

Judicial Board Code of Procedures

Oversight Bodies: CSU Judicial Board

Adopted: September 18, 2013

Amended by Council: October 28, 2020

Related policies, bylaws, legislation: CSU By-Laws, CSU Code of Conduct, Positions Book, other Policy Books in Standing Regulations, *Act Respecting the Accreditation and Financing of Students' Associations*, *C-38 Companies Act*.

Definitions

Absolute majority: More than 50% of the total amount of people present allowed to cast a vote.

By-Laws: Refers to the By-Laws of the Concordia Student Union.

Council: Means the Council of Representatives of the Student Union;

CEO: Refers to the Chief Electoral Officer of the Concordia Student Union

Day: Business day which excludes Saturdays, Sundays, Good Friday, Easter Monday, third Monday of the month of May, Quebec's National Holiday, Canada Day (or July 2nd if July 1st falls on a Sunday), Labour day, Thanksgiving Day, Concordia University Holidays where the University is closed and any days starting December 20th until January 5th inclusively. These days shall not be calculated in calculating any delays under this Code. Any delays to be calculated under this code shall not include the day the delay starts but include the day it ends.

Declaratory Decision: Decision made on an issue of interpretation when the facts that give rise to the case are not contested by the parties.

Executives: A member of the Executive of the Student Union.

Hearsay: Evidence offered by a witness of which they do not have a direct knowledge.

Judicial Board Member: A person who fulfills the conditions of membership under section 8.1.1 of the Student Union's By-Laws.

Representative: Refers to a duly elected member of Council who has taken office. Student Union: Refers Concordia Student Union.

Subsidiary: Refers to CUSACORP Management Ltd. and its various operations.

Student Media: The Link Publication Society, the Concordian, CJLO 1690 AM and Concordia University Television (CUTV)

This Code: Refers to the regulations inside the Judicial Board Code of Procedures. The Board:
Refers to the Judicial Board

Section 1 - Mandate of the Judicial Board

1. The Judicial Board of the Student Union shall, upon the written request of any member or member association, convene to:
 - a. Interpret these by-laws and the validity of regulations and resolutions enacted by the Council.
 - b. Declare invalid any act of any member who through his or her action derogates from these by-laws or from the constitution of any member association of the Student Union.
Settle disputes on matters concerning the Student Union between its members, officials and/or constituted bodies.
2. It is the duty of the Judicial Board to act upon any violation to By-Laws and constitutions of member associations that comes to light stemming from an ongoing investigation, even if such violations are not directly related to the original complaint.

Section 2 - Composition of the Judicial Board

A) Judicial Board Composition

3. The Chairperson of the Judicial Board is elected from the Judicial Board members by the members of the Judicial Board, each member having one vote. Should no candidate receive an absolute majority after the vote, another round of voting shall proceed with the candidate who received the lowest amount of votes removed from the ballot until a candidate receives an absolute majority of the votes.
4. The term of the Judicial Board Chairperson is until the end of their mandate as members of the Judicial Board.
5. The Judicial Board Chairperson can resign their duties as Chairperson by notifying in writing the CSU Council Chairperson with a copy to the rest of the Judicial Board members.
6. The Judicial Board members must meet in person to select a new Chairperson within 10 days of a vacancy and notify the CSU Council Chairperson of the results of the election.
7. The Judicial Board Chairperson is responsible for administering the electronic mail account of the Board, sending notices to parties and posting procedures on the website. The Judicial Board Chairperson is also the primary spokesperson with the media

8. The Judicial Board Chairperson's vote on decisions is equal to any other member of the Judicial Board except when they are serving as a non-voting chair.

B) *Judicial Board Secretary*

9. The Secretary of the Judicial Board shall be the secretary of the Council.
10. The Secretary shall be responsible for preparing and recording the minutes of Judicial Board Hearings. Minutes shall be prepared both as a document in writing and be available in audio format.
11. The Secretary shall receive an honorarium of \$60 plus \$12/hour for twice the length of the meeting. The Secretary shall be paid within five business days upon submission of the minutes to the Judicial Board chair.
12. In exceptional circumstances, or when there is no secretary, the Judicial Board may appoint an interim secretary until a new secretary is appointed.

