

## CHAPTER FIVE

### SBA JUDICIAL BYLAWS

**Last Updated 11/16/03**

#### PREAMBLE

*The following rules and procedures are enacted in accordance with Article V - Judiciary which states that the SBA Senate may create Bylaws concerning Supreme Court procedures that are consistent with the SBA Constitution. In creating these Bylaws, the SBA Senate wishes to guard against the abuse of judicial authority and expresses its intent that the Supreme Court is limited to only those powers granted to it by the SBA legislative branch via the SBA Constitution and associated Bylaws. Such powers may be amended or removed at a future date through appropriate Constitutional and/or Bylaw amendment(s).*

**I. Title - Judicial Bylaws (Adopted 4/06/03 – SB03-21)**

**II. Constitutional Conformity (Adopted 4/06/03 – SB03-21)**

A. The SBA Judicial Bylaws shall not conflict with the SBA Constitution.

**III. Definitions (Adopted 4/06/03 – SB03-21)**

- A. Certiorari: An extra-ordinary writ issued by a superior court, at its discretion, directing the lower court, petitioner or other entity to deliver the record in the case for review.
- B. Contempt: Punishable conduct that defies the authority and dignity of a court or legislature and interferes with the administration of justice.
- C. Injunction: A court order commanding or preventing an action.
- D. Mandamus: A writ issued by a superior court to a lower court, commission, or a government officer to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly.
- E. Prohibition: An extra-ordinary writ issued by a court to prevent a lower court or commission from exceeding its jurisdiction or prevent a non-judicial officer or entity from exercising its power.
- F. Quo Warranto: A common law writ used to inquire into the authority by which a public office is held or a franchise is claimed.

- G. Sua Sponte – Without prompting or suggestion; on its on motion.
- H. Subpoena: A writ commanding a person to appear before a court or other tribunal, subject to a penalty for failing to comply.
- I. Writ: A court written order, in the name of a state or other competent legal authority, commanding the addressee to do or refrain from doing some specified act.

#### **IV. Judicial Branch Act (Adopted 9/08/96)**

- A. The Supreme Court shall consist of one Chief Justice and four Associate Justices appointed by the SBA President with the advice and consent of two-thirds of the SBA Senate members. **(Amended 4/06/03 –SB03-21)**
- B. A maximum of three (3) Associate Supreme Court Justices shall be from the same graduating class. **(Amended 4/06/03 –SB03-21)**
- C. A member of the Supreme Court may not serve on the Court and simultaneously as a member of the SBA Executive Board, SBA Senate, or the Student Honor Council. **(Amended 4/06/03 –SB03-21)**
- D. The SBA Supreme Court shall meet regularly, at least once a month. The Chief Justice of the Court shall be responsible for setting up this meeting. **(Amended 4/06/03 –SB03-21)**
- E. After the retiring Justices have graduated, their seats shall be considered vacant. The SBA President, in the Fall shall advertise applications to the student body and conduct interviews for the purpose of compiling a list of replacements for the graduated Associate Justices and the Chief Justice of the Supreme Court. Applications must be advertised for at least seven school days. For every judicial vacancy, the SBA president shall have a “back-up” nominee, which may serve as the President’s secondary nomination choice should his/her primary nomination choice be denied. **(Amended 4/06/03 –SB03-21)**
- F. The SBA President shall present his nominations to the SBA Senate. The SBA President shall have the responsibility to ensure that all vacancies (due to the previous Spring graduation of the retiring justices) are filled on the SBA Supreme Court before the end of the Fall Semester. **(Amended 4/06/03 –SB03-21)**
- G. If the number of justices on the court is below the minimum for the SBA Supreme Court to function, then the SBA President shall have fourteen calendar days, from the date of when the last justice resigned, graduated, or otherwise left the court, to present a judicial nominee to the SBA Senate for confirmation. Failure to present a nominee within this timeframe would constitute dereliction of executive duties and grounds for ethical sanctions. **(Amended 4/06/03 –SB03-21)**

