petition, the respondent party must file an answer via electronic mail to Cusg.chiefjustice@colorado.edu and the Colorado.EDU personal email of the sitting Chief Justice. The Chief Justice will then notify the respondent if there is a defect in the response or deliver the response to the “Colorado.edu” address of the named petitioner and the CUSG Office Manager account.

B. The action is considered commenced at the moment the Chief Justice delivers the petition and answer.

C. In delivering the petition and answer, the Chief Justice shall copy , the primary contact for the petitioner, the primary contact for the respondent, and all the Justices of the Judicial Branch.

D. The respondent will have five business days to first acknowledge the complaint and another five business days to formally respond to the complaint, except during election season.

Rule 18: Amending the Pleadings

A. An amendment to a petition or answer shall contain additional pertinent facts, new arguments, and/or additional claims for relief not omitted in bad faith from the original pleading. The Court may compel parties to amend insufficient pleadings, and pleadings which cannot appropriately allege facts or law at issue will be dismissed without prejudice.

B. An amendment to a petition shall be filed no later than 72 hours before scheduled consideration of the case. An amendment to an answer which responds directly to an amended petition and contains no additional arguments beyond the scope of the amended petition shall be filed no later than 48 hours before consideration.

C. Upon a showing of good cause by a party, or if the Court deems as required by justice, documents or information will be filed under Seal of the Court. Sealing entails the Court taking special dispensation to ensure reasonable secrecy precautions to protect a party are in place.

Rule 19: Clarity: All matters filed before the Court should be designed with clarity and specificity. Unintelligible and speculative fillings will be refused by the Court.

Rule 20: Procedural Discretion: The Court, on a case-by-case basis and with valid cause shown, may waive or alter any of the requirements set forth in Rules 12-16, as administration of justice

requires.

Rule 21: Tribunal Hearings:

A. Each semester, before the election commissioner releases the official election timeline, the Chief Justice and the Election Commissioner must reach an agreement regarding pertinent dates and deadlines regarding the elections for the upcoming semester. This includes the possible case of the second infraction tribunal,

B. In the case that new evidence comes forward or an unforeseen circumstance occurs after a tribunal hearing decision has been made, a second Tribunal hearing can be requested by the Court with a majority rule of the Court to the Election Commissioner set by the Chief Justice and Election Commissioner to address any relevant or new evidence. Parties involved may file a case with the Court if they find wrongdoing or misconduct brought up at the first or second tribunal.

C. The Court should be given substantial time to evaluate appropriate evidence and come to a decision when a case is filed. After the cases conclude, the Court has up to the Tuesday at 11: 59 PM. MST prior to the Thursday before graduation to review the case and present their decision.

Article IV: Proceedings before the Court

Rule 22: Trial Scheduling: The Chief Justice or other designated Court official is responsible for choosing the date,time, and location for hearings that are fair and equitable to both parties and fellow Justices. All parties shall be notified by the Court the time, place, and format of the proceedings within 24 hours excluding during election seasons.

Rule 23: Burden of Parties: Unless applicable law or regulations so provide, the burden of proof before the Court will be set at probable cause.

Rule 23: Type of Argument: The Court may choose to hear a case in “trial format,” “appellate format,” or another format described in advance or at the start of the hearing by the Chief Justice. The two traditional formats are described below.

Rule 24: Trial Format Argument Presentation

In cases of first impression, unless announced otherwise by the Court, the following order shall be used to present a case before the Court:

1. Petitioner's opening statement.
2. Respondent's opening statement.
3. Petitioner’s case-in-chief, presenting evidence and direct-examination of witnesses. At the conclusion of petitioner’s questions for each witness, the respondent will have the opportunity to cross-examine that witness. Following the cross-examination, the petitioner may direct- examine the witness again, but is limited to responding to the respondent’s cross-examination.
4. Respondent’s case-in-chief, presenting evidence and direct-examination of witnesses. At the conclusion of respondent’s questions for each witness, the petitioner will have the

opportunity to cross-examine that witness. Following the cross-examination, the respondent may direct- examine the witness again, but is limited to responding to the petitioner's cross-examination.

5. Petitioner's closing arguments

6. Respondent's closing arguments

7. Petitioner's response to Respondent's closing arguments, limited to allegations made during the respondent's closing argument.

A. Both the complainant(s) and respondent(s) may be advised by either a student representative or legal counsel, in the manner described in the CU Boulder Student Code of Conduct; i.e. a party may bring an advisor of their choice, including but not limited to advocates or attorneys, to any process meeting, including, but not limited to hearings, but such advisors are not permitted to speak for, or on behalf of a party during any phase of the conduct process, including any hearings. The presence of legal representation before the Judicial Branch may be revoked at the discretion of the Court.

