

# Mt. SAC Judicial Directive

*As amended May 13th, 2020*

## Preamble

The Mt. SAC Student Court, as the recognized Judiciary Body of Associated Students (A.S), hereby publish this Judicial Directive as a framework for Impartial and Just governing. In doing so, we affirm our responsibility to uphold, interpret, protect, and enforce our Constitution, and all governing documents therein. Let this directive serve as the official Rules and Procedures of Student Court through which the rights of all Mt. SAC students are therein affirmed.

## Authority of the Court

The Authority of Student Court shall be as provided within the Constitution, Article IX, Sections 1 through 5. As such, this body is granted the authority of Judicial Review over any and all action taken by any member or branch of Associated Students. Moreover, this body is granted the ultimate authority to interpret the Constitution and all Governing Documents. The Student Court also has the authority to resolve any and all disputes including Students that are not matters of Misconduct Trials.

## Section I: Composition

### Rule 1: Qualifications

Membership and Eligibility to hold office is as defined by the A.S Constitution Article II and Article III. Moreover, members of Student Court must be available every Wednesday from 11:00 am until 2:00 pm, or at any other time as agreed upon by a majority of the Court.

### Rule 2: Responsibilities of Associate Justices

- 1) Uphold the integrity and impartiality expected of Student Court.
- 2) Attend all meetings and hearings of Student Court.
- 3) Uphold and abide by the Associated Students Constitution, Governing Documents, Policies, Procedures, as well as the rules set forth by Mt. SAC.
- 4) Review all agendized and case materials before Court meetings.
- 5) Pass an examination of their knowledge of A.S Governing Documents with 80% prior to assuming their positions.
- 6) Will serve as voting members of the Court.

### Rule 3: Responsibilities of Chief Justice

- 1) Perform all the duties and responsibilities of Associate Justices.
- 2) Maintain impartial and fair discussion within Student Court meetings.
- 3) Chair all Student Court meetings.
- 4) President over Impeachment Hearings.
- 5) Serve as the official spokesperson of Student Court.
- 6) Must be elected by a simple majority of the Court.
- 7) Will serve as the tie-breaker during all meetings.

## Section II: Court Administration

### Rule 1: Attendance

Any absence, including a late arrival and/or late departure of fifteen (15) minutes to meetings, must have at minimum 2 hours notice to the Chief Justice prior to all meetings. Any member who exceeds three (3) or more unexcused absences shall be suspended from their duties until reinstated by a majority vote of the Justices. Any unexcused absence from Student Conduct Hearings or Official Grievance hearing will result in immediate suspension, unless waived by the Chief Justice.

### Rule 2: Conflict of Interest

It is the duty of all members to disclose potential conflict of interest prior to a Student Court meeting. The Court has the authority to remove or retain a Justice suspected of Conflict of Interest in any case. No member may participate in any case which includes them as an implicated party.

### Rule 3: Confidentiality

All information presented to the Court regarding a case is to be treated with the utmost confidentiality outside all Court meetings. Members found to be in violation of Confidentiality must be suspended from their duties until they are reinstated by a majority vote of the Court.

### Rule 4: Appointment and Removal

Any Mt. SAC student deemed eligible as outlined through the Constitution may apply to become a Justice through a process determined by the incumbent Court. The appointment of all Justices, excluding the election of the Chief Justice, must be ratified by the A.S Executive Board. In the case there are less than three Justices, including the Chief Justice, the A.S President may appoint the required number of Justices only at the request of the incumbent Court. Before

assuming office, all Justices are required to pass an examination that so proves their understanding of the Constitution and all Governing documents. This examination must be set by the incumbent Student Court and the Student Court Advisor.

The Chief Justice has the power to temporarily suspend any Justice who fails to uphold their responsibilities, abide by the rules of all Governing Documents, or maintain eligibility after which the Court will vote by majority to either retain or remove the Justice. If so wishing, the Chief Justice and Student Court Advisor may call for a meeting with the Justice in question to issue a warning prior to suspension. Moreover, a Justice may appeal their removal through a written petition to the Student Court Advisor and Chief Justice, after which their petition will be placed as an closed-session agendized item wherein the Court may vote by majority to reinstate the Justice.

#### Rule 5: Quorum

Quorum of Student Court shall meet the requirements defined in the A.S Constitution, therein being a minimum of three Justices, including the Chief Justice.

#### Rule 8: Electoral Impartiality

No member of Student Court is allowed to endorse, campaign, or in any way offer their public support for candidates seeking either election or appointment in Associated Students.

### Section III: Purpose and Jurisdiction

The Student Court serves to uphold and protect the Constitution and all Governing Documents of A.S from any violation, alteration, or degradation from anyone. In doing so, they ensure that all branches of government, serving as representatives of the wider Student Body, do not infringe upon nor abuse the privileges afforded to them by the Constitution and all Governing Documents.