- H. If the Senate rejects a nominee, the SBA President shall have an extension period of seven days to present another nominee. The President shall be allowed only one automatic extension. **(Amended 4/06/03 –SB03-21)**
- I. Should the Senate reject his/her nominee, after the SBA President has used his automatic extension, then the President must request that the Senate grants an additional extension. Additional extensions shall be granted only if two-thirds majority of the Senate, present and voting, agrees on such action. Should the Senate deny an additional extension, then the SBA President can not be considered to have failed in his/her duty to fill the Supreme Court vacancies. Moreover, no Senator shall be allowed to invoke a Motion of Impeachment against the President if an additional extension has been denied. **(Amended 4/06/03 –SB03-21)**
- J. The confirmation of all SBA Supreme Court Justices shall follow the Judicial and executive appointment process as outlined in Chapter Four of the SBA Statutory Bylaws. **(Amended 4/06/03 –SB03-21)**
- K. A nominee to the Supreme Court is required to be in good standing to qualify for nomination and must not be on academic/disciplinary probation at the time of his appointment nor at any time during his/her entire term in office. **(Amended 2/06/00)**
- L. All petitions submitted for review to the SBA Supreme Court must be made in accordance with all procedures established by the SBA Constitution and the SBA Statutory Bylaws. **(Amended 4/06/03 –SB03-21)**

**V. Powers of the SBA Supreme Court (Adopted 2/06/00)**

A. Judicial Review

1. The SBA Supreme Court will have the power to hear all judicial cases when a simple majority of the appointed, confirmed justices are present. **(Adopted 2/06/00)**
2. The Supreme Court does not have *sua sponte* powers to review any action of the SBA. Any review must follow a valid action before the court pursuant to the prevailing rules for bringing such action of petition. **(Adopted 2/06/00)**
3. The SBA Executive Branch shall enforce and respect all decisions, writs and orders of the SBA Supreme Court. **(Amended 4/06/03 – SB03-22)**

B. Jurisdiction **(Adopted 4/06/03 – SB03-22)**

1. As outlined in Article V., Section 2 of the SBA Constitution, the authority of the Supreme Court shall extend to all judicial cases arising under the SBA Constitution, the SBA Bylaws, ICC Bylaws, official actions of elected and appointed SBA Officers, and any matters delegated to the Court by the SBA Senate. The Supreme

Court shall not hear any cases involving any issues not directly related to the aforementioned areas.

2. The Court shall have the authority over all alleged Financial Bylaws violations, including, but not limited to holding those individuals responsible for the Financial Bylaws violations personally liable.
3. The SBA Supreme Court shall have appellate jurisdiction:
  - a. In all cases and controversies involving decisions rendered by the SBA Election Commission.
  - b. In all cases and controversies involving decisions rendered by the ICC President and the ICC Chairman.
4. The SBA Supreme Court shall have original jurisdiction in all other cases and controversy not specified in the SBA Supreme Court's appellate jurisdiction.

C. Judicial Relief Powers: **(Adopted 4/06/03 – SB03-22)**

1. The SBA Supreme Court shall have the power to issue writs and impose injunctive relief.
2. The writs of judicial relief for the SBA Supreme Court shall be limited to the following :
  - a. Injunction
  - b. Prohibition
  - c. Mandamus
  - d. Quo Warranto
  - e. Certiorari

D. Contempt Powers: **(Adopted 4/06/03 – SB03-22)**

1. The Court shall have the power to cite the defendant counsel, opposing counsel, all parties at interest, a witness, or a spectator for contempt of court and shall have the authority to cash the \$50.00 bond check for any cited incident of contempt.
2. Failure to obey the notice to appear without good cause being shown, shall constitute contempt of court.
3. The Court shall have the power of subpoena over all students having interest or effect in matters before the Court. Failure to obey a subpoena shall be contempt, punishable as provided in statute.

**VI. Petitioning the Court (Adopted 9/08/96)**

- A. Only students may file an action with the SBA Supreme Court. **(Amended 11/16/03 – SB03-51)**
- B. The Chief Justice shall initially receive the filed complaint. Alternatively, the petitioner can file his/her brief with the Dean of Students Office, who shall notify and forward a copy of the complaint to the SBA Chief Justice. **(Amended 11/16/03 – SB03-51)**
- C. The petitioner's complaint shall be in brief format containing the following requirements **(Amended 11/16/03 – SB03-51)**:
1. The brief must be double spaced and typed in 12 point Times New Roman font.
  2. The full name and organizational title (if applicable) of the petitioner shall appear on the cover of the brief with the word "versus" inserted in between the full name and organizational title (if applicable) of the respondent.
  3. Brief must list the names and contact information of all parties involved in the complaint and, if currently available, the contact information of the case manager(s) (a.k.a student legal representative).
  4. The cause of action or relief being sought by the petitioner from the Court.
  5. A factual background surrounding the request.
  6. A summary of all arguments as well as the full arguments detailing the basis for the petitioner's cause of action or relief sought.
  7. A conclusion.
  8. List any exhibits, sworn statements or evidence which shall aid the Court in rendering a decision.
- D. The respondent's response shall be in brief format adhering to the following requirements **(Amended 11/16/03 – SB03-51)**:
1. The Brief must be double spaced and typed in 14 point Times New Roman font.

2. The full name and organizational title (if applicable) of the petitioner shall appear on the cover of the brief with the word “versus” inserted in between the full name and organizational title (if applicable) of the respondent.
  3. Brief must list the names and contact information of all parties involved in the complaint and, if currently available, the contact information of the case manager(s) (a.k.a student legal representative).
  4. Specifically respond to the cause of action or relief being sought by the petitioner from the Court.
  5. A factual background surrounding the request.
  6. A summary of all arguments as well as the full arguments detailing the basis for denying the petitioner’s cause of action or relief sought.
  7. A conclusion.
  8. List any exhibits, sworn statements or evidence which shall aid the Court in rendering a decision.
- E. All Students must submit a \$50.00 bond check with his/her complaint brief and response brief. Barring any citation of contempt, \$50.00 bond check shall be returned to petitioner either at the end of trial or at the dismissal of the petitioner’s complaint. Upon demonstration of economic hardship, the \$50.00 bond check requirement can be waived by a simple majority vote of the SBA Supreme Court Justices. **(Amended 4/06/03 – SB03-23)**
- F. To hear a case, there must be at least three justices of the Court. A majority vote of the justices present on the tribunal shall be required to render a decision. **(Amended 4/06/03 – SB03-23)**
- G. In matters within the Court’s original jurisdiction, all SBA members shall have one full year, from the date in which the event of grievance took place, to file a complaint with the SBA Supreme Court. Any complaint, which is within the court’s original jurisdiction, that passed the statute of limitation, not will be reviewed by the Court. **(Amended 1/25/01 – SB00-01)**
- H. Individuals or entities may be represented before the SBA Supreme Court by any UM law student(s) of his/her/their choosing. The names and contact information of the individual or entity’s case manager(s) must be provided to the Chief Justice within forty-eight hours after certiorari has been granted. **(Amended 4/06/03 – SB03-23)**

**VII. Advisory Opinions (Adopted 11/16/03 – SB03-51)**

- A. Only students may file an Advisory Opinion request with the SBA Supreme Court. No member of the faculty, staff or administration has standing to make an advisory request to the Court.
- B. The Chief Justice, shall initially receive the filed request.
- C. There shall be no bond check requirement for the Supreme Court to review an Advisory Opinion request.
- D. The advisory opinion request shall be in brief format containing the following requirements:
  - 1. Brief must be doubled spaced and typed in 12 point Times New Roman font.
  - 2. A list of the names and contact information of all parties involved in the request.
  - 3. Brief must present the issue(s) or question(s) which the Court is to make an advisory opinion.
  - 4. A factual background surrounding the request must be included in brief.
  - 5. List any exhibits or evidence which shall aid the court in issuing an opinion.
- E. All advisory opinions shall be considered limited (non-binding) authority.

