



香港大學學生會
The Hong Kong University Students' Union

JUDICIAL PROCEDURES
OF
THE HONG KONG UNIVERSITY STUDENTS' UNION COUNCIL

Enactment History

(Enacted in CM7 2019)

SECTION I
DEFINITIONS

In these Judicial Procedures:

- “Judicial Procedures” shall mean the Hong Kong University Students’ Union Council Judicial Procedures.
- “Union” shall mean the Hong Kong University Students’ Union.
- “Union Council” shall mean the Hong Kong University Students’ Union Council.
- “Council Chairperson” shall mean the Chairperson of the Union Council.
- “Honorary Secretary” shall mean the Honorary Secretary of the Union Council.
- “Councillor” shall mean a Councillor of the Union Council.
- “Past Councillor” shall mean a Councillor of the Union Council in the immediate past session, who has been a Councillor for not less than six months and has attended at least 50% of Union Council Meeting sessions, not been absent for three consecutive meeting sessions, and not a present Council member.
- “Student Body” shall mean organisations stipulated by the Constitution of the Union.
- “Complainant” shall mean the Full Member of the Union, Office Bearer or Student Body who lodged a written complaint to the Council Chairperson.
- “Council Committee” shall mean all Standing Committees and Committees *ad hoc* of the Union Council.
- “Union Executive” shall mean individual Union Executives or Union Executive Committee
- “Official Representative” shall mean:
- 1) for Full Members of the Union or Office Bearers, the person himself/herself, or a Full Member appointed by him/her;
 - 2) for Student Bodies, the members of the executive committee (or equivalent), unless official representatives were appointed by the council, general polling, or general meeting of the Student Body.
- “Office Bearer” shall mean
- 1) Council Chairperson
 - 2) President of the Union
 - 3) Vice-Patrons
 - 4) Honorary Treasurer
 - 5) Honorary Legal Advisor
 - 6) Honorary Archivist
 - 7) Honorary Auditor
 - 8) Honorary Secretary
 - 9) Union Executives
 - 10) Union Councillors
 - 11) Official Observers of the Union Council
 - 12) Chairpersons and members of Council Committees

SECTION II
GENERAL

FUNCTIONS OF THE UNION COUNCIL

Section Two of the *By-laws of the Union Council*, extract:

I. SUPERVISORY

1. To supervise all Union sub-organizations so as to prevent them from acting contrary to the Constitution;
2. To supervise the Union Executive Committee in its executive work.

III. JUDICIAL

1. To consider any protest, grievance, or alleged infringement of the Constitution, constitutions of Union sub-organizations and all such matters as may be placed before the Union Council by any member of the Union or a Union sub-organization, and deemed necessary, to adjudicate upon, or act in, all such cases;
2. To interpret the Constitution.

1. The judicial and supervisory functions of the Union Council are exercisable by the Judicial Committee.
 - a. The Union Council, and the Judicial Committee exercising its judicial powers, serves as the final appellate body of the Union.
 - b. The Judicial Committee may exercise the supervisory function of the Union Council when commissioned to investigate any matter of the Union.
2. A Complainant shall have exhausted all possible means to resolve the grievance before lodging complaints to the Council Chairperson.
3. Appeals from penalties and decisions shall be lodged within 14 days of the relevant decisions, unless the Council Chairperson is satisfied that the Complainant has a reasonable excuse.
4. A Complainant may lodge a complaint with the Council Chairperson in the event that:
 - a. the Complainant is not satisfied with the findings or actions of the Office Bearer or the Student Body concerned;
 - b. the disputes between Student Bodies cannot be settled;
 - c. the Complainant believes on reasonable grounds that the complaint has not been or will not be properly dealt with; or
 - d. a Full Member of the Union lodges a petition or complaint on General Pollings of the Union or Elections of the Union conducted by a commission established by the Union Council.

Other complaints, including cases not lodged by Full Members of the Union, may also be accepted at the discretion of the Council Chairperson.

5. The Council Chairperson shall, upon receipt of a complaint, take appropriate action which may include the following:
 - a. considering the complaint informally and, with the consent of the Complainant, deciding not to further the referral of the complaint;
 - b. referring the complaint to an Office Bearer, or relevant Student Body for investigation, action, and recommendation;

- c. referring the complaint to an outside body, (e.g.: the Hong Kong Police Force, Privacy Commissioner for Personal Data, or Independent Commission Against Commission) if appropriate, and informing the Union Council accordingly;
- d. referring the complaint to the Judicial Committee; or
- e. referring the complaint to the Union Council or a Council Committee.

The Council Chairperson shall notify the Complainant accordingly.

- 6. No case shall be brought against The Hong Kong University Students' Union as a whole.

SECTION III

JUDICIAL COMMITTEE

1. There shall be a Judicial Committee of the Union Council.
2. Membership and Panels of the Judicial Committee
 - a. Council Chairperson [Chairperson]
 - b. Honorary Secretary [Secretary]
 - c. The Councillor Panel
 - i. The Panel shall consist of all Councillors except the Council Chairperson and the Honorary Secretary, who have attended at least 50% of Union Council Meeting sessions and not been absent for three consecutive meeting sessions.
 - ii. The Union Council may by resolution remove any Councillor from the Panel.
 - d. The Past Councillor Panel
 - i. The Panel shall consist of 6 Past Councillors.
 - ii. The 6 Past Councillors shall be appointed by the Union Council at its last meeting of the corresponding Union Council Session. The Union Council may by resolution appoint Past Councillor(s) to fill vacancies.
3. A Working Group of the Judicial Committee (WGJC) shall be formed to exercise the functions of the Judicial Committee, and shall be terminated when the report is received.
4. Membership of a Working Group of the Judicial Committee
 - a. One Popularly Elected Union Councillor [Convenor]
 - i. The Popularly Elected Union Councillor shall be drawn from the Councillor Panel. In case of absence of Popularly Elected Union Councillor, one Councillor from the Councillor Panel shall be drawn randomly.
 - b. Two Councillors, drawn randomly from the Councillor Panel.
 - c. Two Past Councillors, drawn randomly from the Past Councillor Panel.
 - d. A secretary appointed by the Council Chairperson. The secretary shall be the Honorary Secretary, a member of the Union Council Secretariat, or a member of the Judicial Committee.
 - e. Council Chairperson as observer.
5. The members of the Working Group of the Judicial Committee whose term of office expires during the term of office of the Working Group shall remain a member of the Working Group until its termination.
6. The members of the Working Group shall declare any conflict of interests regarding the case, or foreseeable unavailability due to being out of town, to the Council Chairperson within 24 hours of appointment. The Council Chairperson shall determine whether the member is suitable to serve as a member, and order that the member be replaced if necessary.
7. The Working Group shall follow the Judicial Procedures in:
 - a. Determining the relevant facts.
 - b. Adjudicating as it deems desirable on the completion of its investigation.
 - i. If a Working Group is investigative, it shall not adjudicate but shall recommend a course of action for the Union Council to take instead.
8. The Working Group shall act as an impartial body in handling the case with an inquisitorial approach.

SECTION IV

POWERS AND RESPONSIBILITIES

1. Jurisdiction and Authority of the Judicial Committee
 - a. The Judicial Committee may:
 - i. Adjudicate upon complaints alleging contravention of any regulations;
 - ii. Arbitrate disputes between Students Bodies;
 - iii. Investigate issues of the Union;
 - iv. Hear and adjudicate on appeals against decisions of any Student Body.
 - b. For the avoidance of doubt, all clauses or part thereof in any regulations and agreements of Student Bodies, insofar as it limits or ousts the jurisdiction of, or bars appeals to the Union Council or Judicial Committee, is hereby declared void.
 - c. Once a complaint is lodged and accepted by the Council Chairperson, all other Student Bodies cease to exercise its jurisdiction in that case unless the case is remitted back to that Student Body.
 - d. The decisions of the Working Group of the Judicial Committee are decisions of the Judicial Committee. Decisions of the Judicial Committee carry full weight and force of a resolution carried by a simple majority of the Union Council.
2. The Council Chairperson, and convenor of a Working Group with the endorsement of the Working Group, may issue official documents of the Judicial Committee.
3. The Council Chairperson, with the advice of the Council Business Committee, may issue guidelines and summaries to facilitate understanding of the Judicial Procedures.
4. The Working Group shall have the power to
 - a. compel any Office Bearer, Council Committee, or Student Body to execute its decisions;
 - b. summon persons concerned to testify or give evidence;
 - c. summon any relevant documents for its investigations;
 - d. order temporary injunctions and enforcement orders; and
 - e. make such orders necessary to facilitate its investigation.
5. The Working Group shall
 - a. complete its proceedings within 1 month;
 - b. make recommendations to the Union Council where necessary; and
 - c. submit a report to the Union Council within 12 clear days of the final decisions.
6. The convenor shall
 - a. chair the proceedings of Hearings and meetings;
 - b. present the report to the Union Council.
7. Decisions of the Judicial Committee are not binding to future Judicial Committee proceedings but should serve as references with persuasive value to future decisions.
8. The Complainant and Respondent(s) shall be provided a copy of these procedures, and be informed of, in writing:
 - a. the members of the Working Group;
 - b. the written submission provided by the opposite party, in confidence, if any;
 - c. their rights to appear before the Working Group, including the
 - i. Right to present evidence
 - ii. Right to call witnesses
 - iii. Right to appoint Official Representatives;
 - d. their responsibility to appear before a Hearing and consequences for absence; and

- e. the report and decision from the Working Group on the completion of its investigation and adjudication.
9. The Honorary Secretary shall assign a case number whenever a Working Group of the Judicial Committee is formed in the following format:

UC[Session]_WGJC[Serial No.] “Session” being the last two numbers of the Union Council session.
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10. At the end of each Union Council Session, the Chairperson of the Judicial Committee shall submit to the Union Council a general report on complaints received during the Session.

SECTION V

HEARINGS

1. General

- a. Hearings may be held by the Working Group of the Judicial Committee to investigate matters of the Union when conducting its investigative function.
- b. Hearings shall be held to adjudicate cases brought before the Working Group.
- c. The Working Group may hold meetings if necessary.
- d. Hearings and meetings are confidential until the report is received, or until the Judicial Committee decides otherwise.

2. Quorum

The quorum of Hearings and meetings shall be three. If a quorum is not present, the convenor shall adjourn the Hearing or meeting for thirty minutes. If thirty minutes have expired and a quorum is not present, the Hearing or meeting shall adjourn, and resume within five clear days.

3. Notice

Notices of Hearings and meetings shall be sent to all members of the Working Group at least three clear days before a Hearing or meeting. Notices of a Hearing requiring their presence shall be sent to the Official Representatives at least three clear days before the Hearing. The notice period may be shortened with the consent of the Complainant, Respondent(s), Witnesses, and at least four members of the Working Group.

4. Absence

- a. In the absence of the convenor, the Councillor with a higher order of precedence shall act as the convenor.
- b. If any party is absent for thirty minutes after the Hearing has been convened, the absent party, if without reasonable excuse, shall be presumed to have lost. The present party shall continue to make its submission in the Hearing.
- c. If all parties are absent for thirty minutes after the Hearing has been convened, the Hearing shall be cancelled and the case shall be dismissed unless the Working Group decides otherwise.
- d. If the Complainant or Respondent(s) is absent from a Hearing which requires his/her presence, he/she shall pay an administrative fee of HK\$500 to the General Reserve of the Union unless he/she provides a reasonable excuse;
- e. If a member of the Working Group is absent, he/she shall pay a fine of HK\$200 to the General Reserve of the Union unless he/she provides a reasonable excuse. If the absence leads to a failure in forming a quorum, the fine should be HK\$500 unless he/she provides a reasonable excuse.
- f. For the purpose of collecting a fine for absence of members from the Councillor Panel, it shall be competent for the fine to be collected from the Student Body they represent, if any.
- g. Any person fined for absence may appeal to the Council Business Committee, HKUSU Council within 14 days.

5. Official Representatives

- a. Official Representatives of the parties are deemed to be duly authorised to act for and on behalf of the respective body. It is the responsibility of the Student Bodies, Member, or Office Bearer to regulate its Official Representatives.
- b. Official Representatives shall be Full Members of the Union.
- c. Appointment and revocation of Official Representatives may take effect at any time by writing to the convenor of the Working Group.

- d. If the Working Group is exercising its investigative function, the complaint shall be deemed to have been made in the name of the Council Business Committee, HKUSU Council as Complainant where necessary.
6. The Complainant and Respondent(s) shall be given an opportunity to clarify any information or evidence brought to the attention of the Working Group in the Hearing.
7. The Working Group shall call for response, clarification or confirmation of the Complainant or Respondent(s) whenever it deems necessary.
8. Procedures of the Hearing
 - a. The convenor shall begin the Hearing and explain the procedures after the arrival of the Official Representative(s) of Complainant and the Respondent(s).
 - b. The secretary shall read out the full names of the Complainant and Respondent(s) and the reason(s) to convene the Hearing.
 - c. Members of the Working Group shall state their post, faculty, major/minor (if applicable), hall (if applicable), membership of all Student Bodies, and any other possible conflict of interests that may be involved. Should the Official Representatives deem that any of them has a direct conflict of interest, he/she shall request the Council Chairperson for leave of that member after providing sufficient reasons. The Council Chairperson shall decide whether an actual conflict exists and order the member to leave if necessary.
 - d. The Official Representatives, and their witnesses, shall present their case, followed by questioning by the Working Group.
 - e. The Official Representatives shall leave.
 - f. The Working Group shall discuss the case, determine the facts of the case, and decide whether the complaint stands.
 - g. Members shall vote by simple majority with no abstain vote. Members then preliminarily decide the orders and penalties the Working Group shall make. (If the Working Group is investigative, the proceedings end here)
 - h. The Official Representative shall return for the announcement of the result.
 - i. The Official Representative shall make their case on the preliminary orders and penalties.
 - j. The Official Representatives shall leave.
 - k. The Working Group shall determine the orders and penalties it may make, and shall decide the penalties on attendance issues (if any).
 - l. The Official Representatives shall return for the announcement of the result.
 - m. The convenor shall notify all parties of a possible way of reconsideration by the Union Council. The convenor shall emphasise that it is not a general right to appeal.
9. The Working Group may make its own rules, or alter the procedure if necessary.

SECTION VI

STANDING ORDERS

1. The convenor shall accord the right to speak to participants of the Hearing.
2. Examination of persons shall only be conducted by the members of the Working Group unless permitted otherwise by the Working Group.
3. The members of the Working Group may interrupt any speeches in the Hearing according to Section G Article 22 of the Standing Orders of the Union Council.
4. The parties may raise procedural issues at any stage for the determination of the Working Group.
5. A Hearing may be adjourned at any stage to be resumed at a later time.
6. Contempt
 - a. Any person deliberately submitting false testimony or committing perjury in a Hearing, or a complainant having maliciously brought proceedