

# **THE GENERAL JUDICIAL CODE of PROCEDURE**

## **PREAMBLE**

WHEREAS the Constitution and the By-Laws permit the Judiciary to decide the process and procedure of all affairs of the Judiciary

WHEREAS the Judiciary serves to arbitrate matters between undergraduate students in such capacity as designated by the Constitution and the By-Laws

WHEREAS the Judiciary is committed to serving, protecting, and defending students' rights

The Judiciary of the Duke Student Government of Duke University in Durham, North Carolina, enacts the following General Judicial Code of Procedure so as to maintain and protect the proper order of its proceedings.

## **TITLE I. OPERATIONAL DEFINITIONS**

### **SECTION 1. SCOPE**

This Code of Procedure shall add to and detail the specific allocation and provision of powers as granted by the Constitution and By-Laws, but shall neither abrogate nor arrogate privileges or powers outside of those defined by the Constitution and By-Laws. Any powers and privileges not specifically outlined in this Code shall not be construed to limit those self-same powers and privileges.

### **SECTION 2. DATES**

Unless otherwise stated, dates should be calculated to the day as applied in the time zone of Duke University.

### **SECTION 3. WRITTEN NOTIFICATION**

#### **Duke Email**

As is consistent with Duke University's policy, email is the official medium of communication. An email constitutes written notification as long as the email originates from the official Duke email account of an individual or organization. This email should be addressed to all relevant parties, i.e. all parties being notified.

### Paper Documents

A physical paper document that is written in a reasonably immutable format (e.g. by pen or typeset with ink, etc.) may also be accepted at the discretion of the Officer receiving it as written notification, if it is dated and signed by the individual providing it or by an authorized officer if on behalf of an organization. If such a paper document is produced, then it must be properly maintained by the Judiciary and available to inspection by an authorized party. Such a paper document may be converted into a digital format and retained in place of the original paper document. In addition, a party is considered “notified” by such a written document when such a party has been reasonably shown in a manner that permits the awareness of the contents of the document.

### Non-Duke Email

An email from an account that is not the official Duke email account of an individual or organization providing written notification is also acceptable as written notification. If a party disputes the authenticity of an email from a non-Duke email account, the individual may be compelled to reaffirm the original notification through an official Duke email account or by a physical paper document. In such a case, the new written notification serves to only validate the original form of written notification; that is to say, the date of the written notification stands as the date of the original email originating from a non-Duke email account.

### Notification Confirmation

Via email, a party is considered notified by the earlier of the following conditions:

1. The party read the email; or
2. 24 hours after the receipt of the email being sent, unless there are exigent circumstances that in good-faith demonstrate that the email was never received; these circumstances will be evaluated at the discretion of the Judiciary

## SECTION 4. CONSENT of an INDIVIDUAL; CONSENT of a GROUP

### Consent of an Individual

*Consent* of an individual is conclusively given by written notification to relevant parties, but Consent may also be established by explicit verbal assent in the presence of authorized parties or Officers of the Judiciary. However, in the case of contestation, written notification is required to conclusively establish Consent. Such written notification validates verbal assent, but the Consent itself is considered as given at the moment of the verbal consent.

### Revocation of Consent

In cases where Consent can be revoked, if the original Consent was given by verbal assent, then it may be revoked by verbal dissent to relevant parties or written notification; if the original

Consent was given by written notification, it may only be revoked by written notification.

### Consent of a Group

Unless otherwise stated, the Consent of a group of individuals is established by the Consent of a simple majority of such group. However, the Consent of the Judiciary is a specially reserved concept with a definition provided later in this document.

## **TITLE II. MEMBERS OF THE JUDICIARY**

### SECTION 1. JUSTICES OF THE JUDICIARY

Justices are the fundamental unit of the Judiciary as described in the Constitution and By-Laws. They retain all rights, privileges, immunities, and duties as described by the Constitution and By-Laws, and no part of this Code shall be construed to deny, abridge, or abrogate these self-same rights, privileges, immunities, or duties.

