

# CENTRAL STUDENT JUDICIARY

## MANUAL OF PROCEDURE\*

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## GENERAL PROVISIONS

### **51.00 Title and Short Title.**

This Manual shall be known as the Central Student Judiciary Manual of Procedure. The short title shall be the CSJ Manual of Procedure.

### **51.01 Authority.**

The Central Student Government (hereinafter "CSG") and the Central Student Judiciary (hereinafter "CSJ") are empowered to enact this Manual of Procedure by Article IV, Section 1 of the Constitution of the University of Michigan Ann Arbor Campus Student Body.

### **51.02 Conflicts of Law.**

This Manual of Procedure shall apply to all CSJ proceedings and shall supersede all other provisions of the Compiled Code and all other CSG legislation with respect to the conduct of CSJ judicial proceedings.

### **51.03 Purpose of This Manual.**

This Manual shall contain all rules and procedures relating to CSJ operations. This Manual of Procedure will serve as a set of instructions for both students who wish to bring suits to CSJ and CSJ members who hear these suits.

### **51.031 Application.**

CSJ may on a case by case basis modify the provisions of this Manual to serve the ends of justice. This Manual may also be modified by CSJ to promote efficient judicial administration provided that the changes do not abrogate the substantive rights of any party.

### **51.04 Definitions.**

For the purposes of this Manual, the following words shall have the meanings enumerated below:

- (a) "**Appeal**" shall mean a challenge before CSJ of a final decision of a campus judiciary, including CSJ when it has heard a case through its original jurisdiction.
- (b) "**Appellant**" shall mean the party seeking review of the decision of a campus judiciary.
- (c) "**Burden of persuasion**" shall mean the burden of convincing the judiciary that the party's case is sufficient to merit relief.
- (d) "**Calendar day**" shall mean a 24-hour period as measured under the appropriate United States statute.
- (e) "**Civil action**" shall mean any proceeding by a judiciary which is not a disciplinary action, but instead involves the judicial resolution of a dispute by issuing (or denying) a judicial order, or awarding (or denying) money damages to a private party.
- (f) "**Concurring opinion**" shall mean an opinion which agrees with the result reached by the majority but not with the reasoning of the majority opinion.
- (g) "**Day**" shall mean a calendar day on which the CSG offices are open for business.

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- (h) "**Defendant**" shall mean the party charged or the party against whom relief is sought in a proceeding before a judiciary.
- (i) "**Deposition**" shall mean the testimony of a witness formally taken in the presence of both parties outside of a hearing by a judiciary.
- (j) "**Disciplinary action**" shall mean any proceeding by a judiciary which could result in a judgment of guilt or imposition of a penalty.
- (k) "**Discovery**" shall mean the process of obtaining evidence with the assistance of judicial orders and other judicial procedures.
- (l) "**Filing of an action or suit**" shall mean the delivery to CSJ mailbox in the CSG offices of the appropriate forms and documents initiating a suit as provided for in section 51.21 of the Compiled Code.
- (m) "**Full Hearing**" A full hearing shall consist of three justices.
- (n) "**Joinder**" shall mean the joining of an additional party to a suit already in progress.
- (o) "**Judiciary**" shall mean any body which carries on proceedings involving a judgment of guilt or imposition of a penalty.
- (p) "**Plaintiff**" shall mean the party initiating a proceeding before a judiciary.
- (q) "**Relevant evidence**" shall mean the evidence having any tendency to make the existence of any fact that is of consequence to the resolution of the dispute (before CSJ) more or less probable than it would be without the evidence.
- (r) "**Respondent**" shall mean the party opposing the appellant in the proceedings which are being appealed.
- (s) "**Service/Delivery**" shall mean e-mail, regular mail, or in person deposit of documents with the designated recipient.
- (t) "**SOAR Guidelines**" shall mean the *Standards of Conduct for Recognized Student Organizations*, as published by the University of Michigan Office of Student Activities and Leadership.
- (v) "**Statute of limitations**" shall mean a section of this code defining the maximum time period following the event out of which the action arises which a plaintiff may initiate an action. When the statute of limitations has run or expired, no action may be filed. The suit need not be resolved prior to the expiration of the statute of limitations. The suit must only be filed prior to the expiration of the statute of limitations.

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## JURISDICTION

### **51.10 Jurisdiction.**

Article IV, Section 1 of the All-campus Constitution states that the judicial authority vested in CSJ "extends to all matters under this Constitution and the Compiled Code, matters regarding Central Student Government elections, matters originating from the governments for each school or college, matters originating from student organizations, and any other case regarding students it deems appropriate."

### **51.11 Original Subject Matter Jurisdiction.**

CSJ is a body before which a student may bring suit for redress if aggrieved by some putative violation of right. CSJ is the body before which a suit should be brought where either it is not clear what body is appropriate to hear the suit or there clearly is no other body to hear the suit in question. In such a case, CSJ may determine that it has no actual jurisdiction and refer the case to the appropriate judiciary.

### **51.111 Original Personal Jurisdiction.**

Any student, group of students, student organization, faculty member, or employee of The University of Michigan substantially affected by the alleged misconduct of a student, group of students, or student organization may bring a case before CSJ or other appropriate student judiciary. Any student may, if aggrieved by some putative violation of his rights, bring a case before CSJ. No other person may bring a case except as provided elsewhere in the Compiled Code.

### **51.112 Statute of Limitations.**

No disciplinary action may be filed more than sixty days after the facts supporting the charge became known to the person making the complaint or more than ninety days after the date of the act in question. No civil action may be filed more than nine months after the date on which the alleged injurious activity (or inactivity) ceased. CSJ can hear a case in any month of the calendar year. If necessary, CSJ may, at its discretion, hear a case during the spring or summer term where necessary to prevent injustice.

### **51.12 Appellate Subject Matter Jurisdiction.**

CSJ may hear an appeal of the decision of any judiciary of a dormitory, co-op, fraternity, sorority, or other house, any judiciary of a school or college, any judiciary established by a federation of houses or of schools and colleges, any judicial body established (or otherwise authorized) by CSG to hear cases in which a student, group of students, or student organization may appear as a defendant, and any other judicial body within the University in which a student, group of students, or student organization may appear as a party, including CSJ when it has heard a case through its original jurisdiction, or any other body as authorized by the All-Campus Constitution.

### **51.121 Personal Standing.**

No one but the defendant in the original case or the plaintiff in the original case may appeal. A

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plaintiff may appeal only when s/he did not obtain the relief requested in the body of original jurisdiction, s/he was substantially affected by the acts in question, and the defendant was not charged with violation of a rule but with some breach of right or equity in a civil action. A defendant may always appeal to CSJ.

## **51.122 Statute of Limitations.**

The appeal must be filed with CSJ not more than ten days after the date on which the original decision was handed down, or not more than ten days after the date on which the appellant was first notified of his right to appeal the case to CSJ, whichever date is later. An appeal may be filed in any month of the calendar year. Except under extraordinary circumstances, CSJ will not hear an appeal of a case that has not been actively before another judicial body within the previous nine months.

## **51.123 Exhaustion of Remedies.**

No person shall appeal a case to CSJ and simultaneously to a lower judicial body, nor shall they appeal to CSJ and simultaneously appeal for clemency to another body. CSJ will not hear second or successive petitions for appeal which are substantially based on grounds that have previously been presented to CSJ. CSJ requires that an appellant exhaust remedies in lower judicial bodies (where such bodies exist) before bringing an appeal to CSJ, unless it would result in substantial injustice. CSJ has complete discretion as to which issues, if any, it wishes to consider on appeal.

## **51.124 Filing an Appeal.**

A party wishing to appeal to CSJ must submit a written motion to CSJ within the applicable statute of limitations (see Section 51.122). The motion shall state briefly, in plain language, the following: 1) the identities of the parties; 2) a short statement of facts relevant to the appeal; 3) the original judgment; and 4) the basis for the appeal. The basis for the appeal must identify errors committed by the trial court which resulted in substantial injustice. CSJ shall grant an appeal hearing when at least four justices, upon considering the written motion, agree that an appeal hearing would be appropriate.

## **51.13 Arbitration.**

CSJ may, at its own discretion and with written consent of the parties, arbitrate disputes arising between students, group of students, student organizations, faculty, or employees of The University of Michigan provided that at least one of the parties is a student, group of students, or student organization. Composition of the arbitrating body shall be at the discretion of CSJ, to be determined prior to agreement upon arbitration.

## **51.14 Other Cases.**

Generally, CSJ will not review the administrative decisions of University officials or agencies. Nevertheless, any action by any administrative body constituting a substantial violation of any

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right guaranteed a student under the All-campus Constitution may be appealed to CSJ once the student has made a reasonable effort to exhaust available administrative remedies.

## **51.15 Jurisdictional Disputes.**

CSJ is the body of original jurisdiction for settling a dispute between two or more judicial bodies concerning which (if any) of them is the proper body to hear a certain case in which a student, group of students, or student organization is a party.

## **51.16 Lack of Remedy.**

Ordinarily CSJ will not hear cases where it is incapable of providing effective remedy. CSJ may, at any time, upon motion of a party or under its own motion, dismiss a case where there is no effective remedy. This includes, but is not limited to, cases in which the issues have become moot, or where the issues are not yet ripe for adjudication.

## **51.17 United States Civil Law Limitations.**

CSJ will take no action which violates the rights of students under the Constitution or laws of the United States of America or the Constitution or laws of the State of Michigan.

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## INITIATING AN ACTION

### **51.20 Initiating a Complaint.**

All persons who wish to initiate a proceeding before CSJ should complete Form 51-1. Persons who have not consulted sections 51.10 - 51.17 of this Code to determine whether CSJ has jurisdiction should do so prior to completing Form 51-1. If you are not sure whether CSJ has jurisdiction, you should file your complaint and CSJ will determine whether or not jurisdiction exists.

### **51.21 Filing Form.**

Form 51-1 will contain the information outlined in sections 51.211 - 51.215 below. Form 51-1 is incorporated as part of this section.

#### **51.211 General Information.**

The filing form shall list the name of the person initiating the action (plaintiff or appellant or party petitioner for joinder), his/her local address, his/her email address, local telephone number, and times at which the person can be reached by telephone. The form shall also contain the name of the person against whom the action is filed (defendant or respondent), his/her local address, his/her email address, and local telephone number (if known). If more than one person is named as either a plaintiff (appellant) or defendant (respondent), the names, local addresses, email addresses and local telephone numbers for each additional party shall be listed on a separate sheet attached to Form 51-1.

#### **51.212 Advisors**

If the plaintiff (appellant) is represented by an advisor, which may be an attorney, the name, local address, email address and local telephone number of the advisor should be entered on Form 51-1. If the advisor is obtained following the filing of the action, the procedure in section 51.36 should be followed.

#### **51.213 Type of Action.**

The type of action shall be specified on Form 51-1. First, the party filing the action shall specify whether the action is a civil action (see section 51.04(e)) or a disciplinary action (see section 51.04(j)). Second, the initiating party shall specify whether the action is an appeal (see section 51.04(a) of this Code), an original suit, a motion for joinder (see section 51.04(o)), or a request for arbitration (see section 51.29).

#### **51.214 Signature.**

The party initiating the action shall sign Form 51-1. If more than one person is filing the action, each person should sign Form 51-1.

#### **51.215 Statement of Case.**

The party initiating the action shall attach to Form 51-1 a separate sheet containing the following information:

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- (a) A short and plain statement of the grounds upon which CSJ can assume jurisdiction;
- (b) A short and plain statement of the facts showing that the plaintiff is entitled to relief (for an original suit) or that the lower judiciary was in error (for an appeal);
- (c) A specific statement of the exact relief demanded (for a civil action), or that the lower judiciary's decision be reversed or modified (for an appeal), or the penalty requested (for a disciplinary action). Each statement, included with the filing form, shall be simple and direct. No technical forms or patterns of wording are required.

## **51.216 Errors in Filing Forms.**

No case shall be dismissed for failing to properly file a case. Errors in filing may be corrected by amendments as provided for in section 51.25 below. All filing forms shall be so construed so as to do substantial justice.

## **51.217 Availability of Forms.**

All filing forms are available in the CSG Offices, 3011 Michigan Union.

## **51.22 Legal Theory.**

In order to initiate a suit before CSJ, a plaintiff (appellant) must have a claim which is supported by the statutes recognized by CSJ. There must be some statute which prohibits the alleged wrongful behavior (and provides for a penalty) or mandates specific behavior or protects specific rights (thus justifying relief). These statutes which have been violated provide the basis for a legal theory. To state a valid claim, the plaintiff must state the facts showing how s/he has been injured, and also indicate which specific statute justifies a grant of relief or imposition of a penalty. For an appeal, the appellant must explain why the lower judiciary erred in its interpretation or application of statutes recognized by CSJ. The statutes recognized by CSJ are enumerated in sections 51.221 through 51.227 below.

## **51.221 All-Campus Constitution.**

Any student injured by a violation of a right guaranteed or a procedure required by the All-campus Constitution may file a civil action in the appropriate student judiciary (see Article III, Section C, Part 6 of the Compiled Code).

## **51.222 Compiled Code.**

Any person injured by a violation of the Compiled Code may file either a disciplinary action (where penalties are specified in the Compiled Code) or a civil action (where no penalties are specified) in the appropriate judiciary.

## **51.223 Student Organization Advancement and Recognition (SOAR) Guidelines.**

Any student or recognized student organization (RSO) injured by a violation of the accepted Constitution of an RSO or by a violation of the SOAR Guidelines may file a civil action with the Office of Student Activities and Leadership (SAL) against the student organization whose Constitution was violated. An accepted Constitution is one which has been approved by SAL according to their recognition process. An action filed under this process is entitled to remedies

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as outlined in the SOAR Guidelines, as well as any remedies provided for in this Manual.

## **51.224 Other Campus Regulations.**

Any person injured by a violation of other campus regulations (such as regulations of the University or other student governments) may file a disciplinary action (where the regulations provide for a penalty) in the appropriate judiciary.

## **51.225 Federal and State Law.**

Consistent with the All-campus Constitution, its jurisdiction and authority, CSJ may hear cases based upon the Constitution or laws (statutory and common) of the United States of America or the State of Michigan. Claims based upon federal, state, or local laws are generally more properly heard by the appropriate federal, state, or local courts. CSJ will rarely hear such cases unless it is necessary to do so in order to do substantial justice.

## **51.226 Student Common Law.**

Any person who is injured by an action of a student for which a student judiciary has previously granted relief may seek relief in a civil action from an appropriate student judiciary.

## **51.227 Student Legislative Enactments.**

Any student injured by an action which violates a legislative enactment of a student government may file a civil action with the appropriate judiciary provided that the following conditions are satisfied:

- (a) The student government is acting within the powers granted to the government by its student constituents in a democratically adopted, written constitution;
- (b) The student government is democratically constituted as provided for by the All-campus Constitution and the Compiled Code;
- (c) The legislative enactment does not violate some right guaranteed to students by the All-campus Constitution;
- (d) The legislative enactment has been published in an understandable written form in the minutes or proceedings of the student government, which has been made available to any affected student.

## **51.23 Filing Documents.**

In order to initiate an action, Form 51-1 should be completed and the white copy (along with a copy of all attached statements) should be filed as provided below. All actions initiated with CSJ and any other motions or papers subsequently filed should be delivered to the CSJ mailbox in the CSG office, 3011 Michigan Union, or to the Chief Justice of CSJ.