Student Court has jurisdiction over all grievances regarding malfeasance or nonfeasance between any member of A.S, elected and appointed. Furthermore, Student Court will also have jurisdiction over any action taken by A.S, or any member within, that is suspected of violating the Constitution, Governing Documents, or integrity of A.S. Student Court will also have jurisdiction over any grievance regarding malfeasance or nonfeasance between Mt. SAC students, including Clubs and their members.

### Section IV: Advisory Opinions and Declarative Judgements

#### Rule 1: Advisory Opinions:

The Student Court may render its own opinion as to the validity of either existing or proposed Legislation or Administrative regulation. In doing so, the Student Court believes there is no actual controversy nor case, and the opinion is not binding to any party involved, including the Student Court itself.

## Rule 2: Declarative Judgement

In such instances as the Student Court may deem to be controversial, the Court has the authority to issue a Declaration that is binding to all parties involved, including the Court. This decision may be reached after the issue is presented in a meeting and discussed after which it is voted for by a majority of the Justices. The Court may subpoena all evidence, testimony, witness statement, or other resource deemed necessary to come to a Just and impartial decision. If passed, this Judgement supersedes all action taken by A.S, Mt. SAC Club, or Student. Relevant parties may submit a request for appeal to the Chief Justice, which will be brought to the Court for consideration and vote.

## Section V: Court Procedure

Pursuant to the Constitution Article IX, Section 5 and Section III of this Directive, Student Court has jurisdiction over grievances of Malfeasance, Nonfeasance, and Impeachment. The following hearing procedures are intended to provide for a fair and impartial trial in Court cases.

## Rule 1: Pre-Hearing

A request for Court action may be submitted to the Chief Justice by any Mt. SAC Student and/or A.S officer acting on behalf of themselves, an organization, and/or branch of A.S Government. The request must include all charges, evidence, specific violations that occurred, and remedies sought by Student Court.

Upon receipt of the Grievance, the Chief Justice must immediately notify the Court and its advisors of the grievance and provide them with a copy, at which time the grievance will be placed on the next available agenda. The Court must first vote by majority on whether the grievance will proceed to a hearing or be dismissed. Should the Court dismiss the case, the Plaintiff may appeal the decision, after which the Court's decision is final.

Should the Court vote to proceed into a hearing, its time and date shall be set during the same meeting. The defendant must be notified of the hearing at least five (5) days prior and be

presented with the following: Official Notice to Appear (time, date, and location of the hearing included), a copy of the Court's Rules and Procedures, if the hearing will be formal or informal, and a copy of the filed grievance.

A request for witnesses, additional evidence, testimony, or other materials deemed relevant to the case must be submitted to the Court at minimum three (3) days prior to the hearing. It is the responsibility of the Court to ensure that such a request is properly filed in accordance with the Brown Act.

## Rule 2: Informal Hearing

During an informal hearing, the Court will only hear from the litigants. The hearing may only begin when both litigants are present and Court quorum is established. The defendant may request the hearing be postponed at which time they shall state their reasoning. The decision to postpone is at the discretion of the Presiding Justice.

It is the responsibility of the Presiding Justice to properly explain the hearing process to all parties prior to the hearing. It is the discretion of the Presiding Justice to limit the amount of time allowed for each litigants' arguments and case, however the Court must ensure that equal time be granted to both litigants for the presentation of their case.

## Rule 3: Formal Hearing

During a Formal Hearing, the Court may hear from both litigants and witnesses. Moreover, either party has the right to formal representation both from A.S and non-A.S sources. The hearing will begin with a Call to Order and roll call of Justices present. After ensuring that quorum is established, the Presiding Justice will acknowledge the presence of both litigants and representatives (if any). The litigants will then be asked if they understand their rights, which, should either party need, will be explained by the Court. After this, the Presiding Justice will read the charges presented in the Grievance, to which the Defendant will reply with one of the following pleas: Guilty, Not Guilty, or No Contest. If the Defendant pleads Guilty or No Contest, the Court may immediately render a decision. If the Defendant pleads Not Guilty, the hearing shall proceed as follows.

The hearing shall begin with opening statements from the Plaintiff and Defendant, the timing of which is at the discretion of the Presiding Justice. After the statements are made, the Plaintiff will be given the opportunity to call their witnesses, if any, to the stand for questioning. Upon taking the stand, the Presiding Justice, or assigned Court Justice, shall ask, "To the best of your ability do you swear that the testimony you are about to give in this case shall be the truth?"

The witness must answer “I do,” or otherwise in the affirmative. If the witness does not do so, or the Court has reason to doubt their affirmation, the witness may be dismissed by majority vote of the Court. After the Plaintiff has completed their questioning, an equal amount of time will be provided to the Defendant to cross-examine the witnesses. At any time, it is the discretion of the Court Justices to ask witnesses any questions that they may have relating to the case. However, only the Plaintiff, Defendant, and the Court Justices are allowed to question, no exceptions.

