

# **ASUO CONSTITUTION COURT RULES AND PROCEDURES**

Enacted in November 1993  
Last Amended March 1995  
Updated February 1998

## **1. THE COURT RULES**

- 1.1 The operating rules and procedures of the Constitution Court contained herein shall be referred to as the Court Rules.
- 1.2 The Court adopts and implements these Rules pursuant to the authority granted by Article 10, § 7 of the ASUO Constitution.
- 1.3 The Court Rules shall govern the operation of the Court and shall apply to the members of the Court and to all persons, parties, organizations, or entities who come before the Court.
- 1.4 The Court may, from time to time, revise said Rules. Any such revision shall take effect upon publication of the Rules as provided in Rule 2, unless otherwise provided by the Court.
- 1.5 The Court Rules shall be approved by a majority of the Court.
- 1.6 The Court Rules shall bear the date of the action of the Court approving the current version of the rules.

## **2. PUBLICATION OF COURT RULES**

- 2.1 The Court Rules shall be made available to any member of the ASUO and copies shall be directed to the ASUO Executive Office, the Programs Finance Committee, the EMU Board, the Athletic Department Finance Committee, and the Student Senate.
- 2.2 It shall be the responsibility of the Chief Justice to ensure that the provisions of this section are met.
- 2.3 Any revision to the Court Rules shall be promptly published as in 2.1 hereinabove.

## **3. HEARINGS BEFORE THE COURT**

- 3.1 Members of the Court shall be referred to as Justice, except the Chair of the Court who shall be referred to as Chief Justice.
- 3.2 A quorum of the Court shall be required in order to vote on any matter or conduct any business of the Court.
- 3.3 A quorum of the Court shall consist of three (3) members.

## **4. OPERATIONS OF THE COURT**

- 4.1 The Chief Justice shall be elected by a majority of the members of the Court and shall serve until the expiration of his/her term on the Court, or until the first meeting of the Court during the Fall academic term, whichever shall occur first.
- 4.2 The Court shall elect a Chief Justice at the first meeting of the Court during the Fall academic term, or as necessary.
- 4.3 The Chief Justice may be removed by a vote of three (3) Justices of the Court.
- 4.4 The Chief Justice shall notify all members of the Court of any meeting of the Court.
- 4.5 The Chief Justice shall notify the ASUO Executive Office of the place and manner of notification to the Court and of delivery of items to the Court.

- 4.6 All correspondence of the Court shall be signed, dated, and numbered sequentially (e.g. 97/8.01 would refer to the first piece of correspondence issued by the Court during the 1997-1998 term).

## **5. CONDUCT OF THE COURT**

- 5.1 Members of the Court shall at all times conduct themselves with the professional demeanor, respect, and decorum as befits a judicial body.
- 5.2 While in open session, members of the Court shall address fellow members as either Mr./Ms. or Justice, and shall address those appearing before the Court as Mr./Ms. or other title, as appropriate.
- 5.3 There shall be allowed no ex parte contact between a member of the Court and any party in interest who has a matter pending before the Court.
- 5.3.1 Any person wishing to contact the Court regarding a matter pending before the Court shall do so in writing, with five (5) copies delivered to the Chief Justice, and with copies simultaneously delivered to the opposing parties in interest.
- 5.3.2 Members of the Court shall immediately report any ex parte contact to the Chief Justice who shall then notify the opposing parties in interest. The Court shall then deliberate and may either proceed with the case after allowing the opposing parties an opportunity to rescind, or may dismiss the case with prejudice to the offending party.
- 5.4 There shall be no extra-judicial comments from members of the Court regarding matters pending before the Court.
- 5.5 Members of the Court shall not accept anything of value from any party before the Court.
- 5.6 Members of the Court shall not serve on, nor be an employee of the ASUO Executive Office, the Programs Finance Committee, the EMU Board, the Athletic Finance Committee, or the Student Senate. This section does not apply to employees of programs that are merely managed or funded by these agencies.
- 5.7 Members of the Court shall not assist parties or potential parties in preparation of their case, except to the extent necessary to ensure compliance with Court procedures.
- 5.8 Members of the Court shall neither encourage nor discourage any person, group, organization, club, or activity from bringing a case or controversy before the Court.
- 5.9 No members of the Court shall participate in any way in a campaign for or against an ASUO candidate or ballot measure.
- 5.10 No Hearings Officer involved in hearing election complaints pursuant to Article 10, § 4 shall participate in any way in a campaign for or against an ASUO candidate or ballot measure.

