



Student Court of the University of Nebraska at Kearney

Nebraskan Student Union

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The Student Court Bylaws of the Associated Students of the University of Nebraska - Kearney

Respectfully submitted by Chief Justice Shawn Peterson

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Article I: Definitions & Purpose

Section I – The name of this body shall be the Student Court of the Associated Students of the University of Nebraska – Kearney and shall be hereinafter referred to as the Court.

Section II – The Constitution of the Associated Students of the University of Nebraska – Kearney shall be referred to as the Constitution and is supreme over these bylaws.

Section III – A Justice shall refer to any member who is appointed to the Student Court, including Associate Justices and Chief Justice.

Clause I – An Associate Justice shall refer to any member of the Student Court who holds the rank of Associate Justice as defined in the Constitution.

Clause II – Chief Justice shall refer to the Chief Justice of the Student Court as is defined in the Constitution.

Clause III – Secretary of the Court shall refer to the Secretary of the Court as is defined in the Constitution.

Section IV – Judicial Branch shall refer to any members of the Student Court, all appointments or nominations made by the Court or a Justice of the Court, and any other Courts created under the Student Court in accordance with the Constitution.

Section V – The Purpose of the Judicial Branch shall be to exercise the judicial power of the Student Government under the powers and rights enumerated within the Constitution.

Section VI – Any unit of time shall only count days in which the University of Nebraska – Kearney is having classes during the Fall or Spring semester, any day that that do not fall into this will not count for when actions are required.

Article II: Jurisdiction

Section I – The Court shall exclusively hear cases that fall into its jurisdiction as defined in the Constitution.

Clause I – The Court shall not make determinations related to jurisdiction without a litigant challenging the jurisdiction or standing of the case the Court is hearing.

Clause II – Any defendant has the absolute right to challenge the jurisdiction of the Court, and if it is found that the jurisdictional or standing requirements laid out in the Constitution are not met, the Court shall immediately terminate the case.

Section II – In cases the Court has original Jurisdiction, the Court must be the body to hear the case, according to the rules set out in these bylaws.

Section III – If the Court has exclusively appellate jurisdiction as given by the Senate as allowed in the Constitution, then the Court shall not hear the case or controversy until after the original determination of fact is made.

Section IV – If a case or controversy occurs that the Court would have both appellate and original Jurisdiction, upon the proper challenge of jurisdiction the Court shall determine which rules are to apply.

Section V – If the case that the Court finds a lack of Jurisdiction, the case before the Court must be dismissed, with no addition ability to amend the complaint.

Article III: Officers

Section I – The top officer of the judicial branch shall be the Chief Justice.

Clause I – The Chief Justice is responsible for 1) attending all joint meetings of the Senate and to report on the business of the judicial branch; 2) issuing all decisions of the Court when there is no opinion; 3) responsible for responding to all inquiries about the meetings of the Court when open for public (worry is that this forces to tell someone pissed off); 4) Supervise the administration of the Judicial Branch; 5) Serve as the official spokesperson of the Judicial Branch; 6) Administer oaths of office as allowed under the Constitution; 7) Determine what information related to cases before the Judicial Branch is releasable; and 8) to open meetings to the public.

Clause II – The Chief Justice shall have the power to 1) preside over all cases and meetings of the Court reserving all power granted by the current edition of Robert's Rules of Order Newly Revised that are not inconsistent with these bylaws or the Constitution (newest); 2) take necessary action to ensure the efficient and orderly function of the Judicial Branch; 3) to nominate officers of the Judicial Branch; and 4) Issue stays and injunctions.

Clause III – The Chief Justice shall have no vote on substantive matters or procedural matters but may rule on procedural issues.

Clause IV – The Chief Justice does not have the power to make motions before the Court.

Section II – In the absence of a Chief Justice the Court may elect a pro-tempore Chief Justice to serve in the absence in accordance with the Constitution, who shall hold all of the powers.