#### New Justice Selection Process

1. Candidate Selection
  - a. The Judiciary, overseen by the Chief Justice, shall pool suitable candidates from the Office of the Clerks.
  - b. If the Judiciary finds no suitable candidates within the Office of the Clerks, the Judiciary and SJC shall devise a ‘Solicitation of Candidature’ through an open application which may include resumes, essays, and first round interviews conducted by the Judiciary.
  - c. The Judiciary shall provide a final list of candidates to SJC
2. SJC Preparation
  - a. SJC shall collate an interview panel comprised of any members of SJC, but ideally includes at least two members and the SJC Chair or acting chair.
  - b. The Chief Justice should dispatch a Justice to sit as a non-voting member of the interview panel.
  - c. SJC shall reach out to candidates to schedule interview
3. Candidate Interview and voting
  - a. Interviews with candidates shall be conducted in a way that identifies the candidates aptitude for legal reasoning, ethical thinking and communication skills
  - b. Candidates shall be provided with a chance to ask questions
  - c. Interview panel shall vote to nominate candidate by majority vote
    - i. If yes: candidate becomes ‘nominee’
    - ii. If no: return to step 1

4. 'Nominee' Presentation and Confirmation
  - a. Senate shall vote to confirm nominee by majority vote
    - i. If yes: nominee becomes 'Justice apparent'
    - ii. If no: return to step 3 or step 1 as appropriate
5. Justice Oath
  - a. Chief Justice swears in Justice apparent in presence of Senate

## SECTION 2. THE CHIEF JUSTICE

The Chief Justice serves as the chief officer of the Judiciary. The Chief Justice will preside over all matters of the Judiciary and will be ultimately responsible for representation, transmission, and reception of information to and from the Judiciary. In addition, unless otherwise stated in this Code, the Chief Justice is responsible for notification of decisions on the Judiciary, though this power may be delegated to other Officers and Members of the Judiciary.

The Chief Justice has the exclusive power to:

1. Call sessions of the Judiciary; and
2. Adjourn such sessions; and
3. Preside over all sessions and matters of the Judiciary.

As well as the power to:

4. Report the proceedings of the Judiciary; and
5. Receive information relevant to the proceedings of the Judiciary.

In addition, the Chief Justice shall act as the Fiduciary Officer, responsible and accountable for the disbursement and allocation of money spent by and on behalf of the Judiciary.

## SECTION 3. THE ASSOCIATE CHIEF JUSTICE

The Chief Justice may appoint one Justice as the Associate Chief Justice. The Chief Justice may depose and appoint an Associate Chief Justice at any time, but there can be no more than one Associate Chief Justice. An Associate Chief Justice is considered appointed or removed when having received written notification from the Chief Justice.

## SECTION 4. THE SCHEDULE of SENIORITY

The Seniority of the Justices of the Judiciary shall be determined using the following criteria in descending order:

- A. The Chief Justice
- B. The Associate Chief Justice
- C. Time served on the Judiciary

- D. Expected Graduation Date
- E. Age in Days
- F. Lots (e.g. drawing straws, coin flip) determined once at the time of swearing in

When determining the Seniority between two Justices, a criterion should only be applied if the preceding one on the aforementioned schedule results in a tie.

#### SECTION 5. THE ACTING CHIEF JUSTICE

In the case of the vacancy of the position of the Chief Justice, or in such time as the Chief Justice is unable to perform their duties, an Acting Chief Justice of the Judiciary will take over the duties, privileges, and rights of the Chief Justice. The Acting Chief Justice of the Judiciary shall be determined in one of two following ways (in order of priority):

- A. The unanimous consent of the Justices declaring a Justice as the Acting Chief Justice; or
- B. The next able most Senior Justice

#### SECTION 6. CLERKS of the JUDICIARY

Clerks are responsible for handling and certifying documentation, performing relevant legal operations, and aiding in the preparation of legal records. They perform an important function of maintaining the procedure and operation of the Judiciary.

Clerks may certify documents, attest records, and make verified copies of documents. They may receive paperwork necessary for matters of the Judiciary; they may assist and lend testimony; and they may certify facts and records. Clerks retain such powers specifically enumerated in this Code, which can be abridged by the Consent of the Judiciary.

Clerks are not allowed to vote in matters of the Judiciary, nor render decisions.

Clerks may be nominated by any Justice, and appointed by the Chief Justice. There may be no more than three (3) Clerks per Justice of the Judiciary. Clerks may be dismissed by the Chief Justice; or any by Justice with the Consent of the Judiciary and the Chief Justice.