#### **VIII. Time Limits (Adopted 9/08/96)**

- A. The Petitioner shall file a brief to the court alleging his/her complaint(s) and serve a copy of his/her brief on the respondent(s). Once a complaint has been filed, the responding party shall have three calendar days (seventy-two hours) to submit a response brief to the Court and forward a copy of his/her brief to the petitioner. **(Amended 11/16/03 – SB03-51)**
- B. Once a the respondent's reply brief (or the petition has been filed, the Supreme Court shall have two calendar days (forty-eight hours) to decide whether to grant or deny certiorari. Although it is presumed that petitions filed with the Court deserve a hearing, the majority of sitting justices may sua sponte deny certiorari and effectively dismiss complaints that are without merit. Complaints without merit shall only be defined as complaints which do not have conflicting issues of facts or SBA law. Complaints where there are

conflicting issues of fact and SBA law can not be considered without merit and certiorari must be granted. **(Amended 11/16/03 – SB03-51)**

- C. Only cases where certiorari was granted shall be considered SBA case law and binding precedent. All cases which are declared without merit by the SBA Supreme Court, shall be considered non-binding authority. **(Amended 11/16/03 – SB03-51)**
- D. If certiorari is granted, then a hearing must be held within seven calendar days after the order granting certiorari is issued. Interested parties must receive at least seventy-two (72) hours notice prior to the hearing. Within this seventy-two hours period, the Chief Justice shall schedule a pre-hearing conference with the parties and their case manager(s) for the purpose of final discovery and to resolve any further pre-hearing issues (i.e.: in camera evidence, format of hearing, etc.) Notice of hearings must be prominently posted and at least one global e-mail must go out to the campus. Hearings shall be open for the general public to observe. **(Amended 11/16/03 – SB03-51)**

#### **VI. Hearing Procedure (Adopted 4/06/03 – SB03-23)**

- A. The Chief Justice shall preside over all hearings of the SBA Supreme Court. In the absence of the Chief Justice, the Senior Associate Justice shall preside over the hearing.
- B. The Chief Justice shall be responsible for insuring that no rights are violated, for maintaining order, ruling on objections, and for expediency of business before the Court.
- C. The Chief Justice shall call the hearing to order. Afterwards, the Chief Justice shall move to hear the complaints from the parties.
- D. The Petitioner or his designee shall address the court first and he/she shall have 20 minutes for his/her presentation and 5 minutes for hi/her rebuttal. The Petitioners shall openly and clearly present before the Court, his/her case and present any germane information, in addition to his/her brief, that he/she feels is pertinent to prove his case.
- E. The Respondent shall or his designee shall address the Court after the Petitioner and he/she shall have 25 minutes for his/her presentation. The Respondent shall state whether he/she confirms or denies the allegations stated by the Petitioner, by presenting any information, in addition to his/her brief, that he/she feels is pertinent to his case.
- F. Neither party shall be allowed to reference or submit any new evidence after the submission deadline. Any such action shall be deemed as contempt of Court.

- G. Once both parties have given their presentations, the Court may extend the time limit to ask further question.
- H. Once time has expired, the Chief Justice shall move to adjourn and retire for deliberations.
- I. Decisions of the Court should be prominently posted within 72 hours after the close of a hearing. If that deadline ends on a weekend or school holiday, the decision shall be posted on the morning of the first week day not a school holiday. Decisions shall also be available to the general public.