## **6. RECUSAL OF MEMBERS OF THE COURT**

- 6.1 Each member of the Court shall, within ten (10) days of confirmation, deliver to the Chief Justice a letter disclosing membership, interest, employment, or involvement in any group, organization, club, or activity which is governed by the ASUO Constitution or which receives funding from the Programs Finance Committee.
- 6.2 Such letters shall be forwarded by the Chief Justice to the ASUO Executive Office and shall be available for inspection by any member of the ASUO.
- 6.3 No member of the Court should participate in any open session or deliberation where that member because of self-interest, bias or prejudice should recuse himself or herself from the matter, case, or controversy.

- 6.4 No member of the Court shall participate in any open session or deliberation in which his/her employer or employee is a party.
- 6.5 No member of the Court shall participate in any open session or deliberation in which s/he is an officer of an organization, group, club, or activity which is a party before the Court.
- 6.6 The Court may, upon its own motion or upon a motion of a party in a matter before the Court, request that a member recuse himself or herself from participation based exclusively upon Rules 6.4 or 6.6.
  - 6.6.1 If the member refuses to recuse himself or herself, a member of the Court or a party in the matter before the Court may motion for a hearing to decide if the member shall participate in the matter before the Court.
  - 6.6.2 Thereupon, a majority of the Court may exclude the member from participation in that matter.

## **7. MEETINGS OF THE COURT**

- 7.1 The Court shall meet either in open session or in closed deliberation, as prescribed herein.
- 7.2 Any open session of the Court shall be open to the public and notice shall be delivered in advance to the Oregon Daily Emerald, to the ASUO Executive Office, and to the parties.
- 7.3 The Court may, at its discretion, grant upon request or require upon its own motion, oral presentation before the Court, in open session, on any issue before the Court.
  - 7.3.1 The Court shall allow each party an opportunity to present their issues to the Court.
  - 7.3.2 Members of the Court may pose questions to the parties or may request additional written materials from the parties.
  - 7.3.3 The Chief Justice shall determine the amount of time allowed for each party to present their arguments, provided that each party is afforded an equal amount of time.
  - 7.3.4 The Chief Justice may allow interested persons to deliver amicus arguments on a matter. However, repetitious arguments shall not be allowed.
  - 7.3.5 The Chief Justice shall rule on all motions and objections during oral argument.
  - 7.3.6 All parties appearing before the Court shall conduct themselves with appropriate civility, respect, and deference. The Court will not tolerate abusive or derisive displays directed at any person in attendance at a session of the Court.
  - 7.3.7 The Court may take appropriate action necessary to ensure the orderly conduct of its processes.
- 7.4 No decision of the Court shall be delivered during open session, but only upon deliberation of the Court and issuance of a written opinion pursuant to Rule 8.
- 7.5 Deliberations of the Court shall be conducted in closed session, limited to the members of the Court and a recorder.
  - 7.5.1 The purpose of deliberations is for the Court to (a) discuss the merits of argued cases and to seek to reach a consensus opinion; (b) to review and discuss proposed rules, policies, and resolutions pursuant to Article 10, § 15 of the ASUO Constitution; or (c) to discuss matters related to the internal operation of the Court.
  - 7.5.2 No member of the Court shall discuss or reveal matters arising from the deliberations of this Court.
- 7.6 Meetings of the Court shall be held in the time and place determined by the Chief Justice, but should generally be held either in the EMU or Grayson Hall (the Law School).