Clause I – The pro-tempore Chief Justice may be appointed by a majority vote by the Court either at the meeting before the Chief Justice is absent or at the scheduled meeting in the absence of the Chief Justice.

Clause II – The pro-tempore Chief Justice shall hold all powers and responsibilities of the Chief Justice.

Clause III – The term of the pre-tempore Chief Justice shall be until the Chief Justice is able to return.

Clause IV – Upon the selection of a pro-tempore Chief Justice the pro-tempore shall notify the Speaker of the Senate, the Student Government Advisor, and the Chief Justice of the appointment.

Section III – The Court may have a Secretary of the Court.

Clause I – The Secretary shall be responsible for 1) recording all votes of the Court; 2) taking attendance at meetings of the Court; 3) distributing materials of the Court; and 4) attending all meetings of the Court.

Clause II – The Secretary does not have the right to vote on issues before the Court.

Clause III – The Secretary retains all other rights and responsibilities of a member of the Court.

Clause IV – The Secretary shall be nominated by the Chief Justice and is appointed with two thirds vote of the Court.

Clause V – The Secretary may be removed with a two-thirds vote of the Court.

Clause VI – The term of the Secretary of the Court shall last until the end of the academic year in which they are appointed.

Clause VII – In the absence of the Secretary, the Chief Justice shall take hold of all the rights and responsibilities of the Secretary.

Section IV – The Advisor to the Court shall be the appointed advisor to the Student Government of the Associated Students of the University of Nebraska – Kearney and shall be invited to all meetings of the court while retaining no powers.

Article IV: Meetings

Section I – The Court shall meet every Tuesday during the Fall and Spring semesters at a time that is determined to best fit the Court.

Section II – Meetings of the Court may be rescheduled or canceled by a two-thirds vote of the Court.

Section III – The Chief Justice or three Associate Justices may call for a special meeting of the Court with at least two days’ notice, though the Chief Justice may call a session with less notice for the issuance of an injunction.

Section IV – When a special session is called all Justices, the Speaker of the Senate, and the Student Government advisor are required to be notified as soon as the session is scheduled.

Section V – Any actions taken at a special session of the Court require that there is a vote of the majority of the Justices to affirm the decision at the special session, if less than a week’s notice was given or fewer than three-fourths of the justices was in attendance.

Section VI – The Quorum for the Court shall be three Justices or all Justices if the Court is composed of less than three members.

Section VII – All meetings of the Court are considered closed unless the Chief Justice invites individuals, or a majority of the Court opens the meeting to the public.

Article V: Rights

Section I – All participants before the Judicial Branch have the right to 1) have case determined based upon a preponderance of evidence, except for cases in the request for injunctive relief; 2) access all written decision of the Court, that they use as basis for future decisions, while still respecting the confidentiality; 3) request all documents and evidence used by the Court in their determination before their case is to be heard; 4) submit evidence to the Court in relation to any case they are party to; 5) challenge the jurisdiction of the Judicial Branch; 6) challenge the validity of evidence used by the Court, which includes the cross-examination of witnesses; 7) call witnesses, which may be limited by the Court to written submission if case does not appear before the Court; 7) have these bylaws sent to parties that are appearing before the Court; 8) not engage in self-incrimination; 8) be informed of the case within three days of the Courts receipt; 9) have the case heard within two weeks of receipt by the Court; 10) have a timely determination of charges; 11) have a reasonable opportunity to prepare and participate in cases before the Court; 12) request and receive a written explanation of the basis of the Courts decision; 13) to be free from retaliation and harassment for actions before the Court; 14) ask questions related to the procedure of the Court and the rights afforded; 15) a notice of meeting of the Court in which they are to appear; and 16) other rights are reserved.

Section II – No action by the Judicial Branch shall infringe upon the rights granted in the Constitution of the Associated Students of the University of Nebraska – Kearney, Nebraska State Constitution, and the Constitution of the United States of America.

Section III – Any party may waive their rights, which the Court at its discretion may accept.

Article VI: Procedure

Section I – The Judicial Branch does not operate under formal rules of evidence and civil procedure.

Section II – The Judicial Branch uses Roberts Rules of Order Newly Revised (newest) as parliamentary authority.

Clause I – The Court may suspend the rules or create special rules with two thirds vote.

Section III – The only procedure required for the Court’s handling of parking citations shall be the deliberation, based on the evidence submitted in the parking packet.

Section IV – Complaints may either be submitted to the Court through the procedure laid out in the current University of Nebraska – Kearney Parking Regulations for parking citations or through the procedure laid out below, with the Complaint Form Found on the Student Government Website, emailed to the Court’s email (studentcourt@unk.edu) and the Speaker of the Senate.

Clause I – The fact laid out in the complaint shall be a concise, accurate, and complete statement of the essential facts of the issue before the Court.

Clause II – The complaint shall have a statement related to what empowers the Court to act in this manner.

Clause III – There shall be a section where the plaintiffs may give the reasoning that they believe that they are entitled to relief.

Clause IV – The argument shall also include accurate information related to the date of the alleged violation, the date of the filing of the complaint, the plaintiff(s), defendant(s), and the contact information of those involved.

Clause V – There shall be a section that specifies the relief that is requested by plaintiffs.

Clause VI – Amendments may be allowed by the Court and must be submitted to the other party(s).

Clause VII – The totality of the complaint shall not contain unnecessarily inflammatory or other irrelevant information. Such language may be stricken by the Court or upon motion of any party.

Section V – The Court shall allow for a written response to any complaint by the defendant(s) which must have the same available sections as the complaint.

Clause I - All responses must be submitted within one week, unless the Court grants an extension by motion of the Party.

Clause II – The Court at its discretion allows for rebuttal responses to the response if they deem it prudent, though these rebuttal responses shall only be able to comment on the document they are responding to.

Clause III – The totality of the response(s) shall not contain unnecessarily inflammatory or other irrelevant information. Such language may be stricken by the Court or upon motion of any party.

Section VI – The Court will not hear cases whose complaint is submitted after the Statute of Limitations, which shall be 14 days unless specified to be longer elsewhere.

Section VII – The Court shall hear the case within two weeks of the complaint being filed, unless consent is given by both the plaintiff(s) and defendant(s), or the Chief Justice determines that due to extreme extenuating circumstances that the Court cannot meet.

Section VIII – All communication related to the scheduling of the hearing or basic evidentiary issues arising before the Court is scheduled to meet shall be in writing with the Chief Justice through the Student Court email.

Section IX – If relief is required before the Court could meet the Chief Justice may offer injunctive relief.

Clause I – The relief shall last a maximum of one week, including days in which the University is not in session, or until the next meeting of the Court whichever is less, unless extended by a majority vote by the Court.

Clause II – Injunctive relief, if extended, may last until a decision of the Court is made.

Clause III – Injunctive relief may be offered only to complaints that explicitly request injunctive relief.

Clause IV – Upon a determination of granting injunctive relief the Chief Justice must notify the Court and Student Government Advisors of the granting and schedule a vote for continuing the injunctive relief.

Clause V – Injunctive relief is effective upon notification of the defendants.

Clause VI – The request for injunctive relief must meet the clear and convincing standard for relief to be granted, while still having the preponderance of evidence standard for the Court's deliberations.

Clause VII – The request must demonstrate that relief cannot be granted under normal procedure for injunctive relief to be granted.

Clause VIII – The Court may find a knowing violation of an injunction to be prima facie evidence of guilt during deliberations.

Section X – Individuals that are not listed on the complaint will not be heard by the Court but may at the Courts discretion submit written amici statements in a manner that the Court determines is must prudent for the case.

Section XI – The Structure of the Hearing shall be as follows.

Clause I – The Chief Justice shall preside over all hearings; with this, they may rule on motions that are made by the parties. Parties may at the time of the Chief Justices ruling appeal the decision to the Court. In this role the Chief Justice may take appropriate actions to ensure order.

