Submitted By: Harry Khanna, Vice President Academic Affairs

Subject: Amendment to ASUCSD Judicial Board Charter

The ASUCSD Council Approved the Amendment to ASUCSD Judicial Board Charter. See attached.

Approved: 20
Against: 2
Abstain: 2

Council Approval;
Certified by:

______________________________  ______________________________
Chair of the Council              Date for Chair of the Council

______________________________  ______________________________
Presidential Approval             Date for the President
UCSD Associated Students
Judicial Board Charter

I. Preface
The following document is intended as an outline of the steps to take when filing a complaint with the Associated Students of the University of California, San Diego Judicial Board. The Associated Students’ Judicial Board is vested with the judicial authority of the ASUCSD. It is empowered to resolve disputes involving the A.S. Constitution, By-laws, Council, and student organizations. It is not a court of law but a student hearing body. The Board is the last resort when an informal resolution is impossible. This document outlines the required steps to be taken after a dispute arises. The Board shall be the sole interpreter of this charter.

II. Membership
The Judicial Board shall consist of one representative appointed by each college and two representatives appointed by the ASUCSD Council. The Judicial Board shall elect a chairperson from its membership.

III. Filing a Complaint
Each party is allowed one spokesperson to present its case. That spokesperson may be the complainant or the accused. The spokesperson for the complainant is required to complete the "Complaint Form" and a detailed schedule of available times for his/her subsequent three-week period. These should be submitted to the A.S. Secretary Executive Assistant within ten days (a day in this document refers to an academic day) of the incident.

IV. Processing the Complaint
After submission of the complaint form and schedule, the A.S. Executive Assistant shall immediately inform the accused party(ies) of the grievance including a copy of the complaint form. The Board will meet within six days of submission of the complaint to determine if they have jurisdiction over the dispute. Should the Board decide that an A.S. Judicial Board hearing is in order, the following steps will be taken:

1) Notification (including a copy of the Complaint Form) of the accused party(ies) of the charges filed against him/her within three days.
2) Request within three days a schedule of available times for the subsequent three week period of the official spokesperson for the accused.
3) A hearing date will be announced within six days and all parties involved will be notified in writing at least four days before the scheduled hearing. The hearing date must be within sixteen days from the submission of the complaint form. If multiple cases arise the Board will schedule each subsequent hearing in the order received and within six days of the completion of the previous hearing. Any request for postponement must be submitted to the Chair in writing at least two days before the hearing.

Note: If the complainant is seeking a temporary restraining order (TRO) (an order preserving the status quo until a full hearing can be held), the Board will first schedule an informal hearing within the necessary time period for the TRO to have effect. Only the spokespersons from each party and the parties themselves will be allowed to speak at this hearing. For a TRO to be granted, the complainant must show:

1) that there is probable cause that the complaint is true and
2) the harm to be incurred by the complainant if the TRO is not issued is greater than the harm to be suffered by the other party(ies) if the TRO is issued.

The Board, by majority vote, will determine the merits of any such request by the information presented at the hearing only.

V. The Hearing
1) Any objections to failure in following the afore-mentioned procedures must be made before the start of the hearing. The Board will determine the merits of any such request. Quorum for any hearing will be two-thirds (2/3) of the board. The hearing will be open to the public, unless requested otherwise. The Board will have final judgement on any such requests. Only the official spokesperson for each party will be permitted to present his/her case.
2) If at any time during the hearing there is disruptive behavior, the Chair, with approval of the board, has the authority to adjourn and reconvene the hearing within eight calendar days. The Chair,
with the Board’s approval, will also be able to take any other appropriate actions necessary for the proper conduct of the proceedings.

3) Any member of the Board may be disqualified from the proceedings for a conflict of interest. To be disqualified, a member may either disqualify himself/herself because the member feels that he/she cannot make an unbiased decision. A Board member also may be challenged by either party for the same reason. The Board, less the accused member, will resolve these questions of conflict of interest by a majority vote.

4) If the accused party fails to appear then the case will be decided based upon the evidence presented at the hearing. If the complainant fails to appear then the case will be dismissed. If the complainant or accused is not his/her official spokesperson then he/she may only speak as a witness.

VI. Order of Presentation

The nine-step hearing sequence shall be as follows:

1) Board introduces case.
2) Complainant presents case, including witnesses.
3) Accused cross-examines complainant and witnesses.
4) Complainant requestions any witness (see explanation below).
5) Accused presents case, including witnesses.
6) Complainant cross-examines Accused and witnesses.
7) Accused requestions any witness (see explanation below).
8) Closing statements by complainant then accused.
9) Board adjourns hearing and goes into closed deliberations.

Requestioning is where the party who originally called the witness(es) is allowed to question the witness(es) again only concerning the issues discussed during cross-examination.

The Board will have the right to clarify any testimony at any time. Objections to procedures should be directed to the Chair by either spokesperson. The Board will have the final decision on any such objection. Objections to testimony may be raised by any member of the Board or the official spokespersons only on matters of admissibility of evidence. Inadmissibility of evidence (such as but not limited to hearsay or illegally obtained evidence) will also be determined by the Board. Any deviation from these procedures, such as but not limited to time limits, will be left to the Chair's discretion, with the Board's approval. Until the hearing has begun, the complainant has the right to withdraw the grievance by notifying the A.S. Executive Assistant in writing. The A.S. Executive Assistant shall thereafter immediately notify the accused party(ies) that the grievance has been withdrawn.

VI. The Decision

The decision will be based on the preponderance of the evidence that was presented at the hearing only. After closed deliberations, the board will make its decision by majority vote with the Chair voting only in the case of a tie. The Judicial Board may issue an advisory opinion at any stage of the above process. The Board may also issue an injunction (a judicial process or order requiring a person or person(s) to whom it is directed to do a particular act or to refrain from doing a particular act) or any other judicial remedy deemed appropriate to enforce its judgement. The verdict will be rendered within six days following the conclusion of the hearing. All parties to the dispute and the A.S. Council will receive in writing the official decision of the Board. All decisions of the A.S. Judicial Board shall be open for review by the public. The Chair will also notify the A.S. Council of its findings.

VII. Rehearing a Case:

All decisions of the Board are final. If extraordinary circumstances arise, a formal written request for a rehearing may be submitted to the Board by either party. The Board will decide on any such situations within ten days of its submission.

Last Amended 04/10/02, 11/23/05