## **51.24 Serving Opponent with Notice.**

A copy of Form 51-1 (and all attached statements) must be delivered to each defendant (respondent) prior to beginning any CSJ proceeding in the action. Prior to scheduling the pre-trial conference, CSJ will verify that the defendant (respondent) has received a copy of the

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appropriate documents. The methods of delivery of Form 51-1 (with all attachments) any other documents to the defendant (respondent) are specified in sections 51.241 through 51.244 below.

## **51.241 Individual.**

Each individual defendant (respondent) against whom an action is brought must receive a copy of Form 51-1 (with all attachments). It is recommended that the party initiating the action or delivering other documents either deliver these documents personally to each defendant/respondent or send them by certified U.S. Mail.

## **51.242 Central Student Government.**

Any document provided for in this Manual to be served upon (delivered to) Central Student Government, its agencies, committees, or officers (in their official capacity) shall be delivered to one of the duly employed secretaries of CSG in the CSG office, 3011 Michigan Union, or to the President or Student General Council of CSG.

## **51.243 Student Organization.**

Any document provided for in this Manual which is to be served upon (delivered to) a recognized student organization shall be delivered to an officer of that organization listed on the organization's registration forms (see section 31 of the Compiled Code), preferably the Chief Executive Officer of the organization.

## **51.244 Other Organizations.**

Any document provided for in this Manual which is to be served upon (delivered to) any organization not provided for above shall be delivered to the Chief Executive or Principle Officer of the organization.

## **51.25 Amending an Initial Filing.**

Any initial statement of facts, legal theory, or request for remedy may be amended by the initiating party at any time during the CSJ proceeding. If substantially new evidence or arguments are raised by such amendments, the opposing party may request additional time to prepare a response. In any event, a legal theory and request for relief may be amended to conform to the facts produced at the trial.

## **51.251 Withdrawing a Case.**

The party initiating an action before CSJ may withdraw that action at any time. However, CSJ may dismiss the action with prejudice (refuse to allow the party to re-introduce the action at a later time) as provided for in section 51.731 below.

## **51.26 Answer by Defendant or Respondent.**

The defendant (respondent) may file a response to the statements contained in Form 51-1, but is not required to respond. The defendant (respondent) may wait until the pre-trial conference before making any response to the complaint.

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## **51.261 Cross-Claims.**

A defendant may ask CSJ to join as additional defendants or parties any person or other party who might be responsible for the claim against the named defendant (using Form 51-2). The respondent in an appeal may ask that additional respondents be added where appellant has failed to include all of his/her original opponents in the case being appealed as respondents for the appeal.

## **51.262 Counter-Claim.**

Whenever a defendant (respondent) has a claim against the plaintiff (appellant) arising out of the same transaction or occurrence that is the subject matter of the plaintiffs (appellant's) claim, s/he shall file these counterclaims using Form 51-2 as provided for in section 51.301. (An example: P sues D alleging that D negligently damaged P's bicycle. D counterclaims alleging that in the same incident P ripped D's backpack).

## **51.27 Joining Actions Already in Progress or Joinder.**

Any party with a claim arising out of the same transaction or occurrence that is the subject matter of a suit currently before CSJ may join that suit as a party (plaintiff or defendant) with permission of CSJ. CSJ shall permit joinder of a party where it will further the ends of justice.

## **51.271 Filing for Joinder.**

A party wishing to join an action in progress (as provided for in 51.27 above) shall complete Form 51-1 as provided for in sections 51.211 through 51.214 and shall (on a separate sheet attached to Form 51-1) give a short and plain statement of the facts justifying that party's entry into the litigation. The Form 51-1 (with attachments) should then be delivered to CSJ (see section 51.23).

## **51.272 Absent Parties.**

CSJ may, upon its own motion, request absent parties whose rights would be substantially affected by the resolution of an action before the Court be joined to the action as parties. In all cases, CSJ will take no action which would deprive students of rights guaranteed by the All-campus Constitution.

## **51.273 Substitution of Parties.**

If a plaintiff in an action filed with CSJ graduates, leaves the University, or dies prior to the completion of the action, the suit may be continued with the permission of CSJ by a person with the same claim. If an action is brought against an officer of CSG or of a student organization in his/her official capacity, and that officer leaves office, the suit may be prosecuted against his/her successor in office. A defendant may not be pursued upon separation from the University.

## **51.28 Arbitration.**

Requests for arbitration shall be filed with CSJ using Form 51-1. In addition to completing Form 51-1, both parties to the dispute must sign a short and plain statement explaining the nature of the dispute and stating the willingness to submit the dispute to CSJ for arbitration. Requests for arbitration should be fled with CSJ as provided for in section 51.23 above.

# CSJ MANUAL OF PROCEDURE

## PRE-TRIAL PROCEDURE

### **51.29 Pre-Trial Procedure.**

The purposes of pre-trial proceedings are to acquaint both parties with student rules and CSJ procedures, to provide temporary relief when necessary to protect the rights of both parties until trial, to resolve procedural disputes, and to prepare both parties to best present their relevant evidence and arguments at trial.

### **51.301 Form for Motions.**

All motions (requests for CSJ action) filed after an action has been initiated (using Form 51-1) shall be filed using Form 51-2. Petitions for joinder (see section 51.27) and motions submitted at CSJ hearings need not use Form 51-2. Form 51-2 is incorporated as part of this Manual.

### **51.31 Temporary Relief.**

Any party to an action before CSJ may seek an appropriate temporary order to protect the party seeking the order from immediate and irreparable injury, loss, or damage before a hearing can be arranged.

### **51.311 Appeal - Stay of Enforcement.**

Upon the request of appellant, CSJ shall stay the order or the enforcement of the judgment of a trial court until it has determined whether or not to hear the appeal or it has heard the appeal, whichever is later. CSJ shall issue an order (without hearing, if necessary) staying judgment which shall be issued in the form provided for in section 51.831 below. The judgment of the trial court shall be without effect from the time CSJ delivers the stay of judgment order to the trial court (or the official executing the judgment) until such time as CSJ resolves the appeal or lifts the stay of judgment. An appellant requesting a stay of judgment should complete and file with CSJ (see section 51.23) the white copy of Form 51-2 and a short, plain statement of why a stay of judgment order is necessary. CSJ may issue a stay of judgment order upon the agreement of two CSJ justices.

### **51.312 Temporary Restraining Order.**

Upon request of any party, CSJ may issue (without hearing, if necessary) a temporary restraining order when the following conditions are met:

- (a) The requesting party has filed with CSJ Form 51-1 (with all attachments) initiating an action or is the defendant or respondent in such an action;
- (b) The requesting party has filed with CSJ Form 51-2 accompanied by a short and plain statement explaining the need for the order;
- (c) The party seeking the order will suffer immediate and irreparable injury, loss, or damage before a hearing could be held;
- (d) There is some evidence to indicate that the party requesting the order will prevail at trial;
- (e) The order, if issued, will not cause irreparable injury, loss, or damage to the opposing party; and
- (f) Four CSJ justices agree that the order shall be issued.

# CSJ MANUAL OF PROCEDURE

A temporary restraining order shall be issued in the form provided for in section 51.832 below. Upon issuing a temporary restraining order, CSJ shall schedule an injunction hearing at the earliest possible opportunity (see section 51.352 below). A temporary restraining order shall expire 48 hours after it is issued unless extended by agreement of a majority of CSJ then serving.

## **51.32 Pre-Trial Conference.**

Prior to the full hearing of a case, CSJ will schedule a pre-trial conference at which both parties are expected to attend. A pre-trial conference shall be conducted by four CSJ justices selected by the Chief Justice (who shall also designate one of the four to preside). The pre-trial conference shall be conducted informally and shall serve to expedite the resolution of the dispute. Purposes of the pre-trial conference shall be as follows:

- (a) To ensure that both parties have copies of all filings and motions made in the case;
- (b) To ensure that both parties have received copies of the All-campus Constitution, this Manual, any Articles of the Compiled Code which serve as bases for the action or contain rules pertaining to the action, a copy of the SOAR Guidelines (if applicable), and any other necessary rules;
- (c) To ensure that both parties are reasonably familiar with their rights and the procedures of CSJ (see sections 51.501 and 51.601);
- (d) To assure that all orders of CSJ have been complied with (or to determine the reasons for non-compliance);
- (e) To consider any procedural motions (see section 51.33) or other procedural questions;
- (f) To limit or simplify the issues to be argued at full hearing;
- (g) To amend the original filing statements if necessary or desirable;
- (h) To obtain admissions of fact to avoid unnecessary delay at a full hearing;
- (i) To call attention to issues upon which CSJ would like to hear argument and to request written argument on specific issues or written answers to specific questions;
- (j) To obtain an outline of the evidence and arguments to be presented by each party; (Failure to outline all evidence at the pre-trial conference may lead to delays in the full hearing);
- (k) To consider any requests for discovery by either party and to schedule such discovery as is ordered (see section 51.34);
- (l) To schedule any injunction hearings (if necessary) and the full hearing at a time convenient to the Court and all parties.

## **51.321 Pre-Trial Conference -- Time.**

The pre-trial conference shall normally be scheduled within ten days of the filing of Form 51-1 with CSJ.

## **51.322 Expedition.**

If both parties agree and CSJ feels that it is necessary to do so, the pre-trial conference may be waived or held the same day as the full hearing.

## **51.323 Record and Orders.**

A tape recording or written summary shall be made of all actions taken at the pre-trial conference and any orders issued shall be reported in the form provided for in section 51.841 in this Manual.

# CSJ MANUAL OF PROCEDURE

## **51.324 Appeals - Special Procedures.**

In addition to the procedures provided for in sections 51.32 through 51.323 above, for appeals the pre-trial conference will take the following additional actions:

- (a) CSJ shall require the appellant to produce a copy of the proceedings, opinions, and orders or judgment of the lower judiciary if available;
- (b) If no record of the lower judiciary's decision is available, CSJ shall request that the trial court provide either a summary record or that a member of the trial court attend the full hearing to testify as to the proceedings of the trial court (see section 51.827);
- (c) The CSJ justices present at the pre-trial conference shall determine whether there are sufficient grounds for appeal.

## **51.33 Pre-Trial Motions.**

At the pre-trial conference, each party may submit pre-trial motions. Some pre-trial motions may, at the discretion of CSJ, be permitted at the full hearing. However, failure to present pre-trial motions at or before the pre-trial conference could delay the trial.

### **51.331 Motions By Defendant or Respondent.**

The defendant or respondent may move to dismiss an action for any of the following reasons:

- (a) Lack of jurisdiction over the subject matter (see sections 51.11 and 51.12);
- (b) Lack of jurisdiction over the defendant or respondent (see sections 51.111 and 51.121);
- (c) Expiration of the statute of limitations (see sections 51.112 and 51.122);
- (d) Incomplete filing form (see sections 51.20 through 51.215);
- (e) Failure to properly serve the filing form (see sections 51.24 through 51.244);
- (f) Failure to state a claim upon which relief can be granted (see section 51.733);
- (g) Lack of probable cause for charges (see section 51.743);
- (h) Insufficiency of evidence (see section 51.733 or 51.743);
- (i) Failure to prosecute an action in the name of the real party in interest (improper plaintiff).

In addition, a defendant may request that the plaintiff make a more definite statement of his/her claim.

### **51.332 Motions By Any Party.**

Either party may submit the following motions:

- (a) Motion to disqualify some member of the Judiciary (see section 51.37);
- (b) Motion to join additional parties or consolidate actions involving common questions of fact or law;
- (c) Motion for separate trials, where separate trials further convenience, expedite decision-making, produce efficiency, or would be necessary to avoid prejudice or injustice;
- (d) Motion for extension of any time limit or to delay trial (a continuance) where the party submitting the motion has sufficient reason to support the request.

# CSJ MANUAL OF PROCEDURE

## **51.333 Motions by CSJ - Required.**

CSJ shall (at any time) dismiss an action if CSJ discovers that it lacks subject matter jurisdiction.

## **51.34 Discovery of Evidence.**

Any party to an action before CSJ may request that the Judiciary order the opposing party to produce any evidence in the exclusive control of the opposing party. A party may discover any matter which is relevant to the subject matter of the dispute, including the existence, description, and location of documents, and the identity and location of persons with evidence relevant to the action.

## **51.341 Discovery Methods.**

CSJ may upon request of the parties order the production of documents or other tangible things, the inspection of land and premises, from persons under its jurisdiction. CSJ may request on behalf of a party such items and inspections as persons outside the jurisdiction of CSJ may control. In addition, CSJ may order or request oral depositions as provided for in sections 51.342 and 51.343 below.

## **51.342 Purpose of Oral Deposition.**

Oral depositions may be helpful in the following situations:

- (a) To obtain the testimony of a witness who will be unavailable at the time of trial;
- (b) To determine in advance the testimony of a witness so as to use only relevant portions;
- (c) To save trial time by allowing the assembly of numerous pieces of small testimony;
- (d) To make trials easier to schedule since witnesses need not attend if previously deposed.

## **51.343 Oral Deposition Procedure.**

CSJ may order the taking of oral depositions at the request of either party. Oral depositions will be taken in the presence of one CSJ justice who shall make a tape-recording of all questions and responses. The representatives of both parties shall be present and both shall be allowed to question the witness. The admissibility of evidence shall not be disputed during the deposition, but objections should be recorded for later resolution by CSJ.

## **51.344 Use of Oral Deposition.**

The recording of an oral deposition shall be presented to CSJ by the justice present at the deposition and shall be retained for use at the full hearing. Each party shall be permitted to record the location on tape of relevant testimony.

## **51.345 Limits on Discovery.**

No party may use discovery to obtain the materials used by his/her opponents to prepare the case unless this limitation would impose an undue hardship on the party seeking discovery and there is no other reasonable source of the evidence. The notes used by one party to prepare a case may not be discovered.

51.345 Harassment.

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CSJ may limit discovery in order to protect any party or person from annoyance, embarrassment, oppression, or undue burden or expense.

## **51.346 Failure to Cooperate in Discovery.**

A plaintiff or appellant who fails to cooperate with discovery orders of CSJ may have his/her case dismissed except where the party has a right not to testify (see section 51.54).

## **51.35 Injunctions.**

Any party may request that CSJ issue a preliminary injunction. The principal purpose of injunctions is to protect the requesting party from irreparable harm prior to the final disposition of the action.

### **51.351 Criteria for Injunction.**

Injunctions may only be issued under the following conditions:

- (a) The party requesting the injunction is a party to an action before CSJ;
- (b) The requesting party will suffer irreparable harm if an injunction is not granted prior to the final disposition of the action;
- (c) The opposing party will not be irreparably harmed by the injunction; and
- (d) The requesting party has at least a reasonable chance of prevailing at trial.

### **51.352 Injunction Hearing.**

Prior to issuing an injunction, CSJ will conduct a hearing to hear arguments from both parties with respect to the injunction.

### **51.353 Form of Injunction.**

Any injunction issued by CSJ shall be issued in the form provided for in section 51.833 below. An injunction may either prohibit some behavior or order some student government or University official to perform certain administrative functions.