#### SECTION 7: ADVOCATES

Advocates may be retained by parties involved in legal matters to act as legal aids. Advocates serve to provide additional legal support to parties in navigating and understanding the legal system and terminology.

All parties are entitled to retain Advocates. Advocates are appointed by the Consent of the individual or party, or in exigent circumstances by the Chief Justice. In the absence of an

Advocate, the Office of Public Advocacy can provide a party with a Public Advocate.

## SECTION 8. PUBLIC ADVOCATES

Public Advocates are trained Advocates supplied by the Office of Public Advocacy. Public Advocates may be retained by parties to argue on their behalf, submit paperwork, file affidavits, call motions, and act as a surrogate for an individual or an organization. While anyone may be an Advocate for a party in a hearing, Public Advocates refer exclusively to Advocates working under the Office of Public Advocacy.

## TITLE III. STRUCTURE OF THE JUDICIARY

### SECTION 1. OFFICES OF THE JUDICIARY

The Judiciary shall be divided into four Offices to help facilitate the representation, transmission, and reception of information to and from the Judiciary.

Each Office shall be overseen by a Principal Officer, charged with the upkeep of each office. Each Principal Officer shall be designated, appointed, and disposed of by the Chief Justice. The Principal Officer reports to the Chief Justice and all actions undertaken by a Principal Officer are subject to review by the Chief Justice; the Chief Justice may overturn, preempt, or otherwise modify the actions, privileges, and prerogatives of a Principal Officer insofar as the Principal Officer is acting in the capacity of their Office. The Chief Justice is the *de facto* Principal Officer of the Office of the Chief Justice.

Each Office shall also include Justices on the Bench. The Justices on the Bench shall provide advice and guidance as necessary and act as the liaison between the Office and the Judiciary.

The Offices are:

- a. The Office of the Chief Justice: The face of the Judiciary branch and the primary point of communication.
- b. The Office of the Justices: The head of the Judiciary, responsible for overseeing legal matters, responding to motions and assigning legal work
- c. The Office of the Clerks: Responsible for legal writing and analysis
- d. The Office of Public Advocacy: The external limb of the Judiciary branch. Acts as an independent office to provide Advocates for parties

## **TITLE IV. GENERAL PROCEDURES**

### **SECTION 1. GENERAL POWERS**

The Judiciary has the power to conduct investigations; subpoena evidence and witnesses; authorize the issuance of such writs as it shall require; settle student group disputes; and to discipline student groups, all in accordance with the Constitution.

### **SECTION 2. VOTING MEMBERS of the JUDICIARY**

The Justices are the decision-making body of the Judiciary. Each Justice has one equivalent vote to all other Justices. No other Offices, Memberships, or powers granted to a Justice shall construe any single Justice as having more or less than this one equivalent vote.

Although they may ask the opinion of other Officers or Members of the Judiciary, or from outside parties, Justices alone may vote on matters of the Judiciary

### **SECTION 3. A QUORUM of the JUDICIARY**

A-congregation in person or by virtual means, as called upon by the Chief Justice, of a simple majority of the Justices constitutes a quorum. This is pursuant to the Constitution and the By-Laws. The Judiciary sits as a full body unless as acting otherwise specified in the By-Laws.

While a quorum establishes a legal session of the Judiciary, vote counts should be calculated according to the total number of Justices in the Judiciary, even if some Justices are not considered in attendance of the session.

### **SECTION 4. THE CONSENT of the JUDICIARY, DEFINED**

A majority of the Justices must vote affirmatively during a session of the Judiciary for a particular action or matter for it to be considered as the Consent of the Judiciary.

Although Justices are guaranteed the absolute right to a vote, they may waive their vote on the matter. Therefore, to constitute a majority, the following procedures must be observed:

- A. Every Justice is assumed to be voting, even if not in attendance for the vote in question. However, a Justice may waive the right:
  - a. By notifying the Chief Justice; and
  - b. Such notification is not more than twenty-four (24) hours before the vote; and
  - c. Such waiver applies only to a specific, narrowly-tailored matter; and
  - d. With this waiver applying only to a single session of the Judiciary on the

particular matter

- B. Justices may recuse themselves from a case, or be rescued by the Consent of the Judiciary as provided for in the Constitution and By-Laws.
- C. The total number of voting Justices shall be taken as the total number of Justices (regardless of attendance) minus any Justices who have explicitly waived their right to vote on a particular matter, minus any Justices that are recused.
- D. A majority is defined as the explicit affirmation on a matter of greater than half of the total number of voting Justices; or equivalently, at least one more than the floor function of half of the number of total voting Justices must affirm.
- E. In general, the Consent of the Judiciary as used in this document is considered the majority of Justices.
- F. Heightened Consent as used in this document is considered the affirmation of at least two-thirds ( $2/3$ ) of the total number of voting Justices; or equivalently, at least the number that is the value of the ceiling function of two-thirds ( $2/3$ ) of the total number of voting Justices must affirm.
- G. Unanimous Consent is considered the affirmation of all of the total number of voting Justices for a particular matter.

When a vote is called, there are four voting choices:

- A. Aye: explicit affirmation
- B. Nay: explicit disaffirmation
- C. Reserve judgment: to provide no opinion, but still count as a voting Justice; reserving judgment is not a waiver of the right to vote as defined in this section
- D. Abstain: to provide no opinion and also remove oneself as a voting Justice on the matter; an abstention constitutes an explicit waiver of the right to vote as defined in this section

A Justice cannot change their vote on a matter at a later time.

#### SECTION 5. CALLING for a VOTE of the JUSTICES on a MATTER

Any Justice may ask for the Judiciary to vote on a matter during a session of the Judiciary, whether procedural or administrative, including matters that arise during an Impaneled Judiciary. The presiding officer will call and close the vote. Once a vote is closed, then the no more votes may be registered in the matter. All votes on a matter must be taken during a session of the Judiciary.

#### SECTION 6. THE CONFIDENTIALITY of the PROCEDURES of the JUDICIARY

All deliberations, proceedings, and discussions of the Judiciary are assumed to be confidential unless presented into the public record, or otherwise declared that a particular proceeding of the

Judiciary is not confidential. A proceeding of the Judiciary may be non-confidential:

- A. By the Consent of the Judiciary for a particular proceeding. However, this Consent may not be retroactive, and must be sought before the proceeding. If Consent is obtained during a proceeding, only the part of the proceeding after Consent is given will be non-confidential. No Consent may be sought after the proceeding takes place; or
- B. To comply with the Constitution or By-Laws; or
- C. To comply with local, state, or federal law; or
- D. To aid in an investigation by Duke University or the Duke University Administration; or Duke Police, Durham Police; or Local, State, or Federal Authorities; or
- E. If there are grossly unethical, illegal, or unconstitutional actions undertaken that a good-faith whistleblower would like to report to relevant authorities if deemed necessary by the Chief Justice.

## **TITLE V. PETITION PROCEDURES**

### **SECTION 1. FILING A PETITION**

#### Definitions

- A. Petitioner: an eligible party as specified by the Constitution and By-Law who is requesting a particular relief from the Judiciary
- B. Respondent: a party subject to the purview of the Duke Student Government against whom the Petitioner is requesting relief
- C. Petition: the document that codifies and formalizes a request to the Judiciary, generally to hold a hearing for a case
- D. Receiver of a Petition: an eligible party who may formally receive a Petition

#### Validating a Petition

For a Petition to be filed, written notification from the Petitioner(s) must be delivered to an eligible Receiver of a Petition. A Petition is considered received when a Petition has been delivered to an eligible Receiver of a Petition. The Petition must contain the following elements to be considered a valid petition:

1. A specification of the Petitioner(s) with contact information; the specification should designate a Primary Petitioner, which will be assumed to be the first Petitioner listed if not otherwise clearly designated
2. A specification of the Respondent(s)
3. A particular relief or set of reliefs requested

Ideally, the Petition should also contain:

4. A set of alleged facts by the Petitioner that are relevant to the case with any documentation as verification for the alleged facts
5. A legal argument to consider with supporting citations from case law, statutes, By-Laws, rules, regulations, or the Constitution

Note that a Petition is valid if and only if items 1–3 are satisfied. That is to say, items 1–3 are necessary and sufficient for a Petition to be valid. A Petition cannot be considered valid without items 1–3, but once items 1–3 are satisfied, then the Petition is valid.