C) *Judicial Board Members*

13. Judicial Board Members include all appointed representatives as per the procedure mentioned in section 8.1.1 of the By-Laws.
14. Members of the Judicial Board are appointed for a two-year term. Members who reach the end of their term may be appointed for a maximum of one additional term, subject to approval by the majority members of the Council.

D) *Judicial Board Legal Advisor*

15. The Legal Adviser is responsible for overseeing the procedures in this Code and to respect the deadlines set by the Revised CSU Code of Standing Regulations.
16. The legal adviser shall be a member of the Quebec Bar and shall be responsible to provide training to members of the Judicial Board on an annual basis related to procedure and pertinent legal doctrines including the rules of natural justice. The legal adviser shall also serve as a non- voting chair to hear appeals to the Judicial Board related to Annual General Elections and direct the procedure for such appeals.
17. The adviser shall be appointed for a five (5) years mandate. The legal adviser cannot have held any offices in the Student Union, in an organization the Student Union is a member of and cannot accept any professional work within the union outside the legal adviser mandate during the course of his term and for five (5) years following the end of his term.
18. The Legal Advisor is responsible for the correspondence with parties and for assisting in the writing and review of the decisions when it comes to appeals of CEO decisions.
19. The Legal Adviser shall be present at all hearings and closed sessions of the Judicial Board related to Appeals of CEO decisions.

20. It is the responsibility of the Judicial Board to consult the Legal Advisor with regards to legal matters which may affect the interpretation and enforcement of the By-Laws and Standing Regulations.

Section 3 – Removal of a Judicial Board Member

21. Judicial Board members are expected to display the highest level of integrity, impartiality, and professionalism. Failure to respect such standards may result in removal from the Judicial Board.
22. Judicial Board Members may be removed for poor attendance. Poor attendance is defined as having missed more than one hearing that such member was asked to attend to fulfill their responsibilities.
23. Judicial Board Members may be removed if it is discovered that they benefited financially or otherwise through their participation in a case.
24. Judicial Board Members may be removed if it is discovered that they have willingly acted in a manner which demonstrates a conflict of interest. Such a claim must include significant documented evidence that such intent was present. Should a Judicial Board member believe they are in a position which constitutes a conflict of interest, they must refrain from participating in the case.
25. No Judicial Board Members may serve as executives on any CSU clubs, hold positions on any Concordia student or university associations, or be regular employees of any Concordia student or university associations. Should a Judicial Board member attain one of the aforementioned positions, they must resign from the Board.
26. Judicial Board Members may resign on their own accord by sending notice to both the Judicial Board Chairperson and the Chairperson of the Council.
27. All requests for the removal of a Judicial Board Member must be sent to both the Judicial Board Chairperson and the Chairperson of the Council of Representatives. The approval of such a removal is subject to a four-fifths majority vote by Council. No Judicial Board Member shall be removed without having been given an opportunity to be heard through being notified at least three (3) Days in advance.

Section 4 – Complaint

28. Every member of the CSU has the right to file a complaint with the CSU Judicial Board.
29. A Club affiliated to the CSU or a fee levy organization associated to Concordia University has the right to file a complaint with the CSU Judicial Board. A club or fee levy organization must name a representative to deal with all proceedings for the case. That representative must be a member of the CSU.
30. Complaints must be filed in writing and sent by electronic mail to the address set by the Judicial Board for that purpose.