## **51.36 Advisors.**

Students before CSJ may be accompanied at the hearing by a personal advisor, who may be an attorney, a law student, or another fellow student. Non-attorneys accompanying students, including law students, must make clear that they cannot provide legal counsel to students in connection with a CSJ hearing. A person who plans to be an advisor of a party before CSJ must file Form 51-2 prior to appearing or acting as an advisor before CSJ. Upon request of either party, the Chief Justice or presiding Justice shall present a list of law students who have indicated their willingness to serve as advisors. However, each party is under its own obligation to retain an advisor, except that an advisor will be appointed upon request in a disciplinary action. No member of CSJ shall serve as an advisor.

## **51.37 Recusal.**

A member of CSJ may be disqualified from a case at any time before commencement of deliberations. A CSJ member may recuse himself/herself from a case at his/her own discretion. S/he shall be disqualified as provided below if s/he is a witness in the case, if s/he is a party to

## CSJ MANUAL OF PROCEDURE

the case, or if there is other substantial reason to believe s/he cannot be fair and impartial. Either party may challenge (ask for disqualification of) any member of CSJ. Only one member may be challenged at a time, and each challenge shall be decided before the next may be made. If a party wishes to challenge a CSJ member, the party shall show substantial reason for believing that the member under challenge cannot be fair and impartial in the case. The member under challenge may make a statement on his/her own behalf. No member shall, while under challenge, participate in the deliberations of CSJ or vote on any question. CSJ shall deliberate and render a decision on the challenge. The decision shall be made on the motion for recusal. The member under challenge shall not be disqualified unless CSJ, by majority of the full court, passes the motion to disqualify.

# CSJ MANUAL OF PROCEDURE

## TRIAL PROCEDURE

### **51.40 Trial Procedure.**

The rules for trial procedure (contained in sections 51.401 through 51.45 below) are intended to provide for the just, efficient, and orderly conduct of full hearings by CSJ. These rules are to be construed so as to protect the rights of all parties and to provide substantial justice.

### **51.401 All-Campus Constitution.**

CSJ shall take no action which is inconsistent with the rights of students contained in the Student Bill of Rights (Article IX of the All-Campus Constitution).

### **51.402 Other Limitations on CSJ.**

CSJ shall take no action which is inconsistent with rights guaranteed to students by the Constitution or laws of the United States of America or the State of Michigan.

### **51.41 Hearing Procedure.**

At a full hearing, CSJ shall consider each case in the following manner (unless some other procedure is necessary in the interest of judicial efficiency);

- (a) The justice presiding shall announce the case name, case number, and the type of hearing for the record;
- (b) CSJ will ensure that all parties are familiar with their rights and CSJ procedure.
- (c) The plaintiff (or appellant) may make an opening statement of five minutes or less.
- (d) The defendant (or respondent) may make an opening statement of five minutes or less.
- (e) The plaintiff (or appellant) shall present all of the evidence and arguments supporting his/her claim and request appropriate relief.
- (f) The defendant (or respondent) shall present all of the evidence and arguments supporting his/her position.
- (g) Each party shall be permitted to challenge the evidence of the opposing party and cross-examine all witnesses (see sections 51.43 through 51.439 below).
- (h) The plaintiff (or appellant) shall summarize his/her arguments in ten minutes or less.
- (i) The defendant (or respondent) shall summarize his/her arguments in ten minutes or less.
- (j) The Court may at its own option allow each party an additional three minutes to rebut any arguments raised by his/her opponent.
- (k) CSJ may extend any of the time limits provided above at will.

### **51.411 Questions to Parties.**

CSJ members may, at any time during the trial, interrupt a statement to ask questions of the parties or of the justice presiding. The justice presiding may, after part (g) in section 51.41 above, specifically call for questions from the judiciary. The parties may not question their opponents or opponent's advisors except where the opponent or advisor is a witness. Parties may be asked to testify, but are not required to do so in some cases (see section 51.54).

### **51.412 Decorum.**

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Parties to actions before CSJ shall conduct themselves in a manner which will promote fair and efficient resolution of the issues before the Judiciary. If a party seriously and willfully disrupts a proceeding before CSJ, the presiding justice shall warn the disruptive party, and may adjourn the proceeding (provided that such an adjournment does not damage the interests of the opposing party). The presiding justice may as a last resort give judgment against a party who, after repeated warnings, has so disrupted the CSJ proceedings as to make a fair trial impossible. If a spectator seriously disrupts a CSJ proceeding, the presiding justice shall warn the spectator, and may have the offender removed, may adjourn the hearing (provided that such adjournment does not damage the interests of either party), or may close the hearing to spectators.

## **51.42 Rules of Law - Sources.**

The sources of law to be used by CSJ in resolving disputes are enumerated in sections 51.22 through 51.227 of this Manual, subject to the limitations imposed by the All-campus Constitution, CSJ's jurisdiction, and other laws.

### **51.421 Precedent.**

CSJ will generally follow its own previous decisions in order to provide consistent and stable standards for students and student groups. However, where following a previous decision would result in substantial injustice, CSJ reserves the right to distinguish, limit, or overrule a previous decision by CSJ.

### **51.422 Disciplinary Actions.**

No disciplinary action may be prosecuted unless it is based upon a clearly formulated uniform regulation which provides for specific penalties and was generally made known to everyone concerned (see All-campus Constitution Article IX, Section A, Clause 12).

### **51.423 Student Legislative Enactments and Judiciary Decision.**

In interpreting the legislative enactments of other student governments, CSJ will generally follow the decisions of other campus judiciaries so long as those decisions are consistent with the All-campus Constitution, Compiled Code, and applicable previous decisions of CSJ. Where no previous decisions of other judiciaries exist, CSJ shall interpret the enactments of other student governments in order to provide substantive justice.

### **51.424 Student Organization Constitutions and the SOAR Guidelines.**

In determining the appropriateness of the actions of a member of a student organization, or a student organization itself, the Constitution of the student organization shall be binding, except where it would result in a violation of the All-campus Constitution, Compiled Code, or Constitutions of the United States or the State of Michigan.

### **51.425 Common Law.**

Any party urging the application of federal or state common law principles to an action before CSJ must cite appropriate cases decided by courts of the United States or the State of Michigan in support of their contentions. Cases should be cited from appropriate reporters of court decisions

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available in the Law School Library.

## **51.43 Rules of Evidence.**

The purpose of these rules of evidence (sections 51.43 through 51.439 below) is to permit each party to introduce any relevant evidence (see section 51.04(p)) to CSJ. These rules are to be interpreted in a flexible manner with the primary purpose being to do justice.

### **51.431 Evidence from CSJ.**

No member of CSJ may submit evidence or testify as a witness during any proceeding before CSJ or during deliberations (unless the member is disqualified from the case). CSJ may, however, at any time during a proceeding or deliberation, take judicial notice of information such as the content of the All-campus Constitution, Compiled Code, previous CSJ decisions, and such other information and laws as are known or capable of accurate determination by resorting to sources whose accuracy cannot reasonably be questioned.

### **51.432 Evidence to be Excluded.**

CSJ may exclude evidence where the value of the evidence as proof is outweighed by the danger of unfair prejudice, or causes undue delay, waste of time, or needless presentation of cumulative evidence. CSJ shall exclude from consideration the following types of evidence:

- (a) Evidence which attempts to prove conduct by proving certain character traits (i.e., using a reputation for election violations as proof of an election violation);
- (b) Evidence which attempts to prove that the defendant is wrong by showing that the defendant took subsequent remedial action or subsequent action to prevent a recurrence of the allegedly wrongful or injurious event;
- (c) Evidence of offers to compromise or of acceptance of a compromise or negotiations for a compromise of dispute before CSJ may not be used to prove liability or lack of liability in the action before CSJ;
- (d) Evidence of pleas (guilty, no contest, etc.) which are withdrawn or offers made while negotiating a plea (plea bargaining) may not be used to prove guilt in a disciplinary action or liability or damages in a civil action.

### **51.433 Privilege.**

A defendant in a disciplinary action will not be required to testify. CSJ will not require a party's advisor in a case before CSJ to testify concerning conversations with the party. CSJ shall not require a witness to testify when the information sought from that witness would be privileged under the laws of the State of Michigan.

### **51.434 Witnesses.**

Each witness shall be required to declare that s/he will testify truthfully, by an oath in the following form: "I, (state name), swear that I will tell the whole truth and have been informed of the possible penalties for failing to testify truthfully before the Central Student Judiciary" (see section 51.44). A witness shall be notified that s/he is still under oath if testimony is substantially interrupted. A witness may not testify to a matter unless s/he has personal knowledge of the matter. The

# CSJ MANUAL OF PROCEDURE

credibility of a witness may be attacked by any party including the party calling the witness. Evidence concerning the character or previous conduct (for the purpose of attacking or supporting the witness's credibility) is limited to the witness' character for truthfulness or untruthfulness. The credibility of a witness may not be proven unless it has been attacked.

## **51.435 Questioning Witnesses.**

CSJ shall exercise reasonable control over the questioning of witnesses in order to efficiently find the truth, avoid repetition or waste, or to protect witnesses from harassment. The following order for questioning shall be used:

- (a) The party calling the witness may question the witness;
- (b) The opposing party may cross-examine the witness;
- (c) Either party may question the witness to further clarify any issues raised by the cross-examination.

CSJ may question any witness called by either party and may at its own discretion call witnesses who will then be subject to questioning by both parties. Witnesses may use documents to aid in testifying. A witness who is being questioned concerning a prior statement by him/her need not be shown the statement, but the opposing party's advisor must be shown the statement. Evidence of a prior inconsistent statement by a witness will be excluded unless the witness is given an opportunity to explain or deny the evidence.

## **51.436 Exclusion or Sequestering of Witnesses.**

CSJ shall order the exclusion or sequestering of witnesses so that they will not hear the testimony of other witnesses upon a reasonably supported request of a party or at its own discretion. CSJ will not exclude or sequester any party (or advisor for a party) to an action before the judiciary.

## **51.437 Expert Testimony.**

Parties may introduce testimony by experts with scientific, technical, or other specialized knowledge relevant to the dispute before the Court. An expert witness must establish his/her qualifications if his/her opinion is to be given credence. CSJ may call expert witnesses at its own discretion.

## **51.438 Hearsay.**

Evidence is hearsay if:

- (a) It is testimony given before CSJ,
- (b) The testimony is given about a statement made elsewhere by another person, and
- (c) The testimony is given to prove the truth of something asserted in the statement made elsewhere by the other person.

Because hearsay depends for its credibility on a person not present and so not subject to cross-examination, CSJ will exclude hearsay as evidence (An example of hearsay is testimony by John that he heard Kathy say "The light was red", when the party introducing John's testimony seeks to prove that the light was red). Affidavits (sworn and signed statements) submitted to CSJ may be used to establish uncontested facts, but if challenged by opposing testimony, shall not be admissible as evidence.

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## **51.439 Authentication of Documents and Other Records.**

A party offering in evidence any document or other record (any written record, printed matter, illustration, photographic matter, electromagnetic recording, or other form of information compilation) may be required to prove to the satisfaction of CSJ that the document is authentic. A document or record may be challenged by CSJ or by an opposing party. An opposing party must assert reasonable grounds for challenging a document or record's authenticity. Duplicates or copies of original documents or records are acceptable if they are an accurate and authentic copy of the original.

## **51.44 Perjury.**

Any witness before the Central Student Judiciary, who after reciting the oath provided for in section 51.434, knowingly makes a false statement to the Central Student Judiciary while under oath shall be guilty of perjury. Upon receiving notice of a potential instance of perjury, CSJ shall schedule a hearing with all affected parties. A perjury hearing will be considered a disciplinary action against the student accused of perjury, and shall proceed in like manner. A student convicted of perjury following trial before the CSJ may be fined no more than \$150, or be prohibited from holding office in or an appointment from student government for up to six (6) months, or both.

## **51.45 Intervention by Non-Parties (or Advisor for a Non-Party). (Amicus**

**Curiae).** Persons who are not party to an action before CSJ may only introduce evidence or raise questions concerning the action in one of the following two ways:

- (a) By submitting a written brief, statement, or question to CSJ either prior to or during the hearing of the action (CSJ will read or ensure that both parties receive copies of such written submissions);
- (b) By seeking (at an appropriate time) recognition by the CSJ justice presiding at a hearing and upon being recognized, speaking to the Court.

Persons not party (or advisor for a party) to an action before CSJ should not interrupt any presentation by a party, but should wait until the end of a party's presentation before seeking recognition. Generally, non-parties will be required to show that they have substantial reason for addressing the Court prior to being granted the opportunity to speak at a hearing. Written submissions are preferred.

# CSJ MANUAL OF PROCEDURE

## DEFENDANT/RESPONDENT

### **51.50 Rights and Responsibilities of the Defendant or Respondent.**

The rights and responsibilities of a defendant before CSJ are outlined in sections 51.501 through 51.54 below. As a matter of policy, this code and the Anglo-American legal system in general presume that a defendant is innocent until proven guilty and all doubts are resolved in favor of the defendant. The burden is on the plaintiff to prove his/her case. If the respondent was originally a defendant in the case being appealed to CSJ, sections 51.501 through 51.53 shall apply to the respondent. When an appellant was originally a defendant in the case being appealed to CSJ, sections 51.512, 51.513, 51.54, and 51.60 through 51.64 shall apply to the appellant.

### **51.501 Informing of Rights.**

During the Pre-Trial Conference, CSJ shall ask the defendant/respondent whether s/he has read sections 51.50 through 51.54. Following this question, CSJ is not responsible for the failure by any party to be informed of its rights, but may grant a rehearing to remedy any substantial injustice which might be caused by a party's failure to know its rights.

### **51.502 Right to an Advisor.**

Each party may be accompanied by an advisor, which may be an attorney. Non-attorney advisors, including law students, do not provide legal advice or guidance to students. Retaining a licensed attorney is not required nor typical.

Students may serve as advisors to a party and undergo a CSJ training program before serving. These students may not engage in the practice of law and are not equipped to provide parties with legal advice.

### **51.503 List of Advisors.**

CSJ may maintain a list of volunteers who have experience with CSJ procedures and have expressed an interest in assisting students in cases before CSJ. Advisors are not required. Students who choose to be accompanied by an advisor have the responsibility of finding an advisor. Students may serve as advisors to a party and undergo a CSJ training program before serving and will be compensated \$50.00 for each case handled to completion. These students may not engage in the practice of law and are not equipped to provide parties with legal advice. . In the event a given case takes substantially more work than expected, it is within the panel's discretion to increase compensation, upon majority agreement.

### **51.51 Responsibilities of Defendant or Respondent.**

The defendant/respondent in action before CSJ has the responsibility of cooperating in good faith with CSJ in the conduct of the litigation. The defendant/respondent shall obey lawful orders of CSJ and comply with this Manual in the conduct of litigation before CSJ.

### **51.511 Responses and Motions.**

The defendant/respondent shall make all appropriate responses (see sections 51.26 through 51.262) and motions (see sections 51.31, 51.312, and 51.33 through 51.331) in a timely manner. CSJ will discourage any attempts to delay litigation with superfluous or untimely motions. The

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defendant/respondent shall attend the pre-trial conference.

## **51.512 Discovery.**

The defendant/respondent in a civil action shall respond to the discovery orders of CSJ under the provisions of sections 51.34 through 51.347. The defendant in a disciplinary action may not be compelled to testify or give evidence against himself/herself whether in an original action or on appeal.

## **51.513 Failure to Cooperate with Discovery.**

The failure of a defendant/respondent to cooperate with discovery in a civil action may be taken into account during CSJ's consideration of the case. Failure to respond or testify by a defendant in a disciplinary action or an appellant or respondent who was a defendant in a disciplinary action being appealed may not be taken into account by CSJ.

