

# SSMU Judicial Board Procedures

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## **Definitions**

“action” as used in these Procedures refers to proceedings filed on petition or appeal to the SSMU Judicial Board;

“Constitution” shall be defined as the Constitution of the Students’ Society of McGill University;

“days” as used in these Procedures do not include weekends (Saturday and Sunday) or holidays (civic and academic);

“members of the Students’ Society of McGill University” shall be defined under Article 1 of the Constitution of the Students’ Society of McGill University, unless its definition is the point of dispute in an action brought before the SSMU Judicial Board;

“SSMU” shall be defined as the Students’ Society of McGill University;

## **General**

1. The Judicial Board is a dispute resolution body of the SSMU empowered to hear appeals and try facts in accordance with its jurisdiction under the Constitution.
2. The Judicial Board follows the principles of natural justice, including equity and good conscience pursuant to art. 30.2 of the Constitution.
3. Only members of the SSMU, not paid for their services, shall act as advocates for parties involved in actions before the Judicial Board. Parties are free to represent themselves
4. All electronic submissions to the Chief Justice referred to in these Procedures should be addressed to [jboard@ssmu.mcgill.ca](mailto:jboard@ssmu.mcgill.ca).
5. Any and all questions pertaining to the Judicial Board and its procedures are to be addressed directly to the Chief Justice at the above-mentioned email address.
6. In the event that a Chief Justice has yet to be appointed or he/she is otherwise unavailable, then any justice of the Judicial Board may act on his/her behalf. In the event that no such justices are available, then the SSMU President and/or General Manager may assume the Chief Justice’s non-adjudicative roles.
7. All forms mentioned in these procedures are available on the SSMU’s website and in paper form at the SSMU office.

## **Composition and Quorum**

8. The composition of the Judicial Board is made in accordance with art. 31 of the Constitution.
9. Quorum for the Judicial Board is met with either three, five or seven justices, the majority of whom must have completed four full-time semesters at the Faculty of Law.
10. Pursuant to SSMU’s conflict of interest policy, any justice of the Judicial Board shall withdraw from participating in any action where a conflict of interest exists between them and any party to the action.

## **Jurisdiction**

11. The Judicial Board has authority to adjudicate on matters covered by art. 30.1 of the Constitution
12. By filing of a petition, the party agrees to submit the dispute to the sole jurisdiction of the Judicial Board and agree to be bound by its decision.
13. The Judicial Board shall decide as a preliminary matter, within forty-eight hours after receiving the Petitioner’s declaration, whether it has jurisdiction to hear an action brought before it.

14. The Board will not entertain petitions which are frivolous, vexatious or of inconsequential merit or outside its jurisdiction.

## Preliminary Procedures

15. Unless expressly indicated otherwise, a duly-completed Form P-1 “Notice of Petition” must be sent by email to the Chief Justice and filed in paper form at the SSMU office no more than five days after:
  - a. the event that is the cause for the petition; or
  - b. learning of the event that is the cause for the petition.
16. The Chief Justice undertakes to serve notice of the petition upon the Respondent, and inform all parties that the Student Advocacy Office is available to offer assistance.
17. Submission of the P-1 Form constitutes launching an appeal or a petition.

## Petitioners

18. Within five days after the filing of Form P-1, the Petitioner must submit to the Chief Justice an electronic copy and file at the SSMU office three paper copies of:
  - a. all relevant documents in their entirety (except the Constitution and SSMU By-Laws);
  - b. their declaration containing the written arguments of the Petitioner conforming to the following format:
    - i. *Allegation of facts*: What happened? Who did what? What were the relevant dates of any, for example, communications, decisions, official Council motions?
    - ii. *Procedures already followed*: Why is it not possible for this petition to be resolved by the parties without intervention from the Judicial Board? Have all other possible avenues for dispute resolution been exhausted? If not, why not?
    - iii. *What does the Petitioner want (remedy sought)*? The Petitioner must state clearly what he or she wants e.g. Order of Council overturned, an act by an officer declared unconstitutional, an interpretation of the Constitution or SSMU By-Laws in reference to a specific fact situation.
    - iv. *Reasoned argument*: What is the basis of jurisdiction for the Judicial Board? Why should the Judicial Board award the Petitioner what he or she wants? What specific statutory provisions are involved and/or have been violated? How do the facts as alleged constitute a violation? How should the statutory provisions be interpreted according to the Petitioner?
19. Declarations shall be limited to twenty pages, not including cover page, table of contents, authorities and appendices. A party may only surpass this page limit upon request, in writing, and after approval by the Judicial Board.

## Respondent

20. If the Judicial Board decides to accept the petition, it shall invite the Respondent(s) to submit their position on the dispute by duly completing Judicial Board Form R-1 “Position of Respondent” and declaration, following the same format as for the Petitioners. Such a response must be filed no more than seven days after the invitation of the Judicial Board.
21. The Respondent must deliver an electronic copy of Form R-1 to the Chief Justice and file three paper copies at the SSMU office. The Chief Justice undertakes to forward the Respondent’s declaration to the Petitioner.