Clause II – The Chief Justice may require that motions for evidentiary issues be submitted before the hearing.

Clause III – A hearing must be scheduled within two weeks of the complaint being filed.

Clause IV – The Hearing shall start with instruction by the Court to specify any rules of the procedure and to let parties know how the hearing will flow.

Clause V – There shall be time following the instructions for pre-hearing motions to be made.

Clause VI – There shall be a time for introductory statements that will be a maximum of ten minutes for both parties. The Court may change this time by a majority vote but must ensure that both parties have equal time for introductory statements.

Clause VII – The presentation of the plaintiff’s case will occur next, where the plaintiff submits evidence without providing argument for their case.

Clause VIII – The presentation of the defendant’s case will occur next, where the plaintiff submits evidence without providing argument for their case.

Clause IX – Any evidence that is presented must have the ability to be challenged, including cross examination. Any evidence not presumed to be valid and not subject to cross examination may result in the striking of the entirety of the evidence presented.

Clause X – All documents created by the University of Nebraska Kearney or other governmental bodies are to be assumed to be valid but may be challenged.

Clause XI – The Court has the right to determine what evidence may be presented before the Court and may examine any witness.

Clause XII – The final section of the hearing shall be closing arguments that will have 10 minutes for both parties. The Court may change this time by a majority vote but must ensure that both parties have equal time for introductory statements.

Clause XIII – All hearings by the Court must be audio recorded.

Clause XIV – The hearing of the Court is open to the UNK Student Body, unless the Court decides to close the hearing for any reason.

Clause XV – The Court may consider awarding default judgment to a party if the other party does not attend the hearing that they have been notified of, and that they do not have a valid reason for not attending.

Clause XVI – This section shall not apply to cases in which written submissions are the only evidence before the Court, and only deliberation shall be required.

Section XII – Upon the closing of the hearing, the Court shall deliberate their decision.

Clause I – The Court shall render a decision within fifteen days of the conclusion of a hearing.

Clause II – The deliberation of the Court shall be closed to all except for members of the Court.

Clause III – Upon the Court reaching a decision the Chief Justice shall notify both parties of the Court decision, while specifying the rights to appeal, and request an opinion.

Clause IV – Any decision that would reduce a punishment shall be considered the rendering of a decision.

Section XIII – After the decision by the Court, in listed instances there is a right to appeal, which must follow the procedure listed below and be submitted within one week of the Court's decision.

Clause I – In cases where the Court decides related to parking citations the Court's decision is final.

Clause II – All other cases may have the decisions of the Court appealed to the Associate Vice Chancellor of Student Affairs.

Clause III – All appeals must give the opportunity for the Court and opposing party to explain their opposition to the granting of the appeal and must be submitted within one week of the appeal being submitted.

Section XIV – The issuance of opinions by the Court which explains their decision shall follow the following rules.

Clause I – Anyone with a case that has been heard by the Court in the past two weeks may request an opinion and receive one. The opinion will be given within two weeks of being requested.

Clause II – Any case in which the Court interprets the Constitution must have an opinion issued by the Court.

Clause III – All opinions of the Court shall be accessible to all UNK students.

Clause IV – A justice in the majority shall write the opinion of the Court, based on a rotation of Justices.

Clause V – The dissent may write an opinion if they wish.

Section XV – The Court shall follow the principle of stare decisis in relation to written opinions of the Court.

Section XVI – The Court shall have the power to issue the following attachments to decisions.

Clause I – The granting of innocence, with no punishment.

Clause II – An official warning.

Clause III – To lower parking citations to no lower than zero dollars.

Clause IV – To increase parking citations to no more than double their value.

Clause V – Removal of office.

Clause VI – Ordering another election.

Clause VII – Suspending the election or the results of an election.

Clause VIII – Temporary suspension of RSO status.

Clause IX – Permanent suspension of RSO status.

Clause X – Overturning of Committee decision.

Clause XI – Upholding of Committee decision.

Clause XII – Overturning of Senate Bills or Resolutions.

Clause XIII – Allowing for Standing of Senate Bills or Resolutions.

Article VII: Conduct

Section I – A member of the Judicial Branch shall 1) remain in good academic standing; 2) obey the University of Nebraska – Kearney Code of Conduct; 3) not engage in ex parte communication regarding a matter before the Court; 4) keep information presented before the Court confidential; 5) act in a manner that is courteous to all participants; and 7) work to maintain the unbiased and just nature of the Court.

Section II – The Attendance Policy of the Justices of the Judicial Branch is as follows:

Clause I – Justices are allowed two excused and two unexcused absences per semester term. The Chief Justice and Court Secretary will keep track of individual absences and communicate with the Student Government Advisor. If a Justice goes over the number of allowed absences, the Chief Justice shall bring an attendance statement before the Court to be discussed. The Student Court will then decide and vote on an appropriate course of action. Justices that violate attendance policy may be placed on probationary status or recommended for removal.

Clause II – Excused absences are defined as absences caused by university affiliated academic or administrative occurrences (e.g., lab, class, meeting with Chancellor, illness, family emergency, or other extraordinary circumstances). Absences must be communicated to Chief Justice at least 24 hours before the Court session (or other reasonable communication) to be considered excused.

Clause III – Unexcused absences are defined as absences caused by prior commitments, work, or events that fall under normal daily circumstances.

Clause IV – Any member of the Judicial Branch may request a leave of absence; to exempt them from the attendance policy requirements, this may be granted at the discretion of the Court.

Section III – Justices shall not sit in cases in which they have a conflict of interest which includes but is not limited to: 1) parking citations where the Justices is or knows the person appealing the ticket; 2) acting as a campaign agent as regulated under the current University of Nebraska – Kearney election guidelines; 3) sitting on cases that the Justice filed or substantially assisted in; 4) engaging in ex parte communication related to a matter before the Court; 5) publicly commenting on their beliefs about a matter before the Court; 6) has any personal knowledge of the facts of the case that would bias the Justice; and 7) has any other bias or prejudice that would interfere with the confidence of the just nature of the Court.

Clause I – Justices are required to send to the Chief Justice a list of all organizations in which they would have a conflict of interest under these rules.

Clause II – Justices who find that they would have a conflict of interest are required to abstain from voting.

Clause III – Justices who do not recuse themselves but are believed to be in conflict may be forcefully recused upon motion and a two-thirds vote of the Court.

Clause IV – The Chief Justice shall not be automatically considered in conflict of interest based upon actions take in the official capacity of administering the Judicial Branch, which includes but is not limited to appointments made by the Chief Justice or ex parte communications required for the functioning of the Court.

Section IV – Any violations of the rules laid out in this article may be passed along to the Senate Ethic Committee by two thirds vote of the Court.

Section V – All those with business before the Court shall act in a manner that is courteous to all participants and is devoid of intimidation and harassment, while keeping discussion relevant to the case. Code of conduct, attendance (leave of absence to exempt), and remain academically policy if not two-thirds to recommend to ethics for removal as laid out in the Constitution.

Article VIII: Ratification and Amendment

Section I – These bylaws shall only be amended under the following processes:

Clause I – Unanimous vote by all Justices.

Clause II – A two-thirds vote by all Justices and accompanying resolution of support passed by the Senate.

Clause III – A three-fourths vote of all Justices; in which case the amendments will come in force at the end of the current semester.

Clause IV – A resolution passed by the Senate at the meeting following the announcement of the amending of these bylaws may overrule the proposed amendment.

Section II – Only Justices of the Court may propose amendments to these bylaws and must give two weeks' notice of any proposed amendments.

Section III – Any votes on amendment of these bylaws shall be submitted to the Senate at the next joint meeting by the Chief Justice.

Section IV – These bylaws shall be the preeminent bylaws for the Judicial Branch and shall hereby supersede and replace all prior Judicial Branch Bylaws

Section V – These bylaws shall come into force when unanimously approved by the Court and with a resolution of support by the Senate.