## **51.514 Preparation of Case.**

The defendant/respondent shall prepare his/her own case for presentation before CSJ, and may consult with their advisor at their discretion.

## **51.515 Knowledge of Procedure.**

The defendant/respondent in an action before CSJ is expected to read sections 51.11 through 51.123, 51.15 through 51.17, 51.25, 51.26 through 51.262, 51.28, and 51.30 through 51.59 of this Manual.

## **51.52 Responsibilities During Litigation.**

The defendant is not required to present any case. The entire burden of proof lies with the plaintiff. However, if the plaintiff has met that burden, in order to prevail before CSJ, the defendant must present a sufficient case to create doubt that the plaintiff has reached the appropriate level of proof required to grant judgment for the plaintiff. In a disciplinary action, the defendant must present a sufficient case to show that the plaintiff has failed to prove his/her case beyond a reasonable doubt. In a civil action, the defendant must present a sufficient case to show the plaintiff has failed to support his/her case by the preponderance of the evidence. In order to prevail on a case appealed to CSJ, the respondent must show that the appellant has failed to justify overturning or modifying the decision of the lower court.

### **51.521 Creating Doubt.**

The defendant/respondent need not affirmatively prove that his/her position is correct in order to prevail before CSJ, but need only prove that the opposing party has failed to present a sufficient case. This section should not be construed to suggest that a defendant/respondent with a strong case should in any way restrict the presentation of his/her case.

### **51.522 Motions to Dismiss.**

If at the appropriate point during the proceedings before CSJ, the defendant/respondent feels that the plaintiff/appellant has failed to present an adequate case, the defendant/respondent may

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move for dismissal (see sections 51.73 through 51.733).

## **51.523 Forceful Response.**

A defendant/respondent before CSJ should attempt to present the best case possible to CSJ in light of the facts in the case. While the burden of proof lies on the plaintiff/appellant, a defendant/respondent is more likely to prevail if s/he presents a strong case.

## **51.524 Affirmative Defense.**

Where an affirmative defense is provided for in the Compiled Code, the defendant shall bear the burden of raising the affirmative defense. Failure to raise an affirmative defense shall be considered a waiver of that defense. The defendant need not prove the affirmative defense, but must submit some evidence to support the affirmative defense. Once a defendant has raised an affirmative defense, the plaintiff must prove that the defense is invalid unless the burden of persuasion is specifically shifted in the Compiled Code.

## **51.53 Rights of Both Parties.**

Each party before CSJ has the right to the following:

- (a) Invite others to assist him/her in the preparation and presentation of his side;
- (b) A speedy and orderly hearing before an impartial tribunal;
- (c) A prompt disposition of the case;
- (d) Present evidence on his/her own behalf;
- (e) Call witnesses in his/her own behalf;
- (f) Not to be forced to testify against himself/herself in a disciplinary proceeding or where a disciplinary proceeding might be initiated;
- (g) Hear all evidence presented to CSJ;
- (h) Cross-examine witnesses called by the other party;
- (i) A judgment in a disciplinary action based solely on the evidence and arguments presented (in the presence of both parties) and the rule under which the complaint was brought;
- (j) A judgment in a civil action based solely on the evidence and arguments presented (in the presence of both parties) and such judicious principles as the law may have developed;
- (k) A written explanation of the decision;
- (l) Notification of right to appeal, limited by the discretion of CSJ if CSJ has appellate jurisdiction, or the manner by which the appeal may be filed if CSJ does not have appellate jurisdiction; and
- (m) To at least a summary record of the proceedings.

## **51.54 Rights of the Defendant.**

Any defendant/respondent (when the respondent was a defendant in the original action) or appellant (when the appellant was a defendant in the original action being appealed to CSJ) before CSJ has the following rights:

- (a) Not to be charged in a disciplinary action except for violation of a rule that has been fully and clearly been formulated, published, and generally made known to everyone concerned;
- (b) To be presumed innocent until proven otherwise;
- (c) To be free from penalty until CSJ has issued a decision in the case;

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- (d) To be provided with an exact statement of the charges against him/her, the source of the charges, the maximum penalty assessible, and the place and time of the hearing, in sufficient fullness and reasonable time to allow his/her to prepare a competent defense;
- (e) To have a closed hearing upon request;
- (f) Not to be made to suffer a cruel or unusual penalty; and
- (g) Not to be twice tried for the same offense by one or more University judicial bodies.

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## PLAINTIFF/APPELLANT

### **51.60 Rights and Responsibilities of Plaintiff or Appellant.**

The rights and responsibilities of a plaintiff before CSJ are outlined in sections 51.601 through 51.64 below. As a matter of policy, this code and the Anglo-American legal system in general presume that a plaintiff carries the burden of persuading the judiciary that judgment should be rendered against the defendant. If an appellant was originally a plaintiff in the case being appealed to CSJ, sections 51.601 through 51.64 apply to the appellant. If an appellant was originally a defendant in the case being appealed to CSJ, sections 51.512, 51.513, 51.524, 51.54, and 51.60 through 51.64 shall apply to the appellant. If a respondent was originally a plaintiff in the case being appeal led to CSJ, sections 51.501 through 51.53 shall apply to the respondent.

### **51.601 Informing of Rights.**

During the Pre-Trial Conference, CSJ shall ask the plaintiff/appellant whether s/he has right read sections 51.60 through 51.64. Following this question, CSJ is not responsible for the failure by any party to be informed of its rights, but may grant a rehearing to remedy any substantial injustice which might be caused by a party's failure to know its rights.

### **51.602 Right to Counsel.**

Each party has the right to legal counsel of his/her choice, including a professional attorney(s) retained at that party's expense. Legal counsel is not necessary in order to appear before CSJ, but may be helpful in some cases.

### **51.603 List of Counsel.**

CSJ may maintain a list of volunteers who have experience with CSJ procedures and have expressed an interest in assisting students as counsel in cases before CSJ. The choice of counsel is entirely the prerogative of each party and this list shall not be used to restrict the choice of counsel by the parties appearing before CSJ.

### **51.61 Initiating the Action.**

The plaintiff/appellant is (by definition) the party which initiates the action before CSJ. The plaintiff/appellant shall initiate the action as provided for in sections 51.20 through 51.28 above.

### **51.611 Filing a Case.**

The plaintiff/appellant must file a completed Form 51-1 with appropriate attachments in the CSJ mailbox in the CSG office, 3011 Michigan Union (see section 51.23).

### **51.612 Serving Opponent with Notice.**

The plaintiff/appellant must serve the defendant/respondent with a copy of Form 51-1 as provided for in sections 51.24 through 51.244.

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## **51.62 Responsibilities of Plaintiff or Appellant.**

The plaintiff/appellant in an action before CSJ has the responsibility of cooperating in good faith with CSJ in the conduct of litigation. The plaintiff/appellant shall obey all lawful orders of CSJ and comply with this Manual in the conduct of litigation before CSJ.

### **51.621 Prosecuting the Action.**

The plaintiff/appellant shall be responsible for prosecuting the action in a diligent manner. The plaintiff/appellant shall be required to request (using Form 51-2) a pre-trial conference and a hearing unless CSJ schedules these proceedings at its own initiative. If a plaintiff/appellant fails to request a pre-trial conference within 30 days of initiating the action, the action will be dismissed with prejudice (see section 51.731). If a plaintiff/appellant fails to appear at either the pre-trial conference or any other hearing of which that party had notice, the action will be dismissed with prejudice. CSJ may vacate its dismissal if the party shows substantial cause for its failure to appear.

### **51.622 Motions and Responses.**

The plaintiff/appellant shall make all appropriate motions (see sections 51.31 through 51.312, sections 51.325, 51.332, and 51.25) in a timely manner and shall respond to the motions of the defendant/respondent within ten (10) days of receiving notice of motions filed with CSJ outside of a CSJ proceeding. CSJ will discourage any attempt to delay litigation with superfluous or untimely motions. The plaintiff/appellant shall attend the pre-trial conference and respond to all motions presented there by the defendant/respondent.

### **51.623 Discovery.**

The plaintiff/appellant shall respond to the discovery orders of CSJ under the provisions of sections 51.34 through 51.347. The defendant in a disciplinary action which is being appealed to CSJ may not be compelled to testify or give evidence against himself/herself.

### **51.624 Failure to Cooperate with Discovery.**

The failure of a plaintiff/appellant to cooperate with discovery (except when the appellant was originally a defendant in a disciplinary action now being appealed to CSJ) may be taken into account during the deliberation of CSJ. In addition, CSJ may dismiss the action if the plaintiff/appellant (except when the appellant was originally a defendant) repeatedly refuses to cooperate with discovery.

### **51.625 Presentation of Case.**

The plaintiff/appellant shall prepare his/her own case for presentation before CSJ, with the assistance of counsel if the party chooses to use counsel.

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## **51.626 Knowledge of Procedure.**

The plaintiff/appellant in an action before CSJ is expected to read sections 51.10 through 51.45 and 51.60 through 51.64 of this Manual.

## **51.63 Responsibilities During Litigation.**

In order to prevail before CSJ, the plaintiff must present a sufficient case to reach to an appropriate level of proof specified in sections 51.631. and 51.632 below. In order to prevail in case appealed to CSJ, the appellant must justify the overturning or modifying of the decision of the lower judiciary.

### **51.631 Civil Action.**

The plaintiff in a civil action must prove by a preponderance of the evidence that s/he is entitled to the relief requested.

### **51.632 Disciplinary Action.**

The plaintiff in a disciplinary action must prove beyond a reasonable doubt that the defendant is guilty of the offense charged. Some statutes may permit conviction of a defendant where the plaintiff has only proved guilt by the substantial weight of the evidence.

### **51.633 Seek Evidence.**

The plaintiff/appellant must obtain and present evidence to support his/her legal theory and meet the burden of persuasion.

### **51.634 Argument.**

The plaintiff/appellant must present arguments to logically link the evidence present with the legal theory which provides the basis for remedy or punishment.

## **51.64 Rights of Both Parties.**

Each party before CSJ has the right to the following:

- (a) Invite others to assist him/her in the preparation and presentation of his/her side;
- (b) A speedy and orderly hearing before an impartial tribunal;
- (c) A prompt disposition of the case;
- (d) Present evidence in his/her own behalf;
- (e) Call witnesses in his/her own behalf;
- (f) Not to be forced to testify against himself/herself in a disciplinary proceeding or where a disciplinary proceeding might be initiated;
- (g) Hear all evidence presented to CSJ;
- (g) Cross-examine witnesses called by the other party;
- (g) A judgment in a disciplinary action based solely on the evidence and arguments presented (in the presence of both parties) and the rule under which the complaint was brought;
- (g) A judgment in a civil action based solely on the evidence and arguments presented (in the presence of both parties) and such judicious principles of law as may have developed;
- (g) A written explanation of the decision;
- (g) Notification of right to appeal, limited by the discretion of CSJ if CSJ has appellate jurisdiction,

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or the manner by which the appeal may be filed if CSJ does not have appellate jurisdiction; and  
(g) To at least a summary record of the proceedings.

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## DECISION AND RELIEF

### **51.70 Decisions.**

CSJ shall announce all decisions by email to all interested parties. Any party may request a hearing giving all parties to the case the opportunity to be present. Decisions of the Judiciary shall include any appropriate orders. CSJ shall promptly notify all affected parties of its decisions and orders.

### **51. 701 Orders.**

CSJ may issue such orders as they deem necessary to provide appropriate relief to the prevailing party in an action before the Judiciary. The orders of CSJ shall be written in the forms specified in sections 51.83 through 51.837 below. Every order shall set forth the reasons for its issuance. An order shall be specific in its terms and set forth in reasonable detail the act or acts to be restrained or required, without reference to other documents. An order shall only be acts to be restrained or required. An order shall only be binding upon parties to an action before CSJ and upon those persons in active concert or participation with them who receive actual written notice of the order by personal service or otherwise (as provided for in sections 51.24 through 51.244 of this Manual).

### **51.702 Opinions.**

CSJ shall produce and deliver to all parties a written opinion in each action disposed of by the Judiciary. The opinion shall state the disposition of the case, including any orders issued and the reasons for CSJ's decisions. Opinions shall be prepared and published as provided for in sections 51.84 through 51.865 below. The Chief Justice (if s/he votes with the prevailing position) or the Associate Chief Justice (if s/he votes with the prevailing position) or the senior justice voting with the prevailing position shall assign the preparation of the opinion of the Judiciary. Justices may prepare concurring and dissenting opinions at their individual discretion which shall be published with the opinion of the Judiciary.

### **51. 71 Deliberations.**

After both parties to an action before CSJ have presented their cases (as provided for in sections 51.40 through 51.412), the Judiciary will conduct deliberations to decide the issues presented by the case and to formulate appropriate remedy. The deliberations may be conducted either in open or closed session at the discretion of CSJ. Except as provided for in section 51.54 where the defendant has closed the hearing, CSJ may invite both parties to the case to present arguments on whether to conduct open or closed deliberations.

### **51.711 Open Deliberations.**

CSJ normally prefers to conduct open or public deliberations. When CSJ decides to conduct open deliberations, the presiding justice shall inform those present that the hearing has been completed. The presiding justice will then explain that during open deliberations only CSJ members are permitted to discuss the case. No other person may speak during CSJ deliberations.

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## **51.712 Closed Deliberations.**

When a closed hearing is held under the provisions of sections 51.50 and 51.54 or if CSJ should decide to conduct closed deliberations, the presiding justice shall inform those present that the deliberations are to be closed to the public. All persons present may be requested to leave the hearing room or CSJ may choose to move to a private room. Following closed deliberations, CSJ shall publicly announce its decisions and orders to all persons who attended the hearing and who are awaiting the decisions of the Judiciary, unless the defendant is entitled to a closed hearing as provided for in sections 51.50 and 51.54.

## **51.713 Advisement.**

Normally, deliberations are held immediately following the completion of a hearing. However, in unusually difficult or complex cases, CSJ may choose to conduct deliberations at a later time. Unless these deliberations are to be closed (see section 51.712 above), CSJ shall announce the time and location of the deliberations and shall invite all parties present at the hearing to attend. CSJ should never delay reaching a decision when such a delay could result in injustice to either party.

## **51.715 Record.**

CSJ shall keep a record of all decisions made during its deliberations. The Judiciary shall also prepare all appropriate orders. All votes taken during deliberations shall be recorded so as to indicate how each justice voted for use in preparing the opinion of the Judiciary.

## **51.72 Decisions on Appeals.**

After hearing an appeal of the decision of a campus judiciary, CSJ may affirm the holding of the other judiciary, order a new trial by the other judiciary, reverse the decision of the judiciary, return (remand) the case to the judiciary for specific proceedings, or any appropriate combination of these decisions.

### **51.721 Affirming a Decision.**

Unless CSJ determines that the proceedings of the judiciary (which are the subject of the appeal) denied the appellant his/her rights (as enumerated in the All-campus Constitution and the Compiled Code), or that the lower judiciary made a clear error in interpreting the All-campus Constitution or Compiled Code, or that the judiciary made a finding of fact contrary to the substantial weight of the evidence, CSJ will affirm the decision of the judiciary. When CSJ affirms the decision of a judiciary, all orders staying the execution of the judiciary's decision are automatically terminated, except as provided for in sections 51.726 below.

