

Student Election Commission Rules of Procedure

Adopted by Order of the Student Judiciary SJ Res 12-12

Cite as “Rule X, *Student Election Commission Procedures (2005)*”

Part One: General Provisions

Rule 1 – Title. These rules shall be known as the “Student Election Commission Rules of Procedure” and may be cited individually by specific rule number or collectively either by their title or as the “SEC ROP.”

Rule 2 – Scope and Authority. These rules shall apply to any and all business conducted by the Student Election Commission when exercising its delegated authority to oversee student elections and all persons with business before the Student Election Commission at such time shall be bound these rules, subject to sanctions of Rule 6. Should any rule or clause be rescinded or otherwise voided, no other rule or clause shall be effected. No rule shall be enforced in a manner contrary to the ASM Constitution or By-laws.

Rule 3 – Definitions and Construction.

(a) The following definitions are in place throughout these rules:

- (1) “ASM” refers to the Associated Students of Madison, or the official organs thereof;
- (2) “Commission” refers to the Student Election Commission;
- (3) “Commissioner(s)” refers to those persons appointed by the Student Judiciary to serve on the Student Election Commission, and to the student justice appointed to be the Vice-Chair of the Commission, but does not include the student justice appointed to be Chair of the Commission;
- (4) “Candidate(s)” refers to a person who has submitted a valid candidacy declaration form and who is seeking election to an elected office in the ASM;
- (5) “Court” refers to the entire Student Judiciary, or a panel or committee thereof, excluding the Student Election Commission, when exercising any authority granted to or reserved by it;
- (6) “Election” includes both regular Fall and Spring elections, and any special elections, unless otherwise indicated;
- (7) “Election Season” refers to the period commencing with the deadline for submitting candidate declaration forms and petitions for initiative, referenda, amendment, or recall, up until the close of voting;
- (8) “Election Rules” means the substantive rules adopted by the Commission governing the election related activities of candidates and sponsors during an election season;

- (9) "Initiative" refers to a petition submitted to be placed on the ballot in accordance with the ASM Constitution seeking to amend the By-laws of the ASM;
 - (10) "Referendum" refers to a petition submitted to be placed on the ballot in accordance with the ASM Constitution seeking to express the will of the entire membership of the ASM, the plural of which is "referenda;"
 - (11) "Recall" refers to a petition submitted to be placed on the ballot in accordance with the ASM Constitution seeking to remove an officer of the ASM from his or her office;
 - (12) "Amendment" refers to any petition filed in accordance with the ASM Constitution seeking to amend that document;
 - (13) "Sponsor(s)" refers to the person, natural or artificial, who have filed petitions for initiatives, referenda, amendment, or recall during the current election season
- (b) The definitions contained in Rule 3(a) of the Student Judiciary Rules of Procedure as amended, or the parallel provision in any later set thereof, are hereby in effect for these Rules, unless a word, term, or phrase has been explicitly modified by these Rules.
 - (c) These rules shall be construed to promote fairness, equality of opportunity, and substantial justice for all persons with business before the Student Election Commission.

Rule 4 – Open Forum

- (a) The right of ASM members to be heard at all public meetings of the Commission is inviolate; as such, the institution of Open Forum shall be preserved.
- (b) At every public meeting of the Commission, any member of the ASM may by right speak on any topic for a period of three minutes; such period may be extended by a majority vote of the Commission. Persons who are not members of the ASM may speak on any topic by leave of the Commission, done by a two-thirds vote.
- (c) Any vote taken under this rule shall not be deemed an exercise of the Commission's delegated authority to oversee elections, unless, by written resolution adopted at a duly noticed public meeting, the Student Judiciary otherwise directs.

Rule 5 – Publishing Orders and Official Acts. Any official act of the Commission constituting an exercise of its delegated authority to oversee elections shall be accompanied by a written report, memorandum, or opinion setting for the reasons and justifications for such order. The report, memorandum, or opinion shall be endorsed by the Chair of the Commission and shall be unsigned, unless, by written resolution, the Commission has adopted the practice of signing and publishing such in the manner required by Rule 5 of the Student Judiciary Rules of Procedure. No concurring or dissenting opinions shall be noted, unless the Commission otherwise allows pursuant to a written resolution adopted at a duly noticed public meeting.