31. A complaint cannot be withdrawn by a party if the board believes the violations have occurred or is about to occur to the By-Laws, Standing Regulations, or Council resolutions
32. The Judicial Board may dismiss a complaint if it feels that the complaint is not within the mandate of the Board. The Board will issue a brief written statement as to why the complaint is not receivable or within the mandate of the Board. If the party believes that they have new motives they must submit a new complaint that includes new evidence which changes the nature of the complaint. No complaint shall be dismissed without the board having met.
33. Should the plaintiff disagree with their complaint being dismissed by the Board, they may appeal the decision to the Council of Representatives and is subject to a four-fifths majority vote for a successful appeal. Should the appeal be successful, the complaint must be heard by the Board. No dismissal of a complaint may be successfully appealed without providing the Judicial Board with an opportunity to be heard with a minimum of three (3) days' notice.
34. A complaint to the Judicial Board must state the reasons clearly and must include as much detail as possible regarding the complaint. Furthermore, the remedy requested must be included at the end of the complaint.
35. The complaint must list at least one respondent and include the contact information for each respondent. Should the contact information be unknown to the plaintiff it shall be so stated in the complaint. In that case, the Judicial Board shall use the e-mail address on file with the CSU and failing that, send a copy by registered mail to the address on file with the CSU.
36. Interested parties are those who are potentially affected by the outcome of the case but who are not directly involved in the issue at hand. Interested parties may also be those who have important information pertaining to the case but are not directly affected by its outcome. They can be named by the plaintiff, the respondent or by the Judicial Board, at their own initiative, or upon request of a potential interested party. A potential interested party must receive the permission of the Judicial Board before becoming an interested party and may submit their request by email to the Judicial Board for their approval. Interested parties named by the plaintiff or respondent must be approved by the Judicial Board.
37. Once someone has become an interested party, they shall receive all communications in relation to the case.

Section 5 – Complaint Procedure

38. Upon receipt of a complaint the Judicial Board shall, within two (2) days, forward a copy of the complaint to the respondent if any, all interested parties and publish a copy of the complaint on the Judicial Board section of the CSU website for public viewing. The Judicial Board can edit the complaint made available on the website to remove nominative information of individuals information of individuals concerned, on its own

- initiative or upon request of the party (ies) involved, to protect their personal information and if statements can cause a prejudice to their reputation if made public.
39. Such a note that certain nominative information has been kept confidential must be made at the beginning of the publication. The decision to remove nominative information will be made by the Judicial Board upon receipt of the complaint or upon request as the case may be.
 40. Upon receipt of the complaint each respondent must within three (3) days file a response to the complaint. The respondent may waive their right to a response and send the procedure right to the hearing stage
 41. Should a respondent failed to answer complaint within 15 days; they have waived their right to respond. The judicial board that has the authority to remediate without the respondent testimony.
 - a. The judicial board must forward an alert the respondent of the complaint three times prior to waving their response rate to the respondent.
 - b. The judicial board and the seller the respondent of their rights.
 42. The Judicial Board shall hold a hearing within five days (5) of the filing of the rebuttal. All parties must be given three (3) days' notice of the date, time and location of the hearing.
 43. The Judicial Board shall publish its decision on the Judicial Board section of the CSU website no later than three (3) days after reception.

Section 6 – Declaratory Decision

44. Parties to an issue where facts are not contested can request a declaratory decision on the meaning, application or effect of any act of legislation under the jurisdiction of the Judicial Board such as the By-laws, resolutions and regulations enacted by the Council and the constitution of any member association of the Student Union
45. The Parties have to file a joint submission attesting to the agreement to the facts of the case.
46. Upon receipt of a submission for a declaratory decision the Judicial Board shall, within three (3) Days, publish a copy of the joint submission on the Judicial Board section of the CSU website for public viewing. The Judicial Board can edit the submission made available on the website to remove nominative information of individuals concerned, on its own initiative or upon request of the party (ies) involved, to protect their personal information and if statements can cause a prejudice to their reputation if made public. Such a note that certain nominative information has been kept confidential must be made at the beginning of the publication. The decision to remove nominative information will be made by the Judicial Board upon receipt of the submission or upon request as the case may be.
47. The Judicial Board shall hold a hearing within five (5) days of the online publication. All parties must be given two (2) days' notice of the date, time and location of the hearing.