### Receiver of a Petition

The following parties may function as a Receiver of a Petition:

- A. Justices of the Judiciary
- B. Clerks of the Judiciary

## SECTION 2. RENDERING A DECISIONS and ITS NOTIFICATION

The Judiciary shall notify in writing the Primary Petitioner of its decision and opinions on a Petition, as provided for by the Constitution. The decision will be considered rendered upon the transmission of the notification. The Judiciary should also notify all petitioners, respondents, relevant parties, Officers and Members of the Judiciary, and other agents of the Duke Student Government.

## SECTION 3. REVIEWING A PETITION

The Judiciary retains the ultimate discretion in granting a review of a petition. The Judiciary must provide its Consent to review a Petition. Otherwise, the Judiciary may choose to reject a case, again with the Consent of the Judiciary. Finally, the Judiciary may dispense of a case for cause, again with the Consent of the Judiciary. Petitions for which neither a review is granted, nor are rejected, nor are dispensed of, simply remain as Petitions to the Judiciary, though the Chief Justice may notify parties that the Judiciary has refrained from taking action on the Petition if no action on the Petition receives the Consent of the Judiciary

## SECTION 4. GROUNDS for DISPENSING of A CASE for CAUSE

A Petition may be dispensed of by the Judiciary for the following Causes:

- A. The Petition reflects an issue that is moot; or
- B. The Petition reflects an issue that is unripe; or
- C. The Petition reflects no real case or controversy; or
- D. The petitioner has no standing in the issue described; or
- E. The relief requested is not under the power or purview of the Judiciary; or
- F. The Judiciary is the inappropriate venue to seek the relief requested; or

G. The Petition does not reflect a proper cause of action

A Petition that is dispensed of may be refiled if its Cause is remedied.

#### SECTION 5. REJECTED CASES

Any cases that have been rejected by the Judiciary may not be refiled as a Petition in its identical or similar form. However, Petitions that attest different relief, facts, or legal grounds may be refiled as a new Petition.

#### SECTION 6. GRANTING A HEARING

The Judiciary is not required to hold a hearing to render a decision of the relief requested. When a hearing is granted, the Judiciary will fix a date, time, and venue for the hearing, and will notify all parties of the hearing.

### **TITLE VI. HEARING PROCEDURES**

#### SECTION 1. ESTABLISHING VENUE, TIME, and DATE

The Judiciary shall determine a venue, time, and date for the hearing by its Consent. The venue selected must be reasonably accessible for parties compelled to attend, or parties that have a right to attend. The Judiciary should consider the availability of all parties when fixing a time and date, but may ultimately determine any appropriate time and date. Again, these should be fixed in a reasonable way such that it attempts to maximize the attendance of parties and also permits a reasonable amount of time for hearing the case and for deliberations.

In addition, the Judiciary may designate a private location close to or within the Venue of the Court of the hearing as the Chambers of the Judiciary. The Chambers shall remain a private location for the Judiciary to perform business; the Judiciary may call Parties, Witnesses, or others into Chambers for private discussion about matters that may not be appropriate to enter into the public record of the hearing.

#### SECTION 2. ATTENDANCE of HEARINGS

##### Parties Involved

As permitted by the Constitution and the By-Laws, the Judiciary, with its Consent, may compel attendance to hearings of the following parties:

- A. The Petitioner(s)
- B. The Respondent(s)

- C. Advocates for parties
- D. Witnesses
- E. Other parties deemed necessary to providing evidence or testimony relevant to the proceedings

In addition, the following parties have the right to attend a hearing, unless otherwise excluded by an appropriate mechanism outlined in the Rules of Order in Section 7 of this Article:

- A. The Petitioner(s)
- B. The Respondent(s)
- C. Advocates for the Petitioner(s) or Respondent(s) as designated in Section 2 of this Article

#### Notification of Attendance

In general, the Judiciary should notify all parties of the time, date, and venue of the hearing at least twenty-four (24) hours in advance of the hearing. In exceptional circumstance, the Judiciary may notify parties with fewer than twenty-four (24) hours notice.

#### Waiving Attendance

For any party with the right to attend a hearing as specified in this Section, the party may waive their right to attend by written notification to the Chief Justice.

#### Excusing Absences

For any party compelled to attend a hearing, this party must notify the Chief Justice of their absence not less than one (1) hour before the beginning of the hearing. The party should provide an explanation for the absence, and the Chief Justice may excuse it.

