

**WEST VIRGINIA UNIVERSITY
STUDENT GOVERNMENT ASSOCIATION
JUDICIAL BOARD PROCEDURES**

ARTICLE I. RIGHTS AND RESPONSIBILITIES

- A. Right to Appeal
 - i. All students shall have the right to file an appeal on rulings of the legislative or executive branches of Student Government Association (henceforth abbreviated as SGA). It shall be the responsibility of the student to contact the Chair of the Judicial Board to request an appeal.
 - ii. The Judicial Board shall have full discretion in deciding whether an appeal should be granted.

- B. Standard of Proof
 - i. For cases where a decision of the Judicial Board may result in the impeachment of a member of SGA, or disqualification from an SGA election, the standard of proof used in making a ruling shall be clear and convincing.
 - ii. For all other cases, decisions shall be based on a preponderance of the evidence.
 - iii. The burden of proof lies on the complainant.

- C. Judicial Advisor
 - i. Alleged violators shall have the right to an advisor. Only a West Virginia University student, faculty or staff, acting pro bono, may serve as an advisor. Advisors may participate throughout the entire Judicial Board process including, but not limited to, the pre-hearing conference and the Judicial Board hearing.

ARTICLE II. EVIDENTIARY RULES

- A. At least 24 hours prior to the scheduled hearing, all parties shall submit to the Attorney General or his/her designee all documentary evidence (pertinent records, information, and written statements) that is to be considered by the Judicial Board. The Attorney General or his/her designee shall make this material available to both parties at least 12 hours ahead of the scheduled hearing.

- B. At least 24 hours prior to the scheduled hearing, all parties shall submit to the Attorney General or his/her designee the names, applicable contact information, and purpose of any witnesses that they intend to present at the hearing. The Attorney General or his/her designee shall make this information available to both parties at least 12 hours ahead of the scheduled hearing.

- C. Evidence and witnesses not submitted by the deadline shall be admissible at the hearing with limited exceptions for extenuating circumstances and approval from the Judicial Board Chair in a prehearing conference.

- D. If either party disputes the relevance of any item of evidence, including witnesses, s/he may request a pre-hearing conference with the Judicial Board Chair. A pre-hearing conference may also be requested if either side discovers relevant evidence has come to light after the evidentiary deadline. This request must be made at least two hours prior to the scheduled hearing. The procedures governing the conduct of prehearing conference are listed in Article III, Section E of this document.

ARTICLE III. JUDICIAL PROCEDURE

A. Timeline

- i. The timeline for Elections Code violations shall follow the timeline laid out in the Elections Code.
- ii. If a breach of the ethics code is alleged, the Judicial Board Chair shall arrange a Judicial Board hearing on the allegations within five academic days of being notified.
- iii. In instances of impeachment, a Judicial Board hearing must occur within five academic days following either a vote of impeachment by the Student Board of Governors, or successful petition to impeach by the Executive Branch or Student Body.
- iv. Parties may petition for a modification of the judicial timeline, dependent upon the approval of the Judicial Board.

B. Filing Process

- i. All Elections Code violations must be filed in accordance with Article VIII of the SGA Elections Code.
- ii. All Ethics Code violations must be filed in accordance with Paragraph 4 of the SGA Ethics Code.
- iii. All matters involving impeachment must be in accordance with Article XI of the Student Body Constitution.

C. Notice of Charges

- i. The Attorney General shall notify the following parties of the date, time, and place of each scheduled hearing:
 - 1. The alleged violator;
 - 2. All members of the Judicial Board;
 - 3. The group or student that originally filed the complaint, when applicable; and
 - 4. The Elections Chair in the case of an Elections Code violations.

D. Agreed Resolution

- i. The complainant and the alleged violator shall have the right to pursue a formal, written, resolution prior to, and in lieu of, a Judicial Board hearing.
 - 1. The Chair of the Judicial Board, or designee of the Chair, shall serve as the mediator to negotiate alternative sanctions or resolutions with all involved parties.
 - 2. All parties must appeal directly to the Chair of the Judicial Board to pursue an

official mediated resolution.

- ii. Both parties must agree on the terms of the resolution for it to be deemed valid by the mediator. The terms of a resolution shall not violate the Constitution or any other Student Government policies.
- iii. The agreed resolution must be delivered, in writing, by the Attorney General to all relevant parties within 24 hours of the resolution, including:
 1. The alleged violator;
 2. The group or student that originally filed the complaint, when applicable; and
 3. The Elections Chair, in the case of Elections violations.
- iv. Upon resolution, the hearing shall remain pending until all terms of the resolution have been satisfied.
- v. Once the terms of the resolution have been fulfilled, the case shall be considered dismissed.

E. Pre-Hearing Conference

- i. When one or more parties challenges the relevancy of evidence, including witnesses, the Judicial Board Chair can agree to hold a pre-hearing conference. This conference must be attended by all involved parties, Attorney General or his/her designee, and all witnesses whose relevancy is in question. This hearing will be conducted solely by the Chair of the Judicial Board.
- ii. All evidence, including witness testimony, which is in question, must be presented, followed by no more than ten minutes for each side to make arguments about relevancy. The Judicial Board Chair shall rule on whether such evidence is relevant to the case. If the Chair rules that evidence is not relevant, it shall be inadmissible at the hearing.
- iii. At this time, the Judicial Board Chair shall rule whether or not evidence that has in good faith been discovered since the evidence deadline shall be admissible in the hearing. The Chair shall only allow such evidence when it is in the interest of justice.

F. Hearing

- i. Each Judicial Board hearing shall adhere to the procedures listed below:
 1. Each hearing shall commence with a summary statement of the charges to be considered, which shall be read aloud by the Clerk of the Judicial Board.
 2. After the summary statement of charges has been read, the Chair of the Judicial Board shall allow Student Government Association, through the Attorney General, or his/her designee, to present oral arguments, call witnesses, and present evidence in support of the charges. If Student Government Association, through the Attorney General or his/her designee, fails to appear at the hearing to support the charges, the Chair of the Judicial Board shall rule that Student Government Association has forfeited its opportunity to support the charges, and the case shall be dismissed.
 3. Following the presentation of the Student Government Association's case, the Chair of the Judicial Board shall allow the alleged violator(s), or their designated advisor, to present oral arguments, call witnesses, and present evidence in

defense of the alleged violator(s). If the alleged violator(s) fail to appear, or fails to send an advisor to present a defense, the presiding officer of the Judicial Board shall rule that the alleged violator has forfeited the right to respond to the charges against him/her. The presiding officer shall then refer the case to the Judicial Board for decision.

4. Parties shall have the right to cross-examine opposing witnesses.
5. All witnesses shall be bound by oath to tell the truth. The Judicial Board Chair shall administer the oath to each witness and shall not allow testimony from witnesses who do not agree to take the oath.
6. No person may be forced to testify. Neither the Judicial Board nor any individual shall have the power to compel a person to appear or testify against his/her will.
7. The Judicial Board shall base its determination solely upon the arguments, testimony, and evidence presented at the hearing.
8. The Judicial Board shall have the power to limit both Student Government Association and each alleged violator to one hour in which to present their cases. However, the Judicial Board Chair must inform all parties before the hearing begins. In no instance shall either Student Government Association or each alleged violator be allowed more than two hours to present a case.
9. After Student Government Association and the alleged violator have presented their cases, the Judicial Board Chair shall refer the case to the Judicial Board for a decision.
10. The Judicial Board shall determine if the alleged violator(s) in each case committed the alleged violation(s). If there is more than one alleged violator, the Judicial Board may make a separate determination for each alleged violator.

G. Outcome Notification

- i. After all parties have presented their final arguments, the Judicial Board may be sequestered to deliberate a decision.
- ii. After the Judicial Board has reached its decision, the following shall be notified of the outcome and any resulting sanctions, in writing, through a Judicial Opinion:
 1. The Attorney General;
 2. The alleged violator(s);
 3. The group or student that originally filed the complaint, when applicable; and
 4. The Elections Chair, in the case of Elections violations.

H. Appeals Process

- i. All decisions reached by the Judicial Board may be appealed either party to the Vice President of Student Affairs or his/her designee within five academic days of the Judicial Board's decision. All appeals must be in writing and must be delivered to the Attorney General and the opposing party within the five days. The opposing party shall then have five academic days to respond in writing to the Vice President of Student Affairs or his/her designee upon receiving written notice of an appeal.
- ii. An appeal shall be limited to review of the record of the initial hearing and supporting documents for one or more of the following purposes:

1. To determine whether the original hearing was conducted fairly in light of the charges and evidence presented and in conformity with prescribed procedures, giving the complaining party a reasonable opportunity to prepare and present evidence, and giving the alleged violator a reasonable opportunity to prepare and to present a rebuttal of any allegations made against them.
 2. To determine whether the decision reached regarding the alleged violator was based on an appropriate standard of proof.
 3. To determine whether the sanction(s) imposed were appropriate for the violation that the student was found to have committed.
- iii. The Vice President of Student Affairs shall have full discretion in deciding whether an appeal should be granted.
- iv. The Vice President of Student Affairs, in the interest of fairness, may request to meet with both parties, Attorney General, and/or member(s) of the Judicial Board all together, or choose to render an opinion based solely on the documentation presented on the appeal.
- v. If s/he chooses to hear an appeal, the Vice President of Student Affairs may choose to take any of the following actions:
1. Fully reverse the decision rendered by the Judicial Board;
 2. Remand the case to the Judicial Board to be retried; or
 3. Sustain the ruling rendered by the Judicial Board.

ARTICLE IV. EFFECTIVENESS

- A. Upon successful adoption by a two-thirds majority of the members of the Judicial Board, these Judicial Board Procedures shall become effective immediately. All amendments and changes to these procedures shall be applicable to all Judicial hearings thereafter.
- B. These Judicial Board Procedures may be amended by a two-thirds majority vote during a meeting of the Judicial Board. Upon successful adoption of an amendment, the Clerk of the Judicial Board shall notify the Attorney General and Student Body President of the amendment's passage. The Judicial Board shall not amend these procedures while a hearing is pending or ongoing.