### **51.722 New Trial.**

Where CSJ determines that the proceedings of the judiciary denied the appellant his/her rights (as enumerated in the All-campus Constitution and the Compiled Code), CSJ may order a new trial to be conducted in a manner which will ensure that the rights of the appellant are protected. CSJ may also order a new trial when the judiciary has made an error in the interpretation of the All-campus Constitution or the Compiled Code which so affected the decision of the judiciary as to require a

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completely new trial. When CSJ orders a new trial, the entire case shall be heard again, as if the first trial had never occurred, except that the new trial shall avoid the error which caused CSJ to order the new trial.

## **51.723 Reversing a Decision.**

Where CSJ determines that the judiciary has denied the appellant his/her rights (as enumerated in the All-campus Constitution and/or the Compiled Code), has made a clear error in interpreting the All-campus Constitution or Compiled Code, or has made a finding of fact contrary to the substantial weight of the evidence, and that as a result of one of these errors the judiciary should have held for the appellant, CSJ may reverse the decision of the judiciary. A reversal vacates (eliminates) the decision of the judiciary and all orders issued by the judiciary.

## **51.724 Remanding a Case.**

Where CSJ determines that a judiciary has violated the rights of the appellant (as enumerated in the All-campus Constitution and the Compiled Code) has made an error in interpreting the All-campus Constitution or Compiled Code, or has made a finding of fact contrary to the substantial weight of the evidence, CSJ may remand (return) the case to the judiciary for further proceedings consistent with instructions from CSJ. The instructions may, for example, request that the judiciary consider additional issues, to avoid violations of the appellant's rights, or to take such other steps as may be necessary to provide substantial justice.

## **51.725 Orders.**

CSJ may, after hearing an appeal, issue such orders as may be necessary to provide appropriate relief to the prevailing party in the appellate proceeding. These orders shall comply with the provisions of sections 51.701 and 51.84.

## **51.726 Stay Pending Appeal for Clemency.**

In any disciplinary action where CSJ has refused to grant the appeal of the defendant or where CSJ has permitted a penalty or award of damages to stand, CSJ shall stay the enforcement of the action or collection of the damages if the appellant seeks clemency from the Dean of his/her college or the President of the University. The stay shall be granted upon request of the appellant if the appellant seeks clemency within 30 days of the unfavorable decision by CSJ. The stay shall continue until the Dean or the President of the University have made their decision.

## **51.73 Decision on Original Civil Actions.**

The result of a CSJ decision in a civil action brought originally to CSJ will be either a dismissal or a judgment as provided for in sections 51.731 through 51.739 below.

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## **51.731 Dismissal with Prejudice.**

When CSJ dismisses an action with prejudice, that dismissal is final and the action may not be presented again before CSJ except as provided for in the rehearing provisions of sections 51.75 through 51.756 below. CSJ may dismiss an action with prejudice for lack of jurisdiction, for expiration of the statute of limitations, for failure to state a claim upon which relief can be granted, for insufficiency of evidence, for failure to prosecute an action in the name of the real party in interest, and for willful failure to observe the procedures of CSJ (see sections 51.347, 51.412, and 51.77 through 51.776). Prior to dismissing an action, CSJ shall give the plaintiff the opportunity to amend the original filing if it is possible to correct the defects in the original filing. A dismissal shall be a dismissal with prejudice unless otherwise indicated by this Manual or by CSJ in its opinion.

## **51.732 Dismissal without Prejudice.**

CSJ may dismiss an action without prejudice where the filing form is incomplete or was not properly served. The plaintiff may re-file and correct any such defect. CSJ would then hear the action in the normal manner. If an action filed with CSJ should be heard by another judiciary, CSJ may refer the action to the appropriate judiciary (see section 51.826).

## **51.733 Dismissal for Failure to State a Claim or Insufficiency of Evidence.**

The defendant in a civil action may at the pre-trial conference move to dismiss the action for failure to state a claim upon which relief can be granted. If CSJ determines that no legal remedy would be justified even if all of the allegations presented by the plaintiff were true, CSJ may dismiss the action with prejudice. Following the presentation of evidence by the plaintiff at a full hearing, the defendant may move to dismiss the action for insufficiency of evidence. If CSJ determines that the plaintiff has failed to prove by a preponderance of the evidence that the defendant has injured the plaintiff, CSJ may dismiss the action for insufficiency of evidence.

## **51.734 Counter-Claims.**

If an action is dismissed prior to the resolution of the issues involved in any counterclaims, the counterclaim shall be treated as a normal action and appropriate hearings shall be conducted to resolve the issues remaining in the counterclaim.

## **51.735 Final Judgment.**

CSJ shall issue a judgment for the prevailing party in a civil action. This final judgment shall resolve all issues raised by the action and provide appropriate remedy to the prevailing party. The remedy in civil actions may involve appropriate permanent injunctions and other orders (in the forms provided for in section 51.845), damages, restitution, or such other remedies as may be provided for in the Compiled Code. If the action was brought under the SOAR Guidelines, CSJ may provide relief as stated in those Guidelines. CSJ may stay the enforcement of a judgment to permit rehearing.

## **51.736 Damages and Restitution.**

CSJ may award damages in a civil action where CSJ determines that the defendant has injured

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the plaintiff and that the plaintiff is entitled to damages under the rules of law recognized by CSJ (see sections 51.42 through 51.425). CSJ may require a party to make restitution where CSJ determines that a party to an action has been unjustly enriched and restitution is an appropriate remedy under the rules of law recognized by CSJ (see section 51.425). Punitive damages may not be awarded. Damage awards shall be limited to actual documented losses. Restitutionary awards shall be limited to restoring the injured party to that party's original position or remedying the actual unjust enrichment.

## **51.737 Default Judgment.**

CSJ is generally unwilling to grant default judgments and will do so only under the following circumstances:

- (a) CSJ has verified that the defendant has received actual notice of the proceeding;
- (b) The Plaintiff has proved, at trial, that s/he is entitled to relief;
- (c) That CSJ can find no reasonable defense which could be presented by the defendant;
- (d) That the defendant has no known reasonable excuse for failure to appear.

If the above listed conditions are satisfied, CSJ may grant a judgment by default in order to protect the rights of the plaintiff. The defendant shall be served with a copy of the default judgment. If the defendant can show any reasonable cause for his/her failure to appear, CSJ will set aside the judgment by default and schedule appropriate normal proceedings. Unless set aside, a judgment by default shall be treated and enforced in the same manner as an ordinary final judgment.

## **51.738 Declaratory Judgment.**

Where a student is threatened with injury by an eminent violation of the student's rights as enumerated by the All-campus Constitution, and CSJ would have jurisdiction over an action alleging such a violation of right, CSJ may hear an action for a declaratory judgment. After appropriate hearings, CSJ may declare the rights and other legal relations of any party to the action seeking such declaration, whether or not further relief is or could be sought. CSJ may grant further necessary or proper relief based on a declaratory judgment, after reasonable notice and hearing, against any party to the action for declaratory judgment.

## **51.739 Receiverships.**

CSJ may appoint a receiver or trustee in certain actions to ensure that funds remain available pending resolution of a dispute involving the ownership of the funds. A receivership or trustee arrangement shall act as a substitute to freezing the account of the organization, should such a freeze otherwise be ordered by CSJ, and shall require the consent of the parties. Any receiver or trustee appointed by CSJ must agree to carry out the orders and instructions of CSJ and must sign an agreement in the form provided in section 51.853. CSJ shall appoint a receiver or trustee who is not a party or witness in the action before the judiciary. The receiver or trustee may dispense funds according to the instructions and limitations placed upon the funds by an appropriate order of CSJ, thus allowing partial use of the account, while still protecting the rights of all parties to the action.

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## **51.74 Convictions and Penalties.**

The result of a CSJ decision in a disciplinary action brought originally in CSJ will for each alleged violation be either a dismissal or a finding of guilt on the part of the defendant as provided for in sections 51.741 through 51.746 below.

### **51.741 Dismissal with Prejudice.**

When CSJ dismisses a disciplinary action with prejudice, that dismissal is final and the action may not be presented before CSJ again. CSJ may dismiss a disciplinary action with prejudice for lack of jurisdiction, for expiration of the statute of limitations, for lack of probable cause for charges, for insufficiency of evidence, or for willful failure to observe the procedures of CSJ (see sections 51.347, 51.412, and 51.77 through 51.776). Before dismissing an action, CSJ shall give the plaintiff the opportunity to amend the original filing. A dismissal shall be a dismissal with prejudice unless otherwise indicated by this Manual or by CSJ in its opinion.

### **51.742 Dismissal without Prejudice.**

CSJ may dismiss a disciplinary action without prejudice where the filing form is incomplete or was not properly served. The plaintiff may refile the action and correct such defect. CSJ would then hear the action in the normal manner. If an action filed with CSJ should be heard by another judiciary, CSJ may refer the action to the other judiciary (see section 51.826).

### **51.743 Dismissal for Lack of Probable Cause or Insufficiency of Evidence.**

The defendant in a disciplinary action may at the pre-trial conference move to dismiss the action for lack of probable cause upon which to base the charges. If CSJ determines that the defendant would be innocent of violation the regulation even if all of the allegations presented by the plaintiff were true or if CSJ determines that no reasonable person could find the defendant guilty of violating the regulation based on the plaintiff's allegations, CSJ shall dismiss the action for lack of probable cause. Following the presentation of evidence by the plaintiff at a full hearing, the defendant may move to dismiss the action for insufficiency of evidence. If CSJ determines that the plaintiff has failed to prove the defendant's guilt beyond a reasonable doubt, CSJ may dismiss the action for insufficiency of evidence.

### **51.744 Finding of Guilt.**

If, in a disciplinary action heard originally before CSJ, the judiciary determines that the plaintiff has proven beyond a reasonable doubt that violations charged have occurred, CSJ shall find the defendant guilty. CSJ shall then determine the appropriate penalty for each violation.

### **51.745 Penalties.**

CSJ shall not impose a penalty which is greater than that requested by the plaintiff. CSJ may not impose a penalty which exceeds that provided for by the rules and regulations violated by the defendant. If the regulation which the student defendant violated does not establish a maximum penalty, CSJ may only warn the student or fine him no more than \$150. If the regulation which the student organization violated does not establish a maximum penalty, CSJ may only warn the organization, curtail its privileges for a specified period of time not to exceed four months, or fine

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it not more than \$2500.

## **51.746 Double Jeopardy.**

If, following the imposition of a penalty by CSJ, another judiciary imposes an additional penalty for the same act, the defendant may request that CSJ review its decision. If the penalty imposed by CSJ would result in the defendant being twice put in jeopardy for the same offense, CSJ shall reduce or eliminate its penalty.

## **51.75 Appeal and Rehearing.**

CSJ may, upon motion of any affected party, grant a rehearing or correct errors where there is substantial reason to believe previous proceedings of CSJ failed to do justice. If the person requesting the rehearing was a party to the original action before CSJ, the procedures of sections 51.75 and 51.754 shall be followed. If the person requesting the hearing was not a party to the original action, the procedures of section 51.755 shall be followed. If a clerical error is discovered, the procedure of section 51.751 shall be followed. All petitions for rehearing shall be filed on form 51-2 and accompanied by a short, plain statement justifying the request for a rehearing.

## **51.751 Clerical Error.**

CSJ will grant rehearings to correct clerical errors in orders, opinions, or other documents issued by CSJ upon the request of any party. CSJ may also correct such clerical errors upon its own motion. All persons receiving the erroneous document shall be informed of the corrections.

## **51.752 General Appeal.**

CSJ may, upon motion of either party to an action previously decided by CSJ, grant an appeal. If a party feels that it did not receive an adequate hearing before CSJ, that party may within three (3) days following the final disposition of the action in question, file a motion for appeal. The motion for rehearing shall be filed on form 51-2 and shall be accompanied by a short, plain statement explaining why an appeal should be granted. CSJ may then grant an appeal if a rehearing is necessary to prevent substantial injustice. Rehearings will not be granted where all issues were adequately considered and all parties had ample opportunity to present their case.

## **51.753 Special Rehearing.**

CSJ may, upon motion of either party, grant rehearing more than three (3) days following the final disposition of an action previously before CSJ under the following circumstances:

- (a) Where the original decisions of CSJ inadvertently or unknowingly violated a provision of the All-campus Constitution or the Compiled Code;
- (b) Where the original decision of CSJ could be in error because the party requesting rehearing was unable to effectively present his/her case through no fault of that party (i.e., a vital witness became ill and could not attend the hearing);
- (c) Where the original decision of CSJ could be in error due to newly discovered evidence, not discoverable by reasonable effort prior to the trial, which is sufficiently vital that it could change the decision of CSJ;

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(d) Where evidence is discovered subsequent to the trial that indicates that the prevailing party prevailed due to fraud, misrepresentation, or perjury;

(e) Where the party subjected to a penalty by CSJ is subjected to further penalty by another judiciary or agency for the same offense (in violation of section 51.28). CSJ shall grant rehearing and modify its penalty or decision so as to prevent the defendant from being placed in jeopardy twice for the same offense.

## **51.754 Rehearing for Absent Parties.**

When a party to an action before CSJ failed to appear before CSJ and CSJ granted default judgment, the party failing to appear may be granted a rehearing. Rehearing shall be granted if the party responds within twenty (20) days of receiving notice. A party failing to respond within twenty (20) days of such notification may only obtain a rehearing upon showing of substantial reason for failure to respond to the default judgment.

## **51.755 Rehearing for Non-Parties.**

CSJ may grant a rehearing in an action previously decided by CSJ where a person substantially affected by the decision petitions CSJ for a rehearing. Such rehearings will only be granted when the party requesting the rehearing raises substantial new grounds which strongly indicate that the original decision was in error. If a rehearing is granted, both of the parties to the original action shall be notified of the rehearing and may participate if they desire to do so. 51.756 Limitation on Rehearings. If a defendant prevails in a disciplinary action, no rehearing shall be granted.

## **51.76 Removal.**

CSJ may remove an action from another judiciary when CSJ, upon request of the defendant, determines that it should exercise original jurisdiction. However, CSJ will not remove an action from another judiciary except as provided for in sections 51.761 through 51.766 below.

### **51.761 Removal for Denial of Due Process.**

If the defendant in an action before another judiciary can show that there is substantial reason to believe that the other judiciary will deny the defendant the minimum standards of due process required of any judiciary, CSJ may remove the action to another appropriate court.

### **51.762 Removal for Lack of a Judiciary.**

If the defendant in an action before another judiciary can show that the other judiciary does not actually function (it has no members currently serving), then CSJ may remove the action to another appropriate court.

### **51.763 Removal of CSG.**

In any action where CSG or an official of CSG (in his/her official capacity) is made a defendant in an action before another judiciary, CSJ may remove the action to another appropriate court.

### **51.764 Procedure for Initiating Removal.**

A defendant seeking removal of an action before another judiciary shall complete form 51-1

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attaching a short, plain statement of the facts which entitle the defendant to removal, along with a copy of all documents presented to that defendant in the action before the other judiciary. The completed Form 51-1 along with all attached documents should be filed with CSJ as provided for in section 51.23.

## **51.765 CSJ Removal Procedure.**

CSJ shall promptly consider all petitions for removal. CSJ may schedule a hearing to permit the defendant, the plaintiff, and a representative of the other judiciary in the action where removal is sought into present arguments on the issue of removal. If CSJ determines that the action should be removed, it shall issue a removal order in the form provided for in section 51.837 below. CSJ shall send copies of the removal order to the plaintiff, defendant, and the judiciary from which the action is being removed.