If there are no witnesses, Rebuttal Speeches shall follow opening statements. The Plaintiff will first be given the floor to refute arguments presented by the Defendant. Then, the Defendant will be given the floor, for an equal amount of time, to refute arguments presented by the Plaintiff. Finally, the Court Justices may question either litigant.

Finally, each party will be given equal time to present their Closing Statements. No new arguments are allowed during this time and it is the responsibility of the Court to dismiss any new argument presented. During this time, each party shall review the grievance and facts presented during the trial to summarize their respective cases. At this point, the hearing shall be adjourned for closed deliberation by the Court.

#### Rule 4: Post-Hearing

In order for a decision to be reached, Quorum must be established and a majority vote will decide the verdict. After deliberation, both Parties and the Public shall return to the room where the Presiding Justice shall read out the verdict. The presence of the Defendant is required before a verdict is read out loud. The Decision, including vote tally, shall be made available to Public no later than one week after the hearing, as well as filed within official Court minutes.

### Section VI: Judicial Powers Relating to Cases

#### Rule 1: Contempt of Court

Per the Brown Act, Student Court retains the right to dismiss anyone from their meeting, voting and non-voting, should the court determine that they are a disturbance in Court proceedings. While warnings are recommended, the Court has the authority to carry out any action they deem necessary to maintain order within the Court.

If the offender in question is not a part of the Case, they shall be given a warning after the first offense, after which the Presiding Justice has the authority to dismiss the person from Court proceedings for further offences.

If the offender in question is a part of the Case or Proceeding, they shall be given a

warning after the first offense, after which the Presiding Justice has the authority to dismiss the person from Court proceedings for a second offense. If the offense continues, the Court may vote to dismiss the Case entirely.

## Rule 2: Dismissal

The Court has the authority to dismiss any case before it when the following conditions apply: the Validity of the Case is in question, the evidence of the Plaintiff is insufficient beyond reasonable doubt, or either Party has received three citations for contempt.

## Rule 3: Injunctions

The Court has the authority to issue an injunction for the following reasons: To command an act the Court requires is essential to Justice and/or to prevent any action which may hinder the Court's investigation of a Case. The Court may issue an injunction through its own motion with a simple majority vote in favor. After the vote, the Court spokesperson must produce three copies of the injunction: one for Court files, one for the recipient, and one for the Director of Student Life.

In emergency conditions, if the majority of justices deem it necessary, an injunction may be issued by the Court without prior agendized notice. In such a case, the Court would issue a "Temporary Emergency Injunction," wherein a case regarding the injunction must be included in the next available Court meeting.

## **Section VII: Court Documents**

### Rule 1:

Per the Brown Act, all Court agendas will be posted on the Associated Students website and in public display at minimum three (3) days prior to the meeting. Conversely, all Court minutes must be posted on the Associated Students website no later than three (3) days after the meeting.

## **Section VIII: Amendments**

Should Justices deem changes necessary to the function of Court function and Justice, amendments may be made in an agendized  $\frac{2}{3}$  vote. All amendments to this Directive must be approved by the appropriate legislative bodies as defined by the A.S Constitution.

## **Appendix I: Rights of Litigants**

### Rule 1: Rights of the Defendant

1. The right to be informed of charge(s).
2. The right to know the identity of the Plaintiff.
  - a. Anonymous complaints may remain anonymous until the Court votes to proceed to a hearing.
3. The right to a fair and impartial hearing.
4. The right to notification of changes, time, and type of hearing.
5. The right to request the change in manner in which the case is being heard (Formal vs. Informal).
6. The right to request that a witness be present (Formal Hearings).
7. The right to request the postponement of a hearing.
8. The right to cross-examine a witness in a formal hearing.
9. The right to request an injunction.
10. The right to request the case be dismissed.
11. The right to self-representation or other representation.
12. The right to be presumed innocent.
13. The right of not being compelled to testify against themselves.
14. The right to request reconsideration within ten days upon revelation of new facts.

### Rule 2: Rights of Plaintiff

1. The right to petition for judicial action.
2. The right to request to change the manner in which the case is being heard (Formal vs. Informal).
3. The right to request a dismissal of the case.
4. The right to a fair and impartial hearing.
5. The right to request that a witness be present (Formal Hearing).
6. The right to be represented in a formal hearing.
7. The right to cross-examine witnesses in a formal hearing.
8. The right to request an injunction.
9. The right to request reconsideration within ten days upon revelation of new facts.

#### **Judicial Directive Amendments**

Created, amended, and Ratified July 15th, 1986

Amended and Approved November 11th, 1986

Amended and Approved August 4th, 1993

Amended by Senate Bill #7 ('04-'05); Approved May 10th, 2005

Amended by Senate Bill #6 ('05-'06); Approved April 27th, 2006

Amended by Senate Bill #6 ('06-'07); Approved November 30th, 2006

Amended by Senate Bill #1 ('10-'11); Approved October 26, 2010