

ASUCM By-Laws

Court By-Laws

Updated as of May 7, 2014

Purpose: To provide the governing voice of the judicial branch of ASUCM. These Court By-Laws define relevant terms, explain filing a Court case, and provide rules for future Court Justices to abide by.

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Article I:

A. Due Process

1. Applicable tenets of procedural due process shall be guaranteed to all who appear before the ASUCM Court in the interest of the preservation of fundamental fairness.

B. Standing

1. Those with the right to initiate a claim to be resolved by the ASUCM Court must be a registered undergraduate associated student at the University of California, Merced.

C. Jurisdiction

1. The court shall have the power to hear the following types of cases:
 - i. All cases that arise under the ASUCM Constitution and appropriate ASUCM by-laws, including, but not limited to, questions regarding constitutionality and equal protection, or the University of California Office of the President's (UCOP) Policies.
 - ii. All cases involving the Undergraduate Student Body of the University of California, Merced or any members thereof, involving members of ASUCM that are involved in an ASUCM Activity or sponsorship.

D. Duties of the ASUCM Court

1. To know and understand the ASUCM Constitution and Bylaws, as well as to be informed about the policies of the University of California Office of the President (UCOP) concerning Student Government, and to interpret these documents.
2. To attend all scheduled Hearings and weekly meetings. If a Justice cannot attend a hearing or weekly meeting, the Chief Justice must be formally notified of the absence at least twenty-four (24) hours in advance.
3. A justice's recusal from a hearing must be announced to the Chief Justice and ASUCM advisor at least twenty-four (24) hours in advance.

E. Recusal

1. Recusal from a case entails not being present for closed sessions in which the case is discussed and not contributing in any way to the final outcome of the case in one's capacity as a member of the ASUCM Court.
2. If a member of the ASUCM Court has been directly involved in the cause of action or a case being petitioned or considered, that member must recuse him/herself. No exceptions are to be made.
3. If a member of the ASUCM Court is or has been an active part of an organization, this information must be disclosed to the ASUCM Advisor, Chief Justice, and

Associate Justices. Should a case then arise involving said organization, a Justice's recusal is mandatory.

4. If a justice is personally affiliated with a petitioner or respondent, their recusal will be discretionary upon their confidence to make an impartial decision on the case matter.
5. If a justice files a petition against a member or branch of ASUCM on behalf of an RCO, they shall recuse themselves from the ensuing case, and must appoint a proxy to argue their petition in subsequent hearings.
 - i. Justices may only file cases on behalf of RCO's.

F. Duties Prohibited to the ASUCM Court

1. No member of the ASUCM Court may author or co-author ASUCM Senate legislation.
 - i. This rule shall not apply to re-drafts of the Court By-laws, nor to any legislation concerning the introduction or absolution of official Court documents and guidelines.

Article II:

A. Appointment of Chief Justice

1. In the event the Chief Justice fails to carry out their duties, the Associate Justices may assume the responsibilities of the Chief Justice in order to maintain a functioning Court by appointing a temporary representative by majority vote.
2. In the permanent absence of a Chief Justice, the ASUCM Court shall convene in a closed meeting to appoint a replacement.
3. Any justice of the Court may nominate any current justice, excluding themselves, to take over as Chief Justice. The Court will then vote to approve the nominated justice, with each sitting justice, excluding the nominee, given one vote. If the nominee is approved by a majority (50% + 1) vote, they will then take over as Chief Justice. If the nomination fails, another nomination may be made.
4. If the Court finds itself unable to elect a Chief Justice, they may appeal to the ASUCM President to appoint one of the current justices to the position.

B. Seniority

1. The most senior member of the ASUCM Court shall serve as Chief Justice in the event of the temporary absence of the officially appointed Chief Justice.
2. Seniority will be determined by the length of time served on the ASUCM Court.
3. In the event that the next senior-most Justice includes more than one (1) Justice a majority vote of the Justices present will decide which senior Justice will take precedence.

4. On the occasion that the senior-most justice is not present, or is either unable or unwilling to perform their duties, the next most senior justice will do so.

C. Budget

1. Allocations from the ASUCM Court budget shall be made upon a majority vote at an official ASUCM Court meeting.

D. Resignation

1. A justice is considered resigned from the ASUCM Court when they provide verifiable communication of their resignation to the public, ASUCM Advisor, Chief Justice, and ASUCM President.

E. Grounds for Dismissal

1. Disclosure of closed session deliberations.
2. Campaigning in ASUCM elections while a member of the ASUCM Court.
3. Failing to adhere to the ASUCM Constitution and By-Laws.
4. Failing to maintain good academic and judicial standing with the University, as defined by the Office of the Registrar of the University of California, Merced.
5. Unexcused absence from more than three (3) weekly meetings per semester, to be noted during meeting roll call.
 - i. Absences may be excused by the Chief Justice pending approval before a weekly meeting takes place, or following an unexpected event judged by the Chief Justice to be an emergency or otherwise unavoidable reason for nonattendance.
 - ii. The Chief Justice may be excused from meetings by majority vote of Associate Justices for the same applicable reasons as the Associate Justices.
 - iii. Should the court suffer so many absences that it fails to meet quorum the justices continually meeting the attendance requirements shall not be penalized.
6. Refusal to recuse oneself from a judicial action when recusal is merited pursuant to these by-laws.

F. Procedure for Removal

1. An ASUCM Court Justice may be removed from their position via Senate vote, following the recommendation of an ASUCM Senate ad-hoc committee formed expressly to examine whether or not a justice has met one or more of the conditions specifically enumerated in the current Court By-Laws. For this to happen:
2. The ASUCM Senate must form an ad-hoc committee, comprised of no fewer than three (3) and no more than five (5) sitting members of the Senate, to examine

- whether or not a specific justice has met one of the conditions enumerated in the most current Court By-Laws that makes them eligible for removal from office.
3. Each Justice up for removal must be given procedural due process.
 4. Once the ad-hoc committee has reached a decision, they may make a recommendation to the ASUCM Senate to remove the Court Justice in question, or alternatively, they may vote to disband.
 5. A two-thirds (2/3) vote of the ASUCM Senate, and the approval of the ASUCM President is necessary to remove a sitting justice.
 6. The ASUCM Senate may override the ASUCM President's veto with a three-fourths (3/4) vote.
 7. After having made a recommendation to the ASUCM Senate, the ad-hoc committee will be considered disbanded. To repeat this process, the ASUCM Senate must form another ad-hoc committee.

Article III:

A. Attire

1. The ASUCM Court encourages the importance of professionalism from all parties involved with court hearings and proceedings. Anyone who has business before the ASUCM Court is encouraged to present themselves professionally.
2. Court reserves the right to remove anyone whose attire is disruptive to the proceedings being held, or offensive to individuals presence.

B. Conduct

1. The guidelines for ASUCM Court proceedings are as follows:
 - i. Should a party be late by 15 minutes or fail to show for their hearing without prior notice for an extension from the ASUCM Court, proceedings and decision-making will continue in their absence.
 - ii. A party may delegate a student representative to appear on their behalf via designation only when approved by the Court before the start of the hearing.
 - iii. Parties to cases brought before the ASUCM Court are held accountable to all applicable university policies. These include policies relating to harassment and intimidation.
 - (1) Violations of university policies relating to conduct between parties (and related parties thereof) will be referred to Judicial Affairs staff following consultation with the ASUCM Advisor.
 - iv. Parties to a case may object in the event evidence introduced is of a questionable nature, or if an argument is not directed towards issues before the ASUCM Court.

- v. The public shall be permitted to view all hearings provided there is an adequate space. If space is limited, priority will be given to members of the student body.

C. Official Forms

1. The Court shall recognize official forms in judicial actions. The forms recognized by the Court shall at least include a petitioner's form for initiation of cases, and a respondent's form for official replies to petitions. Forms shall hereafter be abbreviated as follows:
 - i. P1: The petitioner's original submission requesting a case
 - ii. R1: The respondent's counter to evidence submitted in the P1
2. Emails sent to all sitting justices on the court, the advisor, and all parties involved in the case may also be used as evidence in the ASUCM Court.

D. Amicus Curiae Briefs and Evidence

1. If the ASUCM Court decides to hear a case, amicus curiae briefs (or "friend of the court") will be accepted.
 - i. Briefs filed by individuals or groups that are not a party in the case should offer new and insightful information to the case at hand for the Justices to consider.
2. The ASUCM Court shall provide individuals with the Petitioner's filing, along with the argument offered to the ASUCM Court.
3. The Respondent's filing will be made available to any interested parties after it has been filed.
4. It is under the discretion of the Justices to make references to the briefs during the hearing and when forming their decision. Amicus filers will not be notified about the use of their brief(s).

E. Filing a Case

1. The minimum process of bringing forward a case is as follows:
 - i. The Petitioner must use the official P1 forms asking the ASUCM Court to hear their case.
 - ii. Once the Petitioner has completed their filing, the Respondent will be immediately contacted electronically, provided a copy of the filed P1, and requested to submit a response form (R1) to the court.
 - iii. The ASUCM Court will decide if a hearing will be held regardless of whether or not the Respondent has completed a filing.
 - iv. If at any point the petitioner wishes to withdraw their case they have the liberty to do so. Justices will immediately cease to pursue any case that has been withdrawn unless the respondent requests that it continue.

- v. A case shall be considered withdrawn once all sitting justices have received written notification from the petitioner requesting a withdrawal of the petition.

F. Decision to hold Hearings

1. After reviewing both the Petitioner's and Respondent's forms, the ASUCM Court shall then rule on whether or not to proceed with a hearing.
 - i. A minimum of three (3) Justices must agree in order to move forward in a case.
 - ii. As soon as the ASUCM Court has reviewed all the forms submitted and come to a decision, the court clerk will notify both parties of the status of the case.
 - iii. If the court clerk position is currently vacant, the chief justice will nominate an associate justice to perform this duty.
 - iv. If it is determined that there will not be a hearing, the ASUCM Court will deliver an explanation and publish it along with all of the documents submitted by each party.
 - v. If the respondent fails to submit their arguments before the required time, the hearing will still be held.

G. Summary of Hearing Timeline

1. Court hearing dates and deadlines will be scheduled upon agreement between affected parties and Justices, including but not limited to evidentiary submission, hearing dates and times, and other hearing milestones as applicable.

H. Hearing Procedures

1. Hearing procedures shall be set via agreement among ASUCM Court Leadership following consultation with the ASUCM Advisor, and must include provisions for adequate party representation and procedural aspects of due process.

I. Deliberations

1. Following a hearing, the ASUCM Court will meet in a private conference to deliberate their decision.
2. A minimum of four justices must be present in order to issue a decision regarding a case.
3. The conference will be restricted to Justices of the ASUCM Court and their advisor, excepting recused parties.
4. During the conference, the Justices that were present for the hearing will discuss the particulars of the case and will hold a vote to determine the outcome of the case.

5. The senior-most Justice among those residing in the majority will determine the author of the majority opinion.
 - i. The author of the majority opinion will work with the other Justices in the majority to ensure that all relevant points of law have been discussed.
6. Any Justice may author a dissenting opinion or a concurring opinion. As well, any justice may sign onto another Justices' opinion.
7. All decisions will be written, approved, and published within seven (7) days of the hearing.
8. Any Justice has the right to change their mind until the decision is officially released to the public.

J. Individual Opinions

1. Pursuant to UCOP Policies on Student Organizations and allocations of compulsory campus based fees, justices of the ASUCM Court shall maintain viewpoint neutrality while publicly discussing or commenting on cases-in-progress.

Article IV: ASUCM Court Clerks

- A. ASUCM Court Clerks may be appointed by ASUCM Court leadership for clerical and procedural support purposes.
1. Clerk appointments will be restricted to no more than a single academic year, renewable indefinitely.
 2. Clerks may be selected by the Justices of the ASUCM Court only via majority vote.