Rule 25: Appellate Format Argument Presentation

In all appeals from the decisions of other judicial bodies, unless announced otherwise by the Court, the following order shall be used to present a case before the Court

1. Petitioner's argument

2. Respondent's argument

3. Petitioner's rebuttal, limited only to responding to Respondent's argument.

Rule 26: Interrogatories and Discovery by the Court: As appropriate and necessary to understand an argument being made, at any time during the proceeding, a Justice may either interject with a question or require the production of evidence. The Chief Justice is in charge of setting the rules of interjections or questions.

Rule 27: Courtroom Order and Conduct

A. The Court shall be brought to order by the Chief Justice or Deputy Chief Justice. The Court shall not be convened unless there is a quorum present which, for Court purposes, is five Justices. B. The Chief Justice shall be empowered to maintain order during the proceeding and may issue orders to that effect.

C. The Chief Justice can either themselves, or through the appointment of another member of the Court request the finalized case to be digitized and preserved on the official Judicial Branch portion of the CUSG website and database.

Article V: Evidence

Rule 28: Relevancy

A. The Court shall determine what evidence is relevant, through a majority vote. Relevant

evidence will generally be admissible, and irrelevant evidence is not admissible. Evidence is relevant if it has any tendency to make a fact more or less probable than it would be without the evidence, and the fact at issue is of consequence in determining the action.

B. Although relevant, the Court may exclude evidence if its probative value is substantially outweighed by considerations of unfair prejudice, confusion of issues, undue delay, waste of time, or needless presentation of cumulative evidence.

Rule 29: Control of Evidence: The Court will determine the admissibility of evidence. The Court may restrict the scope of evidence by determining the evidence is admissible for an exclusive purpose. The Court may take judicial notice of any actual or constructive fact.

Rule 30: Other Exclusionary Bases: The Court may determine standards of admissibility of evidence beyond those defined in Rule 26 in the best interests of the fair and efficient administration of justice.

Rule 31: Submission of Evidence: All evidence must be sent to cusg.chiefjustice@colorado.edu. The Chief Justice is responsible for delivering that evidence to the opposing party's "Colorado.Edu" address.

Rule 32: Deadline for New Evidence: All evidence must be submitted 96 hours before a scheduled hearing or at the discretion of the Chief Justice.

Rule 33: Copies of Evidence: The Chief Justice will compile all evidence and petitions submitted, assign each item an identifying number or letter (Exhibit 1/ Exhibit A), and deliver the finalized evidence packet to both parties and the Judicial Branch Justices.

Article VI: Provisional, Final, and Special Proceedings

Rule 34: Authority Decisions of the Court derive authority from Article IV, Paragraph B, of the CUSG Constitution. These rules enhance and add to this Constitutional provision.

Rule 35: Final Judgment: The Court shall issue a final judgment in a case which has been argued by the parties in a hearing before the Court. Judgment officially becomes final when the written decision by the Court is delivered to the "Colorado.Edu" addresses of his or her self, the primary contact for the petitioner, the primary contact for the respondent, the CUSG Office Manager and all the Justices of the Judicial Branch. The Court will have seven calendar days to write and submit the final opinion of the Court, and the CUSG Office Manager or CUSG media personnel will publish the judgment once received via the "Colorado.Edu" account onto the CUSG website.

Rule 36: Summary Judgment: The Court shall issue a summary judgment in a case when the Court determines that no genuine issue of material fact exists and a hearing for the presentation of argument is unnecessary. The summary judgment becomes final when posted online and/or on the CUSG bulletin board.

Rule 37: Default Judgment: The Court may issue a default judgment against a party who fails to

abide by Court orders. The Court will issue a continuance of a proceeding if good cause is shown.

Rule 38: Injunction: Prior to the issuance of a final or summary judgment, the Court may, upon the showing of substantial possibility of irreparable harm by a party, make an order restraining such actions until final resolution of the case.

Article VII: Amendment of Rules

Rule 39: Amendment Procedure: A quorum of five affirmative votes from the Court is required to amend any of these rules.

Rule 40: Activation: These Judicial Branch Rules displace all prior Judicial Branch Rules and become effective when ratified by five affirmative votes of the Judicial Branch and posted on the official CUSG website.

As Amended by Appellate Court ruling in review of TRO in 021-SP-04, April 10, 2002

As Amended by 72LCB12 Name Change Bill, September 2010.

As Amended by the Appellate Court, March 6, 2012

As Amended by the Appellate Court, November 12, 2012

As Amended by the Appellate Court, February 22, 2016

As Amended by the Appellate Court, March 9, 2016

As Amended by the Appellate Court, November 8, 2016

As Amended by the Appellate Court, February 28, 2017

As Amended by Judicial Branch, February 27, 2019

As Amended by the Judicial Branch, April 11, 2019