## Intervenors

22. Following the submission by the Respondent, an invitation shall be extended by the Judicial Board through the campus media to anyone wishing to intervene in the dispute by duly completing Judicial Board FORM I-1 “Application for intervention” and submitting an electronic copy to the Chief Justice no more than three days following first publication of notice.
23. The Judicial Board may recognize intervening parties only where those parties are necessary for a complete solution to the questions in issue. Intervenors will be notified by the Chief Justice whether they have been accepted as intervenors within a reasonable time.
24. Intervenors may decide to make oral at the hearing or written submissions in advance or both. In the case of written submissions, they must be sent to the Chief Justice no later than three days before the hearing.

## Mediation

25. With the consent of the Petitioner and the Respondent(s), any justice(s) may preside over a mediation session designed to amicably resolve the dispute without proceeding to a hearing.
26. The presiding justice(s) shall not have any adjudicative role or decision-making power in the mediation session.

## Preliminary Conference

27. The parties to the dispute and members of the Judicial Board shall then meet in a preliminary conference and discuss a number of issues informally, including but not limited to:
  - a. agreement on non-contentious facts of the dispute;
  - b. stipulation of witness testimony;
  - c. amendment of petition or respective declaration(s);
  - d. explanation of hearing procedures; and

- e. setting a date for the hearing.

## Hearing rights and procedures

- 28. Hearings are open to the public, limited only by space restrictions in the designated hearing room or the discretion of the Judicial Board.
- 29. The Judicial Board has the power to remove anyone from the Hearing if they are disruptive, threatening, or offensive.
- 30. No audio and /or visual recordings shall be taken during the hearing, although parties may take notes as necessary.
- 31. Judicial Board Hearing is loosely modelled on a Human Rights tribunal. As such, members of the Judicial Board may ask questions directly to witnesses, parties, and/or advocates.
- 32. Members of the Judicial Board shall dress in formal business attire for all hearings. There shall be no dress requirement for parties to the dispute or their advocates.
- 33. As a general model, the procedure for the hearing shall be as follows:
  - a. The Chief Justice shall introduce the members of the Judicial Board and shall outline the rules of the hearing.
  - b. The Petitioner, followed by the Respondent, may make an opening statement to introduce the nature of the application and the facts of the case for no more than five minutes.
  - c. The Petitioner shall present and question his witnesses and shall tender evidence. The Respondent shall then present and question his witnesses and shall tender evidence. If applicable, the Intervenor(s) shall also present and question their witnesses and shall tender evidence.
  - d. The Respondent/Petitioner may cross-examine the other parties' witnesses.
  - e. The Intervenors shall not be allowed to cross-examine witnesses.
  - f. The parties shall then proceed with oral arguments for no more than twenty minutes.
  - g. The members of the Judicial Board may intervene at any time to ask questions of an advocate, party, or witness.
  - h. The Petitioner, followed by the Respondent, may make a closing statement and/or rebuttal for no more than ten minutes. No new evidence may be introduced during the closing statement.

## Interim Orders

- 34. A party may file a separate request for an interim order.
- 35. The Judicial Board may make interim orders. Interim orders shall be binding on all parties, and on all persons advised of the order who are subject to the authority of the Judicial Board.

36. The Judicial Board may convene a hearing to decide upon an interim order. The Board may also determine the issue based solely on the written submission.
37. The Judicial Board shall decide upon the merits of an application for an interim order as soon as reasonably possible. This decision may be made by no less than three members of the Board.

## **Disposition**

38. The Judicial Board has the power to order such remedies as conform with art. 30.3 of the Constitution.
39. Following oral arguments, the members of the Judicial Board may recess the proceedings to determine if they can render a decision at the hearing. The Board may render its decision at the hearing and provide written reasons to the parties at a later date, or it may reserve judgment. In latter case, the Judicial Board should submit its written judgment within fifteen days after the hearing.
40. An electronic version of the decision shall be placed on the SSMU website and serve as official copy. The decision shall be kept on file in the office of the SSMU.

## **Appeals**

41. Pursuant to Article 30.4 of the SSMU Constitution, a party may request an appeal of the final decision to the SSMU Board of Directors
42. The appeal must be lodged to the Chair of the Board of Directors within seven days of release of the final written decision. Pursuant to the Board of Directors' procedures for appeal, it shall include all supporting documentation, including but not limited to pieces of evidence and written reasons for the appeal.
43. Appeals arising from interim orders or interlocutory decisions shall not be heard separately from the appeal of the final decision.

## **Miscellaneous**

44. The English version of all Judicial Board decisions is considered valid and authoritative. A party or intervening party to the petition may request a French copy to the Chief Justice of the Judicial Board, which will be available within three days of the request.
45. Any modifications to these procedures must be approved by SSMU Council pursuant to the Constitution.