Rule 6 – Sanctions

- (a) The failure of any person, including the Commissioners, to abide by these rules shall be grounds for sanctions. Any sanctions imposed must be reasonable and proportionate to the offense, and sufficient to deter further violations.
- (b) Sanctions under this Rule may only be made by the Student Judiciary.
- (c) Should the Commission determine that a violation warranting sanctions has occurred, it shall submit a proposed Order for Sanctions to the Student Judiciary, which shall publish the same if a majority of the student justices, excluding the Chair and Vice-Chair of the Commission, find clear and convincing evidence of such a violation.

Rule 7 – From time to time the Student Judiciary may suspend these rules in whole or in part, by adopting a written resolution by two-thirds vote at a duly noticed public meeting. Neither the Commission, nor any member of it, shall have authority to suspend these rules and the Student Judiciary may not delegate its authority to suspend under this Rule.

Rule 8 – Posting. These rules shall be posted in the same manner as the Student Judiciary Rules of Procedure.

Part Two: Structure and Authority of the Commission

Rule 9 – Authority Delegated to the Commission. The Student Judiciary delegates to the Commission the full extent of its authority under the ASM Constitution to oversee student elections, provided that the Commission shall not exercise such authority in a manner contrary to the Constitution and laws of the ASM. At any point and for any reason, the Student Judiciary may exercise any such authority directly.

Rule 10 – Membership.

- (a) The Commission shall be composed of a Chair, a Vice-Chair, such Commissioners as the Student Judiciary may from time to time appoint, and all other employees hired by the Commission.
- (b) The Chair of the Commission shall not be a Commissioner, but the Vice-Chair shall be deemed a commissioner for purposes of these rules.
- (c) Any student justice may act as a commissioner at any time; when doing so, the student justice shall be deemed a commissioner pro tem, and shall have all rights and privileges of a commissioner.
- (d) No person other than the Chair, the Commissioners, and the Commissioners pro tem, shall participate in the governance or management of the Commission.

Rule 11 – Quorum. Quorum of a meeting of the Commission shall be the presence of the Chair and a majority of the Commissioners, excluding any Commissioners pro tem.

Rule 12 – Voting. Whenever the Commission is exercising its delegated authority to oversee student elections, no motion shall carry unless it receive the votes of a majority of the

commissioners and commissioners pro tem present and voting, and the Chair agrees to the act. The Chair may at any time end discussion and table, definitely or indefinitely, any question involving the exercise of the Commission's delegated authority to oversee student elections.

Rule 13 – Meetings. The Commission shall meet at stated regular intervals during each semester, and may call such special meetings as it deems fit. All meetings must comply with the ASM By-laws and Wisconsin Open Record and Open Meetings law, as well as with any other rules required by the Student Judiciary. The Commission shall adhere to a previously published agenda, and shall follow a loose interpretation of Robert's Rules of Order, unless in conflict with these rules.

Rule 14 – Rights to Speak. Any member of the Commission, or any member of the Student Judiciary shall have full rights to speak at all meetings of the Commission. A candidate or sponsor shall have speaking rights at any time the Commission is discussing his or her candidacy or petition. All other persons may speak consistent with the provisions of Rule 4 of these rules.

Rule 15 – Powers of the Commission.

- (a) The Commission shall have full authority to exercise any power delegated to it.
- (b) The Commission shall determine who meets the criteria to be a candidate in each election
- (c) The Commission shall determine which petitions for initiatives, referenda, amendment, or recalls, meet the criteria to be placed on the ballot. For each petition submitted, the Commission must publish a written justification of its decision to place or not place such petition on the ballot within 24 hours of its decision. The written justification shall be in accord with Rule 5 of these rules and shall be forwarded to the sponsors, to the Chairs of the Student Council and SSFC, and to the student justices.
- (d) The Commission shall oversee the elections by adopting and publishing election rules and regulations.
- (e) The Commission shall prosecute any violations of the elections rules and regulations it adopts by filing a complaint with the Student Judiciary. An act may only be prosecuted under this Rule if the Commission has probable cause to believe that a violation actually occurred.