## **51.766 Effect of Removal.**

Upon receipt of a removal order from CSJ, the judiciary from which the action is removed shall proceed no further with the action. The action will then be tried as an original action in the judiciary specified by CSJ. Actions concerning elections shall be removed to the Elections Court (see section 50.13). Actions concerning recognized student organizations shall be removed to CSJ. All other actions removed by CSJ shall be removed to CSJ.

## **51.77 Enforcement and Collection.**

CSJ may arrange with The University of Michigan for the enforcement of its orders and decisions.

## **51.771 Fines - Individual.**

A fine imposed upon a student by CSJ may be made a University obligation, provided that the proceedings imposing such fines were conducted in compliance with the All-campus Constitution and Compiled Code. All fines collected by CSJ shall be placed in an account in the University accounting system. Such funds shall be transferred to the general financial aid accounts of the University for disbursement as scholarships at the discretion of the University Financial Aid Office.

## **51.772 Fines - Student Organizations.**

All fines collected by CSJ shall be placed in an account in the University Accounting system. Such funds shall be transferred to the general financial aid accounts of the University for disbursement as scholarships at the discretion of the University Financial Aid Office. Any student organization which fails to pay a fine within 60 days of receiving notification of the imposition of the fine shall be summoned before CSJ for a hearing. Unless the organization shows a good cause for its failure to pay the fine, CSJ may revoke the student organization's recognition until such time as the fine is paid. No funds may be disbursed from the organization's account until it has paid its fine (except those funds previously encumbered by the University). CSJ shall reinstate the organization's recognition upon payment of the fine.

## **51.773 Non-Payment of Individual Fines.**

Any student who fails to pay a fine imposed by CSJ within 60 days of receiving notification of the imposition of the fine may be brought before CSJ for a hearing. Unless the student shows a good

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cause for his/her failure to pay the fine, CSJ may prohibit that student from participation in student government or from holding an appointment made by student government until such time as the fine is paid.

## **51.774 Work Penalty Instead of Fines.**

If the student or student organization fined wishes to do so, that student (or members of the student organization) may petition CSJ to substitute a work penalty for the fine. The work penalty shall consist of work performed for the benefit of the University community. The work shall not be demeaning or degrading. The work performed will be offset against the fine at a rate of \$7.25 per person per hour or the Federal Minimum Wage, whichever is greater. Only the person fined or members of the organization fined may perform the work penalty.

## **51.775 Failure to Observe Orders.**

Any student who knowingly violates or disregards the lawful orders of CSJ of which the student has actual notice may, upon conviction of the CSJ, be fined not more than \$350, or be prohibited from holding office in or an appointment from student government for up to six (6) months, or both.

## **51.776 Collection and Enforcement of Judgments.**

A person awarded a judgment by CSJ may seek enforcement or collection of that judgment by CSJ. An enforcement or collection action shall be filed with CSJ (see section 51.23) as a motion for enforcement or collection on Form 51-2. A copy of the original judgment shall be attached. CSJ shall then schedule a hearing and notify all parties to the action. Unless the party against whom the judgment was rendered can show a good cause for failure to satisfy the judgment, CSJ may order the judgment enforced (see section 51.836 for form of order). Any student organization which fails to satisfy the judgment within 3 days of receiving a copy of an enforcement order shall have its recognition as a student organization revoked until such time as it shall satisfy the judgment. Any student who fails to satisfy a judgment within 30 days of receiving a copy of an enforcement order may be prosecuted under section 51.775 above.

## **51.78 Stay of Enforcement.**

No fine or penalty may be collected or imposed while the party subject to the penalty is seeking a rehearing (see sections 51.75 through 51.756) or clemency from the Dean of a school or college or the President of the University (see section 50.15). No judgment may be enforced while the party against whom the judgment was rendered is seeking a rehearing. Persons affected by the lawful orders of CSJ shall obey and observe those orders until such time as CSJ stays those orders. Persons not party to an action before CSJ who are injured by an order of CSJ may petition CSJ for relief. The petition shall be filed as an original action with the party requesting the order named as defendant. The Form 51-1 should be filed with CSJ (see section 51.23) and additionally a member of CSJ should be contacted by electronic mail (email). CSJ shall consider the petition for relief, preferably at a hearing, but if five members of CSJ support removing the order, the order shall be voided, and all parties shall be notified.

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## **51.781 Stay of Other Judiciaries.**

CSJ may stay the proceedings of other judiciaries as provided for in sections 51.13 through 51.312.

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## CASE ADMINISTRATION

### **51.80 Case Administration Purpose.**

The purpose of the sections below on CSJ administration and record keeping are as follows:

- (a) To ensure that each case is decided in a just, consistent, and fully informed manner;
- (b) To ensure that similar disputes are resolved in a similar manner so that students and student groups may have consistent standards and rules upon which they can rely in planning activities;
- (c) To guide parties in preparing and arguing cases in student judiciaries;
- (d) To provide for open and accountable judicial decision-making;
- (e) To protect the interests of the defendants in disciplinary actions by providing confidentiality with respect to personal identification.

### **51.801 Precedent.**

CSJ will generally follow its own previous decisions in order to provide consistent and stable standards for students and student groups. However, where following a previous decision would result in substantial injustice, CSJ reserves the right to distinguish, limit, or overrule a previous decision of CSJ.

### **51.802 Retention of Records.**

In order to accomplish the objectives listed in section 51.80, it is necessary to keep complete records for each action which is filed with CSJ, to organize those records in an efficient manner, to retain all case records permanently, and to properly secure and store all records. In addition, opinions, judgments, and orders, which record the decisions of CSJ, must be clear, well-organized, and made widely available in a published form.

### **51.81 Case File and CSJ Docket.**

For each action or issue which comes before CSJ, there shall be a case file. This shall include such matters as election certifications, vacancy filling reviews, and other non-adversarial proceedings in which CSJ renders a judgment or decision. A case file shall be prepared for all actions which are filed, regardless of whether the case is considered by CSJ or referred to another judiciary (see section 51.82). Each action shall be numbered as provided for in section 51.812 below.

### **5.811 Contents of Case File.**

The case file for each action shall contain the following items:

- (a) The initial filing (Form 51-1 with all attachments) or the document initiating any non-adversarial proceeding;
- (b) All motions, counterclaims, petitions for joinder, or requests for action by CSJ (Form 51-2) submitted in addition to initial filing at any time during the proceedings before CSJ (including all documents submitted outside a hearing);
- (c) All evidence submitted to CSJ whether during a hearing or outside a hearing;

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(d) The record or summary thereof or the proceedings of judiciaries in any action heard on appeal by CSJ (including copies of all orders, opinions, judgments, evidence, and other relevant material);

(e) All orders, requests, copies of notice, or other documents issued by CSJ during the action;

(f) All opinions, orders, judgments, summaries, or transcripts prepared or issued by CSJ during the action.

For the purposes of this section, all rehearings, enforcement actions, and any other appropriate post-decision proceedings shall be considered a continuation of the original action. All material from one action shall be placed in the one case file for that action.

## **5.812 Docket, Action Number, and Name.**

Each action filed with CSJ shall be given a number and recorded on the CSJ Docket. The action number shall be of the following format: "XX-YYY" where "XX" shall be the last two digits of the year in which the action was filed, and "YYY" would be a number sequentially assigned to each case filed in a given year (For example, case 08-009 would be the ninth case filed in 2008). The CSJ Docket (Form 51-3) shall contain the case number, the case name, the date and time the document was filed, the type of action filed, and the nature of the documents filed (form numbers, type of attachments, etc.). The case name is always underlined, and uses only the surname of individual parties. Group or organization names are given in full, without abbreviations. When more than one person or organization is a party, then only the first surname or organization is written in the case name, with the remaining parties designated with the abbreviation *et. al.* (meaning "and others"). The plaintiff or appellant's name in the case before CSJ appears first with the defendant or respondent's name second, separated by the abbreviation "v" (for "versus"). Where an individual student defendant in a disciplinary action (or appeal thereof) so requests, the defendant's initials may be used in place of his/her name for the case name to protect the privacy of the defendant (provided that the defendant also requests a closed hearing). For each action filed, a case file shall be prepared and labeled with the case name and case number.

## **5.813 Receipt of Documents.**

All documents and records received or produced by CSJ (see listing in section 51.811 above) concerning a particular action shall be recorded in the CSJ Docket and a copy shall be placed in the appropriate case file.

## **5.814 Duplicate Case File.**

In order to ensure that a complete record of each case is maintained and preserved, the Chief Justice of CSJ or another officer of CSJ designated by the Chief Justice shall maintain a duplicate case file for each case and shall retain the duplicate case files at his/her private residence. At appropriate intervals (annually or upon leaving office), the duplicate case files shall be placed in the collection of the Bentley Historical Museum under the title of "Central Student Judiciary".

## **5.815 Confidential Materials.**

In any disciplinary action where the defendant (including an appellant or respondent who was a

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defendant in the action appealed to CSJ) requests a closed hearing, the case files shall be kept confidential. No copies of confidential case files may be produced without written permission of the defendant. Confidential case files shall be stored in a separate locked file cabinet in the CSJ office to which only the Chief Justice of CSJ and the Vice President for Student Affairs shall have access (the key or combination). The lock shall be unique and not part of any system used at the University of Michigan.

## **5.816 Storage of Case Files.**

All case files not provided for in sections 51.814 and 51.815 above shall be stored in locked file cabinets in the CSJ office. All case files shall be retained permanently. No case file may be removed from the CSJ office except for use at CSJ hearings and as provided for in section 51.814 above for duplicates and in section 51.818. Only the officers of CSJ shall have keys providing access to case files.

## **5.817 Access and Copying.**

All case files not made confidential by the provisions of sections 51.815 and 51.88 through 51.886 shall be available for public inspection at reasonable times upon request. A member of CSJ or paid employee of CSG must be present during such inspection. Any non-confidential (see sections 51.815 and 51.88 through 51.886) material in a case file may be photocopied at the expense of the person requesting such photocopies.

## **5.818 Overflow.**

If CSJ generates too many case files to be reasonably stored in the CSJ office, the oldest such case files shall be placed in the Bentley Historical Museum under the title "Central Student Judiciary". CSJ shall retain case files for at least five years in its office.

## **51.82 Scheduling, Notice, Referral, and Appeals Records.**

CSJ attempts to dispose of all actions before the Judiciary with reasonable speed while at the same time ensuring that all parties have adequate time to prepare their case. CSJ attempts to schedule proceedings at times convenient to all concerned, but will not permit a delay in hearings to cause irreparable harm to any party in an action before CSJ (see sections 51.31 through 51.312).

### **5.821 Scheduling Pre-Trial Conferences.**

The pre-trial conference (see section 51.32) shall normally be scheduled within ten days of the filing of an action.

### **5.822 Scheduling Injunction Meetings.**

Hearings required in order to issue preliminary injunctive relief (see sections 51.35 through 51.352) shall be conducted as quickly as reasonably possible following the request for the injunction. If a temporary restraining order (see section 51.312) has been issued, CSJ shall conduct a hearing as quickly as reasonably possible to determine whether a preliminary injunction should be issued to continue the temporary restraining order.

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## **5.823 Scheduling Full Hearings.**

The full hearing shall be scheduled in the presence of both parties at the pre-trial conference.

## **5.824 Regular Meetings of CSJ.**

Notice of regular CSJ meetings shall be posted in a prominent place outside the CSG and CSJ offices. Parties with actions pending before CSJ may come before CSJ at such regular meetings to present motions and other requests for CSJ action. Parties should not expect immediate action from CSJ on these motions unless both parties are present where these rules require the presence of both parties.

## **5.825 Notice.**

For each CSJ hearing scheduled (in section 51.821 through 51.823), both parties shall be given either written or verbal notice. Written notice shall be served on a party as provided for in sections 51.24 through 51.244 and shall be sent on Form 51-4. Written notice must arrive at least three days prior to the hearing. Verbal notice shall be given by a CSJ member who shall contact the party by email or telephone at least one day prior to the hearing. Parties should generally be contacted by email prior to a hearing to ensure that they will be present at the hearing.

## **5.826 Improperly Filed Cases.**

Any action filed with CSJ which should have been filed with another judiciary shall be referred to that judiciary by the Chief Justice or Associate Chief Justice of CSJ. For each action referred to another judiciary, a memorandum opinion shall be prepared in the form provided for in section 51.843. A copy of the CSJ case file and the memorandum opinion shall be delivered (by mail normally) to the judiciary to which the case was referred.

## **5.827 Obtaining Records for Appeals.**

CSJ shall obtain the record of the proceedings and decisions of the judiciary whose decision is being appealed to CSJ. CSJ shall obtain the following items from the judiciary whose decision is being appealed to CSJ:

- (a) Copies of orders, decisions, judgments, and opinions;
- (b) Copies of any evidence or other documents submitted at the trial;
- (c) Copies of any record, transcript, summary, or recording of trial proceedings;
- (d) Any other relevant material presented to or produced by the judiciary whose decision is being appealed to CSJ.

In the absence of a record of the proceedings of the judiciary whose decision is being appealed to CSJ, CSJ may request that a member of that judiciary appear before CSJ to testify concerning the proceedings.

## **51.83 Forms of Orders.**

The following sections provide for specific forms for various orders issued by CSJ along with explanations concerning the use of these orders. These forms are intended to serve as guides for use by CSJ and an order shall be valid as long as it clearly states the action required or prohibited. Persons shall only be bound by an order of CSJ if they have received actual notice of the order.

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All orders shall be issued typed on CSJ stationary (Form 51-5). The heading of each order shall contain the date of issue (on the first line below the letter head at the right margin), case number (third line, at left margin, second line to remain blank), type of order (third line at right side), and case name (underlined on the fifth line, at left margin, fourth line to remain blank). A copy of each order shall be placed in the case file and each order shall be recorded in the CSJ Docket.

## **51.831 Stay of Enforcement.**

A stay of enforcement order may be issued to prevent a judiciary whose decision is being appealed to CSJ from enforcing its decision against the appellant prior to CSJ's resolution of appeal (see section 51.311). A stay of enforcement order shall use the standard heading provided for in section 51.83 above and contain the following statements: "An appeal of the action (insert here the case name as used in the lower judiciary and any identifying numbers or hearing dates) has been filed with the Central Student Judiciary. The (name of judiciary whose decisions are being appealed and any officials who are enforcing that decision) are (is) hereby requested and required to stay the enforcement of any decisions and orders in the above named action until the Central Student Judiciary has had the opportunity to consider the appeal. Your cooperation in this matter will be greatly appreciated." The signatures, names typed out, and titles of two CSJ justices shall follow the body of the order.