### SECTION 3. ADVOCATES of PARTIES in HEARINGS

All parties are entitled to retain Advocates for their hearings. Each party may designate up to two (2) Advocates to argue on their behalf, submit paperwork, file affidavits, call motions, and be a surrogate in any legal matter. Parties may specify their Advocates by:

- A. Notifying the Chief Justice before the commencement of the hearing; or
- B. Making a declaration of such specification in front of the Impaneled Judiciary

In the absence of an Advocate, the Office of Public Advocacy can provide a party with a Public Advocate.

### SECTION 4. OPEN and CLOSED HEARINGS

By the Consent of the Judiciary, a hearing may be recorded. Moreover, hearings in general will be open to the public. In addition, all hearings shall be on the public record and will not be

considered confidential. However, by the Judiciary's Consent, the hearing may be closed to only Parties permitted by this Code or permitted by the Judiciary's Consent to attend. Hearings may be closed if:

- A. There is a concern of privacy for one or more of the involved parties; or
- B. The issue at hand is of a particularly sensitive nature, and to protect the freedom of honest and open discourse in the Court, the hearing must be closed; or
- C. The issue is likely to inspire great disorder or misconduct if the general public is allowed to attend; or
- D. There is a concern for the safety of the parties involved by permitting the hearing to be open; or
- E. There is an exceptional circumstance that provides a compelling reason to close a hearing.

However, closed hearings are still on the public record, and should not be considered confidential.

#### SECTION 5. PURPOSE of HEARINGS

The purpose of hearings is to provide more information for the consideration of a Petition. Through verbal arguments; the introduction and verification of evidence; and proving witness testimony, each Party has the opportunity to express its perspective to the Judiciary before a ruling. In addition, hearings should verify evidence, confirm facts, and certify testimony that is brought forward during a case.

#### SECTION 6. IMPANELING the JUDICIARY

The hearing commences when the Judiciary is Impaneled. At this time, all Justices are free to call motions, ask questions, make statements, speak, or otherwise undertake any action that they feel necessary to perform their duty. No Justice may be excluded from being Impaneled, and reasonable accommodations must be provided such that each Justice may attend and participate in the hearing.

The Chief Justice may Impanel and Adjourn the Judiciary, but must notify all Justices about the status of Impanelment.

#### SECTION 7. STRUCTURE of HEARINGS

##### Determining the Structure

The ultimate structure of the hearing will be determined by the Chief Justice, though it may be

modified by the Consent of the Judiciary. Each party should be given a reasonable and equal amount of time to present their evidence and arguments. Typically, the time within hearings shall be designated to a particular party, wherein only that party is allowed to speak. This time may be punctuated and occupied by the Justices. Whether or not to pause time or grant additional time is determined by the Chief Justice, or by the Consent of the Judiciary. The structure of the hearing should be announced at the commencement of the hearing.

### General Suggested Outline of Structure

The hearing should commence with time for preliminary motions to consider from any party. Then, each side should have time for oral arguments, usually around twenty (20) minutes. Then each party may have time for a rebuttal, usually around ten (10) minutes. Finally, each Party has five (5) minutes for a closing statement. By convention, time between parties should cycle in order (e.g. for two Parties, this would be alternating time), and typically the Petitioner begins arguments, while the Respondent has the last assigned time block. Where deemed appropriate, the Judiciary should also allow time for relevant witnesses.

### Witnesses

Witness testimony may be important to determine the facts of a particular Petition. In this case, each party should have five (5) minutes to ask questions of a Witness. The Witness may be obligated to respond by the Consent of the Judiciary. The Judiciary may also reserve its own time for questioning a Witness. Witnesses may be called and dismissed by the Chief Justice subject to Exception.

## SECTION 8. RULES of ORDER

### Motions by Justices

Justices may make motions while Impaneled to modify the procedure of the hearing; to call or dismiss Witnesses; to call or dismiss parties to a hearing; or to bring a matter before the Judiciary that they see fit. They may make a motion at any time during their proceedings to be considered by the Impaneled Judiciary, and the Judiciary may provide its Consent on this motion.

### Motions by Parties

A motion on any matter may be brought by any party before the Judiciary. The Chief Justice has the power to immediately rule on this motion; however, the Chief Justice, having issued a preliminary ruling, must ask for Exceptions. If any Justice takes Exception on the ruling, then the Judiciary may overrule the Chief Justice with its Consent.