**VII. SBA Supreme Court Chief Justice (Adopted 4/06/03 – SB03-24)**

- A. The Chief Justice shall be the highest office on the Court and act as the main administrator of the SBA judicial branch.
- B. The Chief Justice shall be appointed by the SBA President, with the advise and consent of the present and voting members of the SBA Senate, and serve in his/her position until his/her resignation or graduation.
- C. The Chief Justice of the Supreme Court shall:
  - 1. Preside over all regular meetings of the judiciary. Presiding over the Court shall in no way restrict the voice, vote, or other privileges of a justice.
  - 2. Running the meetings and arrange the docket for said meetings.
  - 3. Have first speaking rights in all issues.
  - 4. Assign majority, dissenting, and concurring opinions.
  - 5. Create agendas for Court meetings.
  - 6. Rule on objections.
  - 7. Appoint committees and assign members to them.
  - 8. Screen all press related materials and supervise the Clerk of the SBA Supreme Court.
  - 9. Prepare and present a report on all of the Chief Justice's activities.
  - 10. Be the administrative head of the Court and its appointed personnel.

11. Exercise the Contempt powers of the SBA Supreme Court. A majority of the Court can overturn the Chief Justices Contempt powers.

12. Any duties deemed necessary by a majority of the Court.

**VIII. SBA Supreme Court Senior Associate Justice (Adopted 4/06/03 – SB03-24)**

- A. There shall be a Senior Associate Justice of the SBA Supreme Court who shall serve as the second highest officer of the Court.
- B. The Senior Associate Justice shall be the Justice with the most seniority and who has served on the Court the longest.
- C. The Senior Associate Justice of the SBA Supreme Court shall preside in the absence of the Chief Justice of the SBA Supreme Court.
- D. If the Chief Justice is unavailable then the Senior Associate Justice of the SBA Supreme Court shall assume the responsibilities of the Chief Justice, until such time when the Speaker is available.
- E. In the event of a vacancy in the Chief Justiceship, the Senior Associate Justice shall assume the duties and powers of the Chief Justice until a new Chief Justice is appointed by the SBA President.
- F. The Senior Associate Justice shall retain Supreme Court membership and all rights thereof.
- G. If there is more than one Justice who has served the longest, then seniority shall be determined by the order of confirmation by the Senate.
- H. If a Justice leaves the SBA Supreme Court, but is appointed back to the Court, then he/she shall maintain his/her seniority.

**IX. The Clerk of the SBA Supreme Court (Adopted 4/06/03 – SB03-24)**

- A. There shall be a Clerk of Supreme Court, who shall be a non-senator and a non-executive branch member, appointed by the Chief Justice (or the Senior Justice in the absence of the Chief Justice), who shall serve until replaced by the Chief Justice or by a majority of the Justices of the Court.
- B. Duties:

1. The Clerk shall organize and maintain Supreme Court Records including minutes, attendance rolls, Supreme Court decisions, complaints and responses of the parties, and other materials as required or delegated by the Chief Justice or by the Court. The Clerk shall make necessary copies and assist the Justices and SBA members who request information about SBA Supreme Court rules and records.
2. The Clerk shall assemble agenda packets prior to Supreme Court meetings and hearings, and provide minutes to the Chief Justice for Senate approval on a timely basis.
3. The Clerk shall notify the Justices of Court meetings and hearings.
4. The Clerk shall have no vote.
5. The Clerk shall perform additional duties as the Chief Justice of the SBA Supreme Court shall request, not in conflict with this Constitution.

#### C. Compensation

1. The Clerk may receive a stipend, not exceeding \$300 per year (or \$150 per semester) for the successful completion of his/her duties and/or services. The amount of the stipend shall be determined by the majority of the SBA Supreme Court Justices and administered to the Clerk by the SBA Supreme Court.
2. The stipend shall come from funds within the SBA Supreme Court budget. The SBA Supreme Court budget shall be set and approved annually by the SBA Senate.

#### X. **Other (Adopted 4/06/03 – SB03-24)**

- A. Bylaws shall be renumbered and re-lettered where appropriate to provide for the proper sequence of numbers and letters.