## **51.832 Temporary Restraining Order.**

A temporary restraining order is issued as provided for in section 51.312. A temporary restraining order shall use the standard heading provided for in section 51.83 above. Each temporary restraining order shall state the reason for its issuance, including the nature of the immediate and irreparable injury, loss, or damage which the party seeking the order might suffer in the absence of the order. The statement of the order shall be prefaced by the words "IT IS ORDERED that" (followed by the specific order). Each subsequent major portion of the order shall be prefaced by the words "IT IS FURTHER ORDERED that" (followed by the specific order). The temporary restraining order shall state specifically, clearly, and in reasonable detail the act or acts to be restrained or prohibited and the parties on whom the order will be binding. The temporary restraining order shall then state in a separate paragraph the following: "This Temporary Restraining Order will expire at (time and date 48 hours after the time of issuance) unless renewed by the Central Student Judiciary. A hearing is scheduled at (time, date, and place of the injunction hearing - see sections 51.312 and 51.352) to permit both parties to this action to present arguments concerning the extension of this order". The signatures (of at least one CSJ justice), names typed out (of at least four approving CSJ justices), and titles (of the approving justices) shall follow the body of the order.

## **51.833 Preliminary Injunctions.**

Preliminary injunctions may be issued following a hearing as provided for in sections 51.35 through 51.353. A preliminary injunction shall use the standard heading provided for in section 51.83 above. Each injunction shall state the reasons for its issuance, including the nature of the irreparable harm which the party requesting the order might suffer in the absence of the injunction. The statement of the injunction shall be prefaced with the words "IT IS ORDERED that" (followed by the specific order). Each subsequent major portion of the order shall be prefaced by the words "IT IS

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FURTHER ORDERED that" (followed by the specific order). The order shall state specifically, clearly, and in reasonable detail the act or acts to be restrained or prohibited and the parties on whom the injunction will be binding. The injunction shall then state in a separate paragraph the following: "This preliminary injunction shall remain in effect until suspended or vacated by the Central Student Judiciary. Any questions concerning this injunction should be addressed to the Administrative Justice of the Central Student Judiciary (give name, address, and telephone number) or at the Central Student Judiciary Office, 3011 Michigan Union, 763-3241 ". The signature of an officer of CSJ, name typed out, and title of that CSJ officer shall follow the body of the injunction.

## **51.834 Discovery Orders.**

Orders for discovery shall be issued at the pre-trial conference and upon the request of any party to an action before CSJ by one CSJ justice (see sections 51.34 through 51.347). A discovery order shall use the standard heading provided for in section 51.83 above. The discovery order shall then contain the following statement: "(Name of person under the jurisdiction of CSJ) is hereby requested to submit to the Central Student Judiciary the following documents or true copies thereof: (list the documents to be (produced). These items are to be delivered to the Central Student Judiciary at 3011 Michigan Union, on or before (date at least 5 days after the issuance of the order). These documents will be returned or copied at the expense of the Central Student Judiciary if necessary. Your cooperation in this matter will be greatly appreciated". If the discovery order is directed to a person outside the jurisdiction of CSJ, the words "and required" shall be omitted. When an oral deposition is to be taken, the oral deposition should be arranged by the two parties and the witness to be interviewed. The CSJ justice attending the deposition shall then record the deposition using a tape recorder. If necessary, the recording may be sealed in an envelope to be signed by all of the persons present at the deposition and then stored in a secure location until trial in order to ensure the accuracy of the recording.

## **51.835 General Orders.**

General orders issued following a full hearing shall contain the opinion for that hearing as provided for in section 51.845 below.

## **51.836 Enforcement of Judgment.**

A person awarded a judgment by CSJ may obtain enforcement of that judgment by CSJ. The order for enforcement of judgment shall use the standard heading provided for in section 51.83 above. The order shall contain the following statements: "On (date judgment was issued), the Central Student Judiciary issued a final decision in the above-named action. A copy of that decision is attached to this order. On (date of enforcement hearing, see section 51.776), the Central Student Judiciary held a hearing at which you were present and found no reason to vacate or suspend that judgment. IT IS THEREFORE ORDERED that (name of party against whom enforcement is sought) fulfill the terms of judgment of the Central Student Judiciary as stated in that judgment". For enforcement orders directed to individual students, the following statements shall be added as a separate paragraph: "Under the provisions of section 51.776 of the All-campus Compiled Code, any student who fails to satisfy this judgment within 30 days of receiving this order may be tried under the provisions of section 51.775 of the Compiled Code which follow: (section 51.775) 'Any student who knowingly violates or disregards the lawful orders of the Central Student Judiciary of which the student has actual notice may upon conviction by CSJ be fined not more than \$350 or

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be prohibited from holding office in or an appointment from student government for up to six (6) months, or both'. Any questions concerning this order should be addressed in writing to the Administrative Justice of the Central Student Judiciary, 3011 Michigan Union, or by calling (name of Administrative Justice or other CSJ officers) at (telephone numbers where they can be reached)". For enforcement orders directed to student organizations, the following statements should be added as a separate paragraph: "Any student organization which fails to satisfy this judgment within 30 days of receiving a copy of this order shall have its recognition as a student organization revoked until such time as it satisfies the judgment. Any questions conceding this order should be addressed in writing to the Administrative Justice of the Central Student Judiciary, 3011 Michigan Union". The signature, name typed out, and title of a CSJ officer shall follow the body of the enforcement order.

## **51.837 Removal Order.**

A removal order is used to remove an action from one student judiciary and transfer it to another judiciary as provided in sections 51.76 through 51.766 above. The removal order shall use the standard heading provided for in section 51.83 above. The removal order shall contain the following statement: "A request for removal of the action (insert the case name as used in the lower judiciary and any identifying numbers or dates) was filed with the Central Student Judiciary". Then the removal order shall summarize the results of the removal hearing (see section 51.765) and summarize the reasons for removing the action (see sections 51.761 through 51.763). The removal order shall state the following: "IT IS ORDERED that the action (name of case in lower judiciary) be removed from (name of judiciary from which case is removed) and shall be tried in (name of judiciary in which action is to be tried). IT IS FURTHER ORDERED that all proceedings in this action in the (name of judiciary from which case is being removed) be immediately terminated". The signature, name typed out, and title of a CSJ officer shall follow the body of the removal order.

## **51.84 Form of Opinions.**

The following sections provide outlines for various opinions issued by CSJ. These outlines are intended to serve as guides to ensure that opinions are clear and easy to understand. All opinions shall be issued typed on CSJ stationary (Form 51-5). The heading of each opinion shall contain the date of the hearing (on the first line below the letterhead, at the left margin), the case number (third line at left margin, second line to remain blank), typed opinion (third line at right side), and case name (underlined on the fifth line, at left margin, fourth line to remain blank). A copy of each opinion shall be placed in the case file and each opinion shall be recorded in the CSJ Docket. In opinions, all quotations of more than twenty words shall be separated from the body of the text and indented five spaces. All opinions shall be typed single-spaced. Paragraphs should not be indented, but shall be separated from each other by a single blank line. In general, each important legal finding within any of the subdivisions in the outlines should be set forth in a separate paragraph, even if this produces some single sentence paragraphs. Each subdivision of the outlines should be placed in a separate paragraph.

### **51.841 Pre-Trial Conference Opinion.**

The opinion for a pre-trial conference may contain the following items:

Heading - The standard heading provided for in section 51.84 above shall be used. Procedural

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Stance - Explain whether the action is an appeal or original action.

Lower Court Decision - If this is an appeal, summarize the decision of the trial court. Plaintiffs or Appellant's Case - Summarize the basic contentions of the plaintiff or appellant.

Previous Orders - Summarize any orders issued by CSJ prior to the pre-trial conference and whether those orders were extended or continued by CSJ at the pre-trial conference.

Procedural Motions - State any procedural motions (see sections 51.33 through 51.333) presented at the pre-trial conference and the disposition of those motions, along with explanations of the reasons for the dispositions.

Amendments and Admissions - State any significant amendments to the initial filing plus any important facts specifically admitted (stipulated) by both parties.

Questions and Briefs - List any questions to be addressed by parties at the request of CSJ and state whether briefs should be presented.

Orders - Provide the full text of any orders issued by CSJ. All orders should be clearly separated from the text of the opinion by indenting five spaces from the left margin. The first sentence in an order begins with the words "IT IS ORDERED that -- ". Each additional sentence of the order begins on a new line with the words "IT IS FURTHER ORDERED that --- ". All orders should be clear and concise with adequate instructions to the parties who are required to act under the orders.

Discovery - State any discovery motions granted and any arrangements or schedules of oral depositions or other discovery proceedings.

Hearing Date - State the date, time, and place scheduled for the full hearing or any other hearings scheduled.

Dismissal of Action - If the action is dismissed at the pre-trial conference, the type of dismissal and reasons for the dismissal should be carefully explained.

Closing - The closing paragraph should list the justices joining in majority opinion and any justices concurring or dissenting without opinion. State the author of the opinion, with his/her name and title typed below his/her signature.

## **51.842 Joinder and Substitution Opinions.**

The opinion granting or denying requests to join an action already in progress (see section 51.27), or to join absent parties on motion of CSJ (see section 51.272), or to substitute a party (see section 51.273) may contain the following items:

Heading - The standard heading provided for in section 51.84 shall be used.

Party's Request - Summarize the request of the party for joinder along with any major reasons supporting the request.

Decision of CSJ - Outline the decision of CSJ, explaining the legal basis for the CSJ holding. Cite appropriate provisions of the All-campus Constitution, Compiled Code, or other legal source recognized by CSJ. Include a statement of the complete names of all parties joined or substituted and to which position (plaintiff/appellant or defendant/respondent) the parties have been joined.

Closing - The closing paragraph should list the justices joining the majority opinion and any justices concurring or dissenting without opinion. The signature, name, and title of the author of the opinion should follow the body of the opinion.

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## **51.843 Memorandum Opinions.**

Memorandum opinions are used to transfer cases from CSJ to other appropriate judiciaries, to deny rehearings, and for other acts of judicial administration where no hearing is conducted. A memorandum opinion may contain the following items:

Heading - Use the standard heading provided for in section 51.84 above.

Decision of CSJ - State the action taken by CSJ and the reasons for that action citing any appropriate sections of the All-campus Constitution, Compiled Code, or other legal source recognized by CSJ.

Closing - The closing paragraph should list the justices joining in the opinion and any justices concurring or dissenting without opinion. The author should sign the opinion with his/her name and title typed below his/her signature.

## **51.844 Injunction Hearing Opinion.**

The opinion for an injunction hearing may contain the following items:

Heading - Use the standard heading provided for in section 51.84 above.

Requesting Party's Position - State the party requesting the injunction (plaintiff/appellant or defendant/respondent) and summarize the contentions presented by that party before CSJ. Include any facts proved by the requesting party which justify the requesting party's contention that irreparable harm could occur in the absence of an injunction.

Opposing Party's Position - Summarize the contentions of the party opposing the request for injunction. Include any facts proved by the opposing party which would justify denying the requested injunction.

Decision of CSJ - Outline the decision of CSJ, explaining the legal basis for the holding. Cite appropriate provisions of the All-campus Constitution, Compiled Code, or other legal source recognized by CSJ.

Orders of CSJ - Provide the full text of the orders issued by CSJ (if the orders were issued). All orders should be clearly separated from the text of the opinion by identifying five spaces from the left margin. The first sentence of the order within an opinion begins with the words "IT IS ORDERED that ---". Each additional sentence of the order begins on a new line with the words "IT IS FURTHER ORDERED that ---". All orders should be clear and concise with adequate instructions to the parties who are required to act under the orders.

Closing - The closing paragraph should list the justices joining in the majority opinion and any justices concurring or dissenting without opinion. The author of the opinion should sign the opinion with his/her name and title typed below his/her signature.

Concurring or Dissenting Opinions - Concurring or dissenting opinions may be added by those justices who disagree with the decision of the majority.

## **51.845 Full Hearing Opinion.**

The opinion for a full hearing may contain the following items:

Heading - Use the standard heading provided for in section 51.84 above.

Procedural Stance - Explain whether the action is an appeal or original action. Summarize the previous orders, injunctions, joinders, and other major procedural acts of CSJ prior to the full hearing.

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Trial Court Decision - If this is an appeal of a trial court decision, summarize the decision, reasoning, and orders of the trial court. Include any important facts found by the trial court which bear on the trial court's holding.

Plaintiffs or Appellant's Case - Summarize the case presented by the plaintiff or appellant before CSJ. Include any facts proved by plaintiff which will provide a basis for the Judiciary's holding. Also summarize the plaintiff or appellant's legal contentions.

Defendant's or Respondent's Case - Summarize the case presented by the defendant or respondent before CSJ. Include any facts proved by the defendant which will provide a basis for the Judiciary's holding. Also summarize the defendant or respondent's legal contentions.

Decision of CSJ - Outline the decision of CSJ explaining the legal basis for the Judiciary's holding. Cite appropriate provisions of the All-campus Constitution, Compiled Code, or other legal source recognized by CSJ. Analogies from U.S. or State law, if any are used, should be cited to authoritative legal sources. The statement of legal reasoning should be concise, yet fully explain the reasons for the Judiciary's decision. Previous CSJ cases may be cited where they provide appropriate precedents. Explain in detail the judgment reached by CSJ (see sections 51.72 through 51.746).

Orders of CSJ - Provide the full text of any orders, penalties, or instructions issued by the Judiciary. All orders should be clearly separated from the text of the opinion by indenting five spaces from the left margin. The first sentence in the order within an opinion begins with the words "IT IS ORDERED that ---". Each additional sentence of the order begins on a new line with the words "IT IS FURTHER ORDERED that ---". All orders should be clear and concise with adequate instructions to the parties who are required to act under the orders.

Court's Comments - Summarize any opinions, recommendations, or comments made by the majority of the Judiciary which are not necessary to the holding of the Judiciary. These comments may include advice to lower courts on portions of their findings not specifically reviewed and guidance for student judiciaries or governments.

Closing - The closing paragraph should list the justices joining in the majority opinion and any justices concurring or dissenting without opinion. The author of the opinion should sign the opinion with his/her name and title typed below his/her signature.

Concurring or Dissenting Opinions - Concurring or dissenting opinions may be added by those justices disagreeing with the decision of the majority. These opinions should outline the author's disagreements with the decision of the majority. These opinions should outline the author's disagreements with the majority's reasoning. Any facts which are not provided by the majority opinion which the author finds especially relevant should be outlined. Any legal argument presented by the losing party which the author finds relevant may be added. The author of the opinion should list any other justices which join in the concurrence or dissent and sign the opinion, with his/her name and position listed below his/her signature.

## **51.846 Post Trial Hearing Opinions.**

The opinions for proceedings following the full hearing may contain the following items:

Heading - Use the standard heading provided for in section 51.84 above.

Procedural Stance - State the nature and purpose of the hearing or rehearing (see sections 51.75 through 51.781 for a list of post-trial proceedings).

Full Hearing Disposition - Summarize in a few sentences or less the decision of CSJ at full hearing,

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citing that case as provided for in section 51.864 below.

Position of Requesting Party - Summarize the contentions of the party requesting action at the post-trial proceeding and state the position (plaintiff/appellant or defendant/respondent) at the full hearing. Include any facts proved by the requesting party supporting the requested action.

Position of Opposing Party - Summarize the contentions of the party opposing action at the post-trial proceeding and include any facts proved by the opposing party which argue against the requested action.

CSJ Decision - Outline the decision of CSJ, explaining the legal basis for the holding. Cite appropriate legal sources recognized by CSJ. Explain in detail any changes made in the disposition of the action.

CSJ Orders - Provide the full text of all post-trial orders using the forms provided for in section 51.836 (without separate heading and signature) or else the general order form provided for in section 51.845 above (the paragraph entitled "Orders of CSJ").

Closing - The closing paragraph should list the justices joining in the majority opinion and any justices concurring or dissenting without opinion. The author of the opinion should sign the opinion with his/her name and title typed below his/her signature.

## **51.85 Forms for Judgments and Dismissals.**

All decisions of CSJ which result in a judgment or dismissal of an action shall be either reported in an opinion, or as provided for in sections 51.851 through 51.853 below. Dismissals or judgments which are the product of a hearing shall be recorded in the opinion for that hearing. All other dismissals shall be reported in memorandum opinions or as provided for in sections 51.851 through 51.853 below.

### **51.851 Dismissal for Lack of Action.**

If under section 51.621 the plaintiff/appellant fails to prosecute the action in a diligent manner, fails to request a pre-trial conference within 30 days of initiating the action, or fails to attend the pre-trial conference or any other hearing, CSJ shall dismiss the action for lack of action. The dismissal for lack of action shall use the standard heading provided for in section 51.84 above. The dismissal shall then state the following: "In the above-named action which you filed with the Central Student Judiciary, you have failed to diligently prosecute the action as required by sections 51.62, 51.621, and 51.851 of the CSJ Manual of Procedure. As a result of your lack of diligence, the above-named case is dismissed for lack of action. If you are able to show substantial cause for your failure to prosecute the action or failure to appear, you may make a motion for rehearing on Form 51-2 available from the Central Student Judiciary at 3011 Michigan Union". The dismissal shall be signed by a CSJ officer, with that officer's name and title typed below the signature.

### **51.852 Default Judgments.**

If under the provisions of sections 51.737, the plaintiff secures a default judgment, a notice of default judgment shall be issued. A notice of default judgment shall use the standard heading provided for in section 51.84 above. The notice shall contain the following statements: "In the above named action before the Central Student Judiciary on (date of the hearing), the Judiciary has determined the following:

- (1) That you, as defendant, have received actual notice of the proceedings before the Judiciary;

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- (2) That the plaintiff has proved at trial that s/he is entitled to a judgment;
- (3) That there was no reasonable excuse known to the Judiciary for the defendant's failure to appear.

Having found that plaintiff is entitled to relief under the provisions of section 51.737, the Central Student Judiciary gave judgment for the plaintiff as stated in the attached opinion. If you as defendant can show any reasonable cause for your failure to appear, the Central Student Judiciary will set aside this judgment and schedule a new hearing in which the issues will be considered without any prejudice based upon the previous hearings. The defendant should contact the Central Student Judiciary immediately at 3011 Michigan Union or call 763-3241".

The notice shall be signed by an officer of CSJ, with the officer's name and title typed below the signature. A copy of the opinion from the full hearing (in the form provided for in section 51.845) at which the default judgment was given shall be attached to the notice of default judgment. The notice for default judgment must be delivered to the defendant personally or as provided for in sections 51.242 through 51.244 prior to enforcement of the default judgment

## **51.853 Receivership Form.**

Any receiver or trustee appointed by CSJ under the provisions of section 51.739 shall complete and sign Form 51-6, which is incorporated as part of this section. CSJ shall also prepare a receivership or trust agreement, which shall be executed by the student organization whose funds are to be placed into receivership or trust, on Form 51- 7, which is incorporated as part of this section.

## **51.86 Publication of Opinions and Orders.**

All opinions, orders, and other documents recording the decisions of CSJ in all actions filed with CSJ shall be published and made available at the cost of duplication subject to the restrictions of sections 51.88 through 51.886 below. Opinions, orders, and other documents recording the decisions of CSJ in all actions filed with CSJ shall be compiled and circulated as provided for in sections 51.861 through 51.865 below.

## **51.861 Copies to Parties.**

All parties to an action before CSJ shall receive copies of all orders, opinions, and other documents recording the decisions of CSJ in that action. CSJ will normally email such documents to the party or the party's legal counsel, unless it is necessary to deliver the document promptly.

## **51.87 Recordings of Hearings.**

A record of all CSJ pre-trial conferences and hearings shall be made using standard cassette tape recording equipment. Alternatively, a transcriptionist shall take written minutes of the aforementioned proceedings.

## **51.871 Storage and Administration.**

All tape cassette recordings made of CSJ proceedings shall be stored in a locked filing cabinet in the CSJ office. A label shall be placed on each cassette giving the date recorded, the case number, type of proceeding, and case name.

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## **51.872 Access.**

Tape cassette recordings of CSJ proceedings shall be available to the public except as provided for in section 51.873 below. Any person listening to the tape recordings must do so under the supervision of a member of CSJ or an employee of CSG.

## **51.873 Confidentiality and Closed Hearings.**

CSJ shall record a closed hearing only with permission of the defendant. The defendant shall be informed that the opportunity to use material recorded at a closed hearing will be restricted to parties to the action and to CSJ. Recordings made at closed hearings shall be stored in the same manner as confidential case files and materials as provided for in section 51.815 above.

## **51.874 Private Recordings.**

Any party attending an open hearing of CSJ may make a record of that proceeding provided that the process of making the recording does not disrupt the proceedings. Any recording of a proceeding of CSJ may be terminated if it disrupts the proceeding. No electronic recordings of any type may be made at a closed hearing of CSJ, except by CSJ as provided for in section 51.873 above.

## **51.88 Confidentiality.**

The defendant in action before CSJ or the appellant or respondent (where the appellant or respondent was the defendant in the original action appealed to CSJ) has the right to a closed hearing. When such a defendant (or respondent or appellant) specifically exercises that right, all records in that action shall remain confidential as provided for in sections 51.881 through 51.886 below.

## **51.881 Nature of Confidential Material.**

When a party requests a closed hearing and confidential records (under the provisions of 51.88), all documents, evidence, recordings, notes, and other similar materials relating to that action used or generated by CSJ during or after the conduct of the proceedings shall be confidential except as provided for in section 51.884 below. No person participating in the confidential and closed proceedings before CSJ shall disclose any information obtained during the proceedings before CSJ.

## **51.882 Notice on Documents and Storage.**

All documents and materials to be kept confidential under the provisions of 51.88 and 51.881 above shall be labeled as "confidential" in red ink on each page. Each confidential case file shall be sealed in a large envelope and labeled with the dates of filing and final hearing, case number, case name (as provided for in section 51.884), and the statement that the file is confidential. Such confidential case files shall be stored as provided for in section 51.815.

## **51.883 Access and Destruction.**

Confidential materials under the provisions of sections 51.88 and 51.881 shall only be examined by the members of CSJ during proceedings relating to that action. Confidential case materials shall be destroyed by careful burning six months after the final proceeding in the action except for those

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documents exempted by sections 51.884 below. Until the case file is destroyed, its contents may only be examined with the prior written permission of the defendant

## **51.884 Opinions and Orders.**

Opinions and orders issued by CSJ in proceedings made confidential under the provisions of 51.88 and 51.881 shall be reported in the CSJ Reports and placed in a publicly available file in an edited form. The edited form of each opinion or order shall be devoid of all identifying information. The name of the defendant (and, if necessary, the plaintiff) shall be replaced with the first letter of the party's surname. Any identifying dates, place names, or other identifying information shall be replaced with generic terms or eliminated. The opinions and orders can then be made publicly available in the CSJ Reports and in a case file labeled with the case name (in edited form) and case number. The edited opinion shall be prepared by those members of CSJ participating in the action or by the Chief Justice of CSJ who may have access to the case file for the purposes of preparing the edited orders and opinions, but may not disclose the contents of the confidential material.

## **51.885 Evidence.**

Any information or documents submitted as evidence at a closed hearing which was public knowledge or a public document prior to the filing of the action with CSJ shall continue to be publicly available after the proceedings. Any information available under the provisions of the laws of the State of Michigan or the United States shall be made available in compliance with the provisions of those laws.

## **51.886 Penalties for Disclosure.**

Any person convicted in CSJ of knowingly or negligently disclosing or permitting the disclosure of materials made confidential under the provisions of sections 51.88 through 51.885 above may be fined no more than \$150, or be prohibited from participation in any student government or from holding any appointment from student government for up to five (5) years, or both. Additionally, any member of CSJ so convicted shall be removed from CSJ.

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## GENERAL ADMINISTRATION

### **51.90 General Procedures.**

The following sections relate to the general administration of CSJ and are intended to facilitate the administration of justice by CSJ. CSJ shall conduct its affairs in an open and democratic manner.

### **51.901 Members List.**

Each academic term, a list of CSJ members shall be prepared stating the name, and email address of each CSJ member. The list shall identify the officers of CSJ. This list shall be posted in a prominent place outside the CSJ office and the CSG office, provided to each CSG secretary and receptionist, and sent to the Vice President for Student Services and any other appropriate University officials or offices.

### **51.902 Procedures.**

Copies of all CSJ procedures and forms shall be made readily available in the CSG office and CSJ office.

### **51.903 Hearing Location.**

CSJ shall generally hold its meetings and hearings in the CSG Chambers or a conference room in the CSG office area. The location of all CSJ hearings shall be posted in the CSJ office and CSG office. All open hearings shall be conducted in locations easily accessible to students.

### **51.904 Press Attendance.**

Reporters and any other interested persons who wish to attend any CSJ hearing may do so except where the hearing is closed to protect the student defendant's rights of privacy.

### **51.91 Quorum and Voting.**

The quorum for all meetings of CSJ shall be a majority of those members of CSJ then actively serving on CSJ (as defined in section 51.912 below) except as provided for in sections 51.311, 51.312, and other provisions of this section. The orders specified in sections 51.311 and 51.312 may be issued by the number of justices provided for in those sections. For pre-trial conferences, at least three of the four CSJ justices assigned must be present in order to take any action. For taking an oral deposition as provided for in sections 51.34 through 51.346, only one CSJ justice is required.

### **51.911 Voting.**

All decisions of CSJ (except those actions specifically requiring the approval of a lesser number of CSJ members as provided for in sections 51.311, 51.312, and 51.325) require a majority of the members of CSJ present at the proceeding for approval. The presiding member may vote. Any decision in a disciplinary action originally before CSJ which imposes a penalty shall require an affirmative vote of two-thirds of the CSJ members present.

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## **51.912 Inactive Members.**

Any member of CSJ who will, during the fall or winter term, be absent from Ann Arbor on a continuous basis for more than one month (due to education needs, internships, or other requirements) or will be unable to participate (for more than one month) in CSJ activities due to prolonged injury or illness, may request that CSJ grant him/her inactive status. An inactive member of CSJ will not count toward the quorum requirement and may be temporarily replaced as provided for in section 51.913 below. The inactive member of CSJ shall resume his/her full duties as soon as s/he returns or states an ability to do so. No member of CSJ may remain on inactive status for more than one academic term.

## **51.913 Temporary Appointments.**

If CSJ desires to temporarily replace a member who is on inactive status, CSJ may designate a member of the Elections Court, or a judicial member of the Student Organizations Court to sit as an acting member of CSJ. Any acting member of CSJ so appointed shall serve until the CSJ member on inactive status returns to active status and shall count toward the quorum requirement of CSJ.

## **51.92 CSJ Officers.**

The officers of CSJ shall be elected from among the members of CSJ following the appointment of new members each term. To be elected, each officer must receive the support of a majority of those members of CSJ present. The officers of CSJ and their duties are enumerated in sections 51.921 through 51.924 below.

### **51.921 Chief Justice.**

The Chief Justice of CSJ shall be the principal representative and spokesperson for CSJ. The Chief Justice shall be responsible for managing the efficient administration of justice by CSJ, and shall allocate the judicial and administrative functions of CSJ among all the officers and members of CSJ. The Chief Justice may preside at all hearings in which s/he participates.

### **51.922 Associate Chief Justice.**

The Associate Chief Justice of CSJ shall assist the Chief Justice in his/her responsibilities and undertake those responsibilities which the Chief Justice shall delegate after consultation with the Associate Chief Justice. The Associate Chief Justice shall preside at all hearings in which s/he participates where the Chief Justice is absent or has chosen not to preside.

### **51.923 Administrative Justice.**

The Administrative Justice shall be responsible for maintaining the records and case files for CSJ, issuing all notices, and publishing the orders and opinions of CSJ. The Administrative Justice shall provide for the recording of all CSJ proceedings. The Administrative Justice will ensure that copies of the [CSJ Reports](#) are published, made available, and are as current as possible.

## **51.93 Meetings.**

Meetings of CSJ may be called by the Chief Justice, Associate Chief Justice, or any other three members, or as provided for in this Manual. Notice of all meetings of CSJ shall be given to all

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members, except as provided for in sections 51.311, 51.312, and 51.325 of this Manual.

## **51.932 Responsibilities of Members.**

All members of CSJ are expected to attend the regular meetings of CSJ, full hearings of CSJ, and the pre-trial conferences to which they are assigned. A CSJ member may be excused from attending such meetings by CSJ when that member shows a reasonable cause for that absence. A member of CSJ who misses more than two such meetings without an excuse approved by CSJ shall be recalled by CSJ.

## **51.94 Financial Procedures.**

All funds allocated for CSJ operations by CSG shall be disbursed and accounted for as provided for in Article V of the Compiled Code. CSG shall allocate to CSJ sufficient funds to efficiently operate the Judiciary.

## **51.941 Budget.**

The officers of CSJ shall prepare a budget for CSJ, the Election Court and the Student Organizations Court and submit that budget to the Treasurer of CSG prior to June 30 of each year. The budget should cover the period from September 1 of that year until August 31 of the next year. The budget should include monies for all costs of copying, producing forms, and any other supplies need by the student judiciaries.

## **51.942 Disbursement Authority.**

If CSJ is given authority to disburse funds or incur debts, that authority shall be restricted to the Chief Justice and Associate Chief Justice who shall arrange to jointly control all such transactions. All transactions will be conducted through the Accounting System of CSG and the University. All such bonding and other safeguards as are required of financial officers under the provisions of Article V of the Compiled Code shall be required for any CSJ financial transactions.

## **51.943 Fines.**

Any fines collected by CSJ shall be dealt with by CSJ as provided for in sections 51.771 and 51.772.

## **51.95 Offices.**

CSG shall provide CSJ with an office in or immediately adjacent to the offices of CSG. CSG shall also provide CSJ with the use of the CSG Chambers or other suitable space for conducting hearings at those times that CSG is not itself meeting. The CSJ office shall be provided with sufficient filing cabinets and other furniture to carry out CSJ's functions under the provisions of this Manual. The CSJ office shall be in a room which provides good security for all CSJ documents and equipment.

## **51.951 Keys and Access.**

Each member of CSJ shall be issued keys to the CSJ office and to an individual filing space in that office. The Chief Justice of CSJ shall provide the CSG Administrative Secretary with a list of CSJ members who should receive keys.

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## **51.952 Equipment.**

All office equipment, recording equipment, and other supplies of CSJ shall remain in the CSJ office unless those items are in current use by CSJ members. An inventory of CSJ office and recording equipment shall be maintained by the Administrative Justice and a copy will be filed each year with the CSG Administrative Secretary.

## **51.96 Prosecutorial Responsibility.**

Charges of violations of this Manual for which penalties are provided shall be initiated and prosecuted by the Student General Counsel of CSG of his/her delegate (see Article II, Section E of the Compiled Code). Private parties may also initiate disciplinary actions to enforce rules for which penalties are provided. CSJ may request that the Student General Counsel and his/her staff investigate possible violations of this Manual (specifically of sections 51.44, 51.77 through 51.776, and 51.88 through 51.886). CSJ shall not prosecute any actions before a judiciary.