## **8. OPINIONS OF THE COURT**

- 8.1 The Chief Justice shall issue all decisions where there is no opinion of the Court.
- 8.2 The Chief Justice shall issue all per curium decisions of the Court.
- 8.3 Where the Chief Justice is part of the majority of the Court, s/he shall assign the drafting of an opinion of the majority of the Court to either a member of the Court or to him/herself.
- 8.4 Where the Chief Justice is not party of the majority of the Court, the majority shall select a member to draft the opinion of the Court.
- 8.5 A draft of the majority opinion shall be forwarded to each member of the Court who shall have at least three (3) days for review and comment.
- 8.6 The Chief Justice may reduce the time for review under 8.5 when exigent circumstances so warrant.
- 8.7 Dissenting or concurring opinions may be issued by any member of the Court and do not require the approval of the Chief Justice.
- 8.8 Drafts of dissenting or concurring opinions shall be forwarded to the other members of the Court for consideration in drafting the majority opinion.
- 8.9 The majority opinion and any dissenting or concurring opinions shall bear the name and signature of the member who authored the opinion.
- 8.10 Decisions and opinions of the Court shall become effective when issued by the Chief Justice to the parties and to the ASUO Executive Office.
- 8.11 All decisions and opinions of the Court shall be numbered sequentially as described herein. For example: 3 C.C. 1 (1997/8). Where "3" refers to the third opinion of the Court during that term; "C.C." refers to the Constitution Court; "1" refers to the first page of the opinion or to the jump cite page when referring to the opinion in a subsequent document; and "(1997/8)" refers to the academic year of the decision.

## **9. REVIEW OF RULES, POLICIES, AND RESOLUTIONS PURSUANT TO ARTICLE 10 § 15**

- 9.1 Proposed rules, policies, or resolutions of the ASUO Executive Office, the Programs Finance Committee, the EMU Board, the Athletic Department Finance Committee, and the Student Senate shall be delivered to the Court in the place and manner provided by the Chief Justice under Rule 4.5.
  - 9.1.1 Those organizations governed by Article 10 § 15 of the ASUO Constitution shall submit a cover letter and five (5) copies of each proposed rule, policy, or resolution to the Court.
- 9.2 The Chief Justice shall assign the initial review and recommendation of a proposed rule, policy, or resolution to a panel of two members of the Court.
  - 9.2.1 The Chief Justice shall determine the members of each panel and may be a member of the panel.
  - 9.2.2 The panel shall review the proposed rule, policy, or resolution consistent with the requirements of Article 10 § 15.
  - 9.2.3 The panel shall forward its recommendation to the Chief Justice not more than five (5) days following the assignment for review. The Chief Justice may allow additional time upon the request of the panel.
  - 9.2.4 Upon the request, notification, or motion of any member of the Court, the Chief Justice shall convene the Court for the purpose of deliberating on a proposed rule, policy, or resolution.

9.2.4.1 Any member of the Court may then request an open session wherein the ASUO Executive Office, the Programs Finance Committee, the EMU Board, the Athletic Department Finance Committee, or the Student Senate, will be allowed to present testimony and arguments in support of the proposed rule, policy, or resolution.

9.2.4.2 The Court shall allow a party opposing the proposed rule, policy, or resolution to present testimony and arguments at that time.

9.2.4.3 Any such session shall conform with Court Rule 7.

9.3 If the panel recommends approval of the rule, policy, or resolution and the Chief Justice was not a member of the panel and concurs in the panel's recommendation, then the rule, policy, or resolution shall be considered as approved by the Court upon publication of the decision.

9.4 If the panel recommends approval of the rule, policy, or resolution and the Chief Justice was a member of the panel, then the Chief Justice shall refer the rule, policy, or resolution to another member of the Court, upon whose concurrence, the rule, policy, or resolution shall be considered as approved by the Court upon publication of the decision.

9.5 Approval of a rule, policy, or resolution under this Rule shall be in the following form:

"The attached rule, policy, or resolution was reviewed pursuant to Article 10 § 15 of the ASUO Constitution. By a ruling of the Constitution Court, said rule, policy, or resolution is approved for publication and implementation. This ruling shall neither limit nor prejudice the Court in any future proceeding in which this rule, policy, or resolution is contested in a case or controversy before the Court."

9.6 The ASUO Executive Office, the Programs Finance Committee, the EMU Board, the Athletic Department Finance Committee, or the Student Senate, may appeal an adverse ruling of the Court under Rule 9. Such appeal shall conform with the requirements of Rule 10 and shall be submitted to the Court not more than seven (7) days following publication of the Court's decision.

## **10. CASES OR CONTROVERSIES BROUGHT BEFORE THE COURT**

10.1 To bring a matter properly before the Court pursuant to Article 10, a party shall:

10.1.1 Submit a written petition to the Court for consideration of the matter. Such petition shall contain:

10.1.1.1 a completed Petition for Review form (see Appendix A to these Rules) which contains:

- the name of the petitioning party
- the petitioning party's standing as a member of the ASUO under Article 2 § 1
- certification that the petition conforms to the Court Rules
- proof that the opposing parties have been served with a copy of said petition (if there are multiple opposing parties, a separate petition shall be signed for each party and submitted on separate pages;

10.1.1.2 the question presented for review, expressed in the terms and circumstances of the case, but without unnecessary detail;

10.1.1.3 a list of all parties to the proceeding;

10.1.1.4 the constitutional provisions, rules, policies, or resolutions involved in the case, setting them out verbatim, and giving the appropriate citation therefor. If the provisions involved are lengthy, their citation alone will suffice and their pertinent text must be set forth in an appendix;

- 10.1.1.5 a concise statement of the case containing the facts material to the consideration of the questions presented;
- 10.1.1.6 a statement describing the specific relief sought from the Court;
- 10.1.1.7 a brief statement explaining any exigent circumstances requiring the Court to act with dispatch;
- 10.1.2 Petitioner shall submit five (5) copies to the Court.
- 10.2 The non-petitioning party, hereinafter Respondent, may submit a written response to the Petitioners' presentation.
  - 10.2.1 The Respondent shall have seven (7) days to submit a reply to the Court.
  - 10.2.2 The Respondent's reply shall state in clear and concise terms:
    - 10.2.2.1 the reasons why the Court should deny the request of the Petitioner;
    - 10.2.2.2 a statement attesting that the Respondent has served a copy of said reply on the Petitioner; and
    - 10.2.2.3 the name and signature of the Respondent.
  - 10.2.3 The Respondent shall submit five (5) copies to the Court.
- 10.3 Motion for Reconsideration. A party seeking to obtain reconsideration by the Court for a decision of the Court shall file a "Motion for Reconsideration" with the Court.
  - 10.3.1 A Motion for Reconsideration shall not be based on a contention that the Court erred in construing or applying the law, but shall only be based on one or more of these contentions:
    - 10.3.1.1 a claim of factual error in the order or opinion;
    - 10.3.1.2 a claim of error in the procedural disposition of the case requiring correction or clarification to make the disposition consistent with the holding or rationale of the opinion;
    - 10.3.1.3 a claim of error in the designation of the prevailing party;
    - 10.3.1.4 a claim that there has been a change in the Constitution, rules, statutes, or case law since the Court's decision.
  - 10.3.2 A Motion for Reconsideration shall be filed within seven (7) days of the Constitution Court's decision. The motion shall be accompanied by five (5) copies. The original shall show proof of service of copies to every other party.
  - 10.3.3 No party shall file a response to a Motion for Reconsideration unless requested to do so by the Court.
  - 10.3.4 The Court shall either deny or allow reconsideration. If the Court allows reconsideration, the Court may reconsider with or without further briefing or oral argument. Reconsideration shall result in affirmance, modification, or reversal of the decision that has been reconsidered.