Section 7 – Reference Decision

48. In circumstances in which it is unclear whether a particular decision or action is affected by the By-Laws and Standing Regulations, the Council of Representatives or a member of the Executive may request a reference decision from the board.
49. The requesting party must provide a detailed submission outlining the specifics of the case and explicitly state the questions they would like the Board to respond to. Reference decisions must always be in the form of a question and cannot request a specific action or resolution from the Board.
50. Each submission will include one primary contact who shall act as its representative for the request to the Board.
51. Upon receipt of a complaint the Judicial Board shall, within three (3) days, publish a copy of the joint submission on the Judicial Board section of the CSU website for public viewing. Upon the reception of the complaint, individuals may register themselves as interested parties and may submit to written or oral testimony regarding the case.
52. The Judicial Board shall hold a hearing within five (5) days of the reception of the request for a reference decision. At least two (2) days notice of the date, time, and location of the hearing will be provided.
53. The Judicial Board reserves the right to reject or not answer a specific request if they feel that it does not fall within the mandate of the Board to provide a reference decision on the matter.
54. All reference decisions are considered binding within five (5) days of the publication of the decision. Reference decisions may be appealed according to the provisions outlined in By-Law 8.3G.

Section 8 – Rules Concerning Evidence

55. Any evidence introduced by a party in front of the Judicial Board should be introduced so that each party and the Judicial Board have the chance to question, evaluate and/or challenge the evidence introduced.
56. Each party shall give to the Judicial Board and to all other parties such as the respondent (except interested parties) a list of witnesses no later than two (2) Days prior to the hearing.
57. In order to accommodate for witnesses who are out of town technological methods can be used to ensure the right of the parties. These methods must be approved by the Judicial Board prior to the hearing and must allow all parties to question, evaluate and challenge introduced evidence.
58. Hearsay shall be treated with caution by the Judicial Board that will have complete discretion to exclude or not such evidence in accordance with rules on admissibility of hearsay evidence based on Canadian public legislation and case law.

Section 9 – Hearings

59. Hearings of the Judicial Board are held at Concordia University on a Day as defined in this Code. In exceptional circumstances only, the Judicial Board can hear a case elsewhere or on a different day and must adhere to standard notice requirements prescribed in this Code.
60. The procedure during a standard hearing is as follows:
 - a. Presentation of the case by the plaintiff and introduction of plaintiff's evidence
 - b. Questions by respondent to the plaintiff
 - c. Questions by Judicial Board members to the plaintiff
 - d. Presentation of the case by the respondent and introduction of respondent's evidence
 - e. Question to respondent by plaintiff
 - f. Question by Judicial Board members to the respondent
 - g. Statements by interested parties
 - h. Questions to the parties by Judicial Board members
61. The Judicial Board shall act in accordance with the rules of natural justice.
62. Hearings of the Judicial Board are held in open session. Exceptionally the Judicial Board can hold a hearing in closed session at a request of a party to avoid a serious prejudice to one of the parties.
63. Judicial Board members shall sit at a hearing in an odd number with a minimum of three (3) members. Should an even number of Judicial members be present at a hearing, the Chairperson of the Judicial Board will act as a non-voting chair and help facilitate the proceedings.
64. The Judicial Board can impose reasonable limits to the length of a testimony, as long as the limit is fair to all parties and determined at the beginning of the hearing.
65. After the presentation by each interested party the other party and the Judicial Board members can ask questions to that witness.
66. In exceptional circumstances, the Judicial Board can adapt hearing procedures for the specifics and complexities of a case, as long as the adaptations are fair to all parties.
67. For declaratory decisions and reference decisions the hearing consists of representations by each party to be made in an order decided by The Judicial Board followed by questions by the Judicial Board members.

Section 10 - Decisions

68. "The Judicial Board will deliberate in closed sessions. During the deliberation process the Board may, at its discretion, summon anyone to give oral evidence."
69. The Judicial Board is allowed to take into account public legislation that the contested articles of the By-Laws or Regulations in the complaint is subordinate to.
70. Members of the Judicial Board must record a position in favor or dissenting from the majority decision and cannot abstain.

71. After a decision is made the Judicial Board will designate a member of the majority to issue a written motivated decision. The decision will be written and communicated to each party within five (5) days of the hearing. Each Judicial Board member has the right to have their motives and opinion included in the decision. Should a member decide to write their own motives they have two (2) days to send them to the Board member responsible for writing the decision who shall wait at least two (2) days in order to receive other member's motives, before issuing the final decision to the parties.
72. Final decisions are issued in writing and must include the name of the parties and interested parties, the motivation for the decision of the majority, any motives from other Judicial Board members who elected to do so, and the position of every Judicial Board member on a case.
73. Every decision of the Judicial Board is final and binding. However, the Council of Representatives may, at the request of a party to proceedings, annul a decision of Judicial Board, by a four-fifths majority vote at a special meeting duly convened for such purpose, should it conclude that the Judicial Board decision was manifestly unreasonable or was motivated by racism, sexism, collusion, bribery, homophobia or conflict of interest.
74. In order to respond to an urgent situation to avoid an irreparable prejudice which the final decision could not effectively remedy and to protect the rights of a party to the proceedings the Judicial Board can issue provisional decisions. Provisional decisions are in effect until decided by the Judicial Board or until the final decision is issued. Every effort must be made by the Judicial Board to hear from all parties prior to issuing a provisional decision. Such provisional decisions require a two-thirds majority vote of the Judicial Board.

Section 11 – Administrative Rules and General Provisions

75. The plaintiff can withdraw their complaint at any time prior to a decision being issued except in circumstances described in Section 31 of this Code.
76. The Judicial Board can, exceptionally, exclude a party from participating in the proceedings should that party show contempt towards the proceedings or Judicial Board Members. Parties will be given at least one formal warning to correct their behavior prior to being excluded from proceedings. Proceedings will continue regardless of an exclusion.
77. Executives, representatives, and employees of the Concordia Student Union shall attend a Judicial Board hearing when requested to testify by a party. No Executive, representative or employee can suffer any disciplinary measure for attending or as the result of their testimony or participation in Judicial Board proceedings.
78. Testimony can be given in English or French. Should a testimony be made in french, it should be specified prior to the meeting and the Judicial Board shall arrange for translation to be present, if needed.

79. The Judicial Board shall have access to the student list of the CSU received in accordance with an Act respecting the accreditation and financing of student associations for the purpose of carrying their duties.
80. Judicial Board members have the right to vote on a case if they attend the hearing where the evidence was heard. If a case requires more than one (1) hearing Judicial Board members need to attend all the hearings where evidence is heard in order to have the right to vote on a case. Exceptionally a Judicial Board member, if a case would not proceed for lack of quorum, can join a case that started prior to his appointment as long as they attend the hearing where the evidence was heard.
81. The Judicial Board has the power to invite interested parties to a hearing. All parties must be notified of the presence and name of the witness(es) at least two Days before the hearing.
82. All decisions of the Judicial Board must be published on the CSU website and kept in an electronic archive for a minimum of 12 months.
83. Any complaint filed with the Judicial Board must be done in a maximum delay of eighteen months following the occurrence of the event and within three months of the discovery of the event.
84. It is mandatory that Student Media are given notice of any Judicial Board hearing. Student media are allowed to record and attend all open sessions of the Judicial Board.
85. The chairperson of the council of representatives will serve as a liaison for the judicial board.
86. Send additional board chairperson will sit on the hiring committee for the chief electoral officer.
87. The Judicial Board will hold mandatory training on the CSU Code of Standing Regulations and the CSU By-Laws to all newly elected Council Members and Executives.