Part Three: Review of Commission's Acts

Rule 16 – Review Generally. Any exercise by the Commission of any of its powers may be reviewed by the Student Judiciary upon petition by a third-party, or on its own motion.

Rule 17 – Petition to Review *Ultra Vires* Acts.

- (a) Any member of the ASM, or any person affected by an act, may challenge any act of the Commission as being beyond the scope of its authority, as being contrary to the

Constitution and laws of the ASM, by filing a petition to review with the Student Judiciary. Such a petition shall be styled *In Re: [Act Challenged]*.

- (b) At its next business meeting, the Student Judiciary shall hear the petition either during the report of the SEC Chair, or as a special order. Those challenging bringing the petition shall have, collectively, not more than thirty minutes to present the reasons why they wish to challenge the act; the Commission shall have an equal amount of time to defend their act.
- (c) Should a majority of the student justices determine that the act either (1) violated the Constitution and laws of the ASM, (2) exceeded the authority of the Commission, or (3) was otherwise inappropriate, they shall publish an Order in a manner consistent with the Student Judiciary Rules of Procedure granting the petition and vacating the act. The act shall be deemed *void ab initio* and shall have no effect.
- (d) A petition under this Rule shall not be considered a “case” filed with the Student Judiciary.

Rule 18 – Petition to Review Denial of Candidacy.

- (a) Any person denied candidacy under Rule 15(b) may file a petition for review with the Student Judiciary, alleging that the denial was done contrary to the Constitution and laws of the ASM. Such a petition shall be styled *Ex Parte [Challenger’s Name]*.
- (b) At its next business meeting, the Student Judiciary shall hear the petition either during the report of the SEC Chair, or as a special order. Those challenging bringing the petition shall have, collectively, not more than thirty minutes to present the reasons why they wish to challenge the act; the Commission shall have an equal amount of time to defend their act.
- (c) Should a majority of the student justices determine that the denial of candidacy was done in a manner contrary to the Constitution and laws of the ASM, they shall publish an Order in a manner consistent with the Student Judiciary Rules of Procedure granting the petition and placing the person on the ballot.
- (d) A petition under this Rule shall not be considered a “case” filed with the Student Judiciary.

Rule 19 – Petition to Review Initiative, Referenda, Amendment, or Recall Decisions.

- (a) Any person may challenge a decision of the Commission to place or not place a petition for initiative, referenda, amendment, or recall on the ballot on grounds that the act was done contrary to the constitution and laws of the ASM. Such petition shall be styled *In Re [Initiative/Referenda/Amendment/Recall Name]*.
- (b) At its next business meeting, the Student Judiciary shall hear the petition either during the report of the SEC Chair, or as a special order. Those challenging bringing the petition shall have, collectively, not more than thirty minutes to present the reasons why they wish to challenge the act; the Commission shall have an equal amount of time to defend their act.

- (c) Should a majority of the student justices determine that the decision to place or not place the petition on the ballot was done in a manner contrary to the Constitution and laws of the ASM, they shall publish an Order in a manner consistent with the Student Judiciary rules of Procedure granting the petition and reversing the decision of the Commission.
- (d) A petition under this Rule shall not be considered a “case” filed with the Student Judiciary.

Rule 20 – Election Complaints.

- (a) The Student Judiciary shall hear any election complaints filed by the Commission under Rule 15(e) as a case or controversy. Such complaints shall be styled *Student Election Commission v. [Alleged Violator’s Name]* and shall be disposed of consistent with Part Two of the Student Judiciary Rules of Procedure
- (b) Should the Commission decline to prosecute under Rule 15(e) any other person may file a complaint with the Student Judiciary, alleging an election violation. Such complaints shall be styled in the normal manner as all other complaints and shall be handled as though the Commission filed the complaint.
- (c) **Affirmative Defenses** – any person against whom a complaint is filed may raise as an affirmative defense the contention that the rule or regulation violated itself is contrary to the Constitution and laws of the ASM. If the Court agrees, it shall grant judgment to the respondent.