## **11. STAYS AND INJUNCTIONS**

- 11.1 Any member of the Court may stay the enforcement of any order of a Hearings Officer issued pursuant to Article 10 § 4 pending review by the Court.
- 11.2 Any member of the Court may upon a request of any member of the ASUO, exclusive of members of the Court, enjoin the enforcement of any rule, policy, or resolution of any ASUO program or group pending review by the Court. Such request shall include either a petition for

review under Rule 10, or a statement of intent to file such petition within seven (7) days of said request.

- 11.3 A stay or injunction must be in writing, must be signed and dated by the issuing member, and must state the reasons for the stay or injunction. A copy of the stay or injunction shall be delivered to the other members of the Court, to the requesting party, and to an officer or representative of the ASUO program or group to whom the stay or injunction is directed.
- 11.4 Any stay or injunction, unless issued under Rule 11.7, may be removed by a vote of the majority of the Court.
- 11.5 Any stay or injunction is effective for a period of ten (10) days unless a majority of the Court votes to grant an extension while the matter is under review of the Court.
  - 11.5.1 However, if the Court contains less than a quorum of members, the stay or injunction shall remain in effect until such time as there exists a quorum of members of the Court, whereupon Rule 11.5 shall become effective.
- 11.6 The Chief Justice shall convene the Court within four (4) days of the issuance of a stay or injunction, excepting under Rule 11.7, and determine whether to consider the matter.
- 11.7 All matters reviewable under Article 10 § 15 are automatically stayed and enjoined from implementation and enforcement pending completion of review and issuance of a decision or opinion of the Court.

## **12. HEARINGS OFFICER**

- 12.1 The Chief Justice may assign a Hearings Officer pursuant to Article 10 §§ 3 and 4, who shall serve as a special master to the Court for the purpose of factfinding and presentation of a recommendation to the Court. Said Hearings Officer shall not be a member of the Court.
  - 12.1.1 Within four (4) days of the completion of the hearing, the Hearings Officer shall present five (5) copies of his/her recommendation to the Court and to the parties.
  - 12.1.2 The Court may then, by a majority vote, concur or reject the recommendation.
  - 12.1.3 If a majority of the Court rejects the recommendation of the Hearings Officer, the Court will then order a hearing on the matter and allow the parties to submit written arguments to the Court.
- 12.2 The Chief Justice may assign a Hearing Officer pursuant to Article 10 § 5 for the purpose of hearing complaints arising under the ASUO Elections Rules. Said Hearings Officer shall be a member of the Court.
  - 12.2.1 Within two (2) days of the completion of the hearing, the Hearings Officer shall present five (5) copies of his/her ruling to the Court and to the parties.
  - 12.2.2 Within three (3) days of receipt of the ruling of the Hearings Officer, the Court may then, by a majority vote, overturn the ruling.
  - 12.2.3 If the Court overturns the ruling, the Court may then order a hearing on the matter and allow the parties to submit written arguments to the Court. If the Court does not order a hearing, the decision overturning the ruling of the Hearings Officer shall be final.
- 12.3 Hearings Officers shall abide by the Rules of the Court and shall compile a written record of all evidence set forth in the hearing, including a brief summary of oral arguments not addressed in the written submissions of the parties.

## **13. BALLOT MEASURE PROPOSALS** (this section was amended to the Court Rules March 7, 1995)

- 13.1 All ballot measures required to be submitted to the Constitution Court by Section 8.2 of the ASUO Elections Rules and Section 14.5 of the ASUO Constitution must be submitted to the Court no later than five (5) school days prior to the filing deadline established by the ASUO
- 13.2 All ballot measure proposals required to be submitted by the ASUO Elections Rules or the ASUO Constitution to this Court, but which are submitted later than five (5) school days prior to the filing deadline established by the ASUO Elections Board will not be reviewed by the court except:
  - 13.2.1 If, upon petition to this court, the court finds that circumstances exist which would either cause irreparable economic harm to petitioner or substantially interfere with petitioner's legal rights.