If a motion is rejected, the Party may move to reconsider this motion. If, upon reconsideration of

this motion, it is again rejected, the Party may move to appeal this motion in Chambers. However, if this appeal is rejected, then the Judiciary, with its Consent, may cloture this motion so that it may not be made again, nor moved to be reconsidered, nor appealed in Chambers.

Motions may be made for any request to the Judiciary, but is usually to consider something in Chambers, to request more time, to file additional evidence not originally provided, or to perform other business during the hearing.

### Maintaining Order, Censures, and Contempt of Court

The Judiciary reserves the right to undertake necessary actions to maintain the order and decorum of the Court, either by the Consent of the Judiciary, or by a decision of the Chief Justice, as subject to an Exception.

Disruptions are not permitted since a hearing must proceed in an orderly fashion. Those being particularly disruptive to the court may be warned, and if such disruptions continue, may be Censured by the Chief Justice, though subject to an Exception. In addition, any person may be found in Contempt of Court by the Chief Justice, subject to an Exception, for being particularly disobedient, disrespectful, or disruptive, in which case, they may be subject to penalties. Any party infringing on the allocated time of another party during a proceeding may also be warned, Censured, or found in Contempt by the Chief Justice, subject to an Exception.

Any party who is Censured or found in Contempt may be asked to leave, or made to leave, the proceedings for a duration of time, or for the entire proceedings. In addition, any party who is found in Contempt forfeits their right of attendance and may be compelled to leave.

## SECTION 9. FACT DETERMINATION, RULES of EVIDENCE

### Objective

A part of the purpose of a hearing is determine facts. The Judiciary is the ultimate decider and finder of facts. In general, parties may introduce facts, but should do so with sufficient evidence.

### Introducing Facts

Either through written documents, the Petition, affidavits, through exposition in oral arguments, or witness testimony, parties may introduce evidence. Any fact alleged by a party must be done in good-faith, with no knowledge of falsification or fabrication of evidence. Any party caught knowingly introducing false evidence, or witness committing perjury, may be censured or found in contempt by the Judiciary; or have further sanctions imposed at the discretion of the Judiciary, including an escalation to the Office of Student Conduct

## Rules of Evidence

All introduced evidence, with exceptions made by the Consent of the Judiciary, must follow the Rules of Best Evidence, in that only first-hand accounts; proper documentation from authorized sources of such information; or raw, untampered sources of registered and logged data should be accepted. In addition, all parties may stipulate to a particular fact or evidence.

## Objections

Parties may object to introduced evidence or the testimony of Witnesses by making an Objection to the Impaneled Judiciary. Objections may be decided by the Chief Justice subject to Exception.

Objections for evidence are permitted on the following grounds:

- A. Lack of foundation; or
- B. Fruit of the poisonous tree; or
- C. Incompleteness; or
- D. Hearsay or a violation of the Best Evidence Rule; or
- E. Evidence that is more prejudicial than probative; or
- F. Wanton speculation; or
- G. For any compelling reason that the evidence may not be trusted

Objections for Witness testimony should follow standard practices of Federal Law.

# **TITLE VII: OFFICE OF PUBLIC ADVOCACY**

## SECTION 1. PURPOSE

The Office of Public Advocacy is an independent body of the Judiciary designed to advocate on behalf of parties in various affairs. The Office of Public Advocacy shall be comprised of trained Public Advocates who may be assigned to parties at their request to provide representation in and act on behalf of an individual or organization.

## SECTION 2. STRUCTURE

### Principal Officer

The Office of Public Advocacy shall be overseen by its Principal Officer. The Principal Officer is responsible for assigning a Public Advocate upon a party's request. A party may request a Public Advocate at any time.

The Principal Officer is also responsible for ensuring the Office of Public Advocacy is

sufficiently staffed to meet demand. The selection process for Members of the Office of Public Advocacy may be left to the discretion of the Principle Officer.

The Principal Officer is also responsible for the training of Public Advocates. Public Advocates are required to receive sufficient training from the Principal Officer so as to be able to act as effective Advocates.

The Principal Officer may dismiss Public Advocates at any time.

### Public Advocates

Public Advocates make up the body of the Office of Public Advocacy. Upon assignment to a party by the Principle Officer, Public Advocates are bound to work in the best interests of their assigned party. This includes:

- A) Conducting independent investigations as reasonable and appropriate
- B) Conducting investigations with the investigatory power of the Judiciary vested to them by the Chief Justice in special circumstances
- C) Consulting third parties as necessary to determine the party's best interests
- D) Participating in the case planning process
- E) Where appropriate, seeking cooperative solutions between involved parties

Upon formal assignment a Public Advocate must perform all court duties. This includes:

- A) Appearing at all hearings, present appropriate witnesses, and present all relevant information
- B) Providing timely written reports as required
- C) Taking appropriate action when informed of any violations of orders, new developments or material changes to a case
- D) Keeping accurate records of their work in individual cases

Public Advocates are encouraged to hold frequent meetings at the discretion of the Principal Officer, who shall call, adjourn, and preside over sessions of the Office of Public Advocacy. The Principal Officer has the discretion to enact appropriate measures to ensure the proper order, function, and attendance of sessions of the Office of Public Advocacy. Additionally, the Principal Officer can request additional powers and privileges to be vested to them by the Chief Justice in order to maintain the functioning of the Office of Public Advocacy

### SECTION 3: POWERS AND CONFIDENTIALITY

The Office of Public Advocacy is expected to act independently of the Judiciary, and is not required to report information on any of its parties in its charge to the Judiciary. As such, Public

Advocates have the right and obligation to keep communication on the subject of legal advice with parties in their charge confidential in perpetuity, including with immunity from subpoenas or inspection by the Judiciary. However, communication in order to violate the regulations of the Duke Student Government is not protected. A party may also waive this confidentiality about particular communication; this waiver is irrevocable.

A Public Advocate may disclose confidential information if and only if acting in the best interest of the party they are charged with and with the Consent of that party. A Public Advocate found in violation of this rule may be sanctioned by the Judiciary, including escalation to the Office of Student Conduct.

The Principal Officer can compel Public Advocates to disclose confidential communication. However, the Principal Officer retains the same confidentiality as if the confidential communication were made directly to the Principal Officer. Additionally, Public Advocates may disclose confidential communication to other Public Advocates, again with the Public Advocates retaining the same confidentiality.

The Principal Officer may however be required to disclose non confidential information at the bequest of the Chief Justice, including information on the sessions of the Office of Public Advocacy.

Public Advocates may be authorized to request subpoenas at the discretion of the Chief Justice

## **TITLE VIII. AMENDMENTS**

Amendments to this Code, which must be consistent with the Constitution and the By-Laws, should be by the Consent of the Judiciary.

## **TITLE IX. RATIFICATION and ENACTMENT**

Ratification of this Code, which must be consistent with the Constitution and the By-Laws, should be by the Unanimous Consent of the Judiciary. Upon the ratification of this Code, the Judiciary pledges to abide by and follow the provisions of this Code.

## **DOCUMENT HISTORY and RECORD**

*Initial Code of Procedure written by Associate Justice Devavrat V. Dabke on Wednesday, April 27, 2016.*

*Initial Code of Procedure introduced by Chief Justice Devavrat V. Dabke on Monday, March 6, 2017.*

*Initial Code of Procedure ratified by the Judiciary on Monday, March 6, 2017; Ratified by Chief Justice Devavrat V. Dabke, Associate Chief Justice J. Ross Winston, Associate Justice Barak Biblin, Associate Justice Analese Bridges, Associate Justice Michael R. Brunetti, Associate Justice Dean Ischiropoulos.*

*Amendment I written by Clerk Georgia Lala on January 26, 2018.*

*Amendment I introduced by Chief Justice Devavrat V. Dabke on January 28, 2018.*

*Amendment I adopted by the Judiciary on January 31, 2018; Adopted by Chief Justice Devavrat V. Dabke, Associate Justice Analese Bridges, Associate Justice Michael R. Brunetti, Associate Justice Dean Ischiropoulos, Associate Justice Alexandria C. Murphy.*

Future records and history of this Document should be written after all previous history and records in the above format, as so:

*Amendment I written by ... on ...*

*Amendment I introduced by ... on ...*

*Amendment I adopted by the Judiciary ... on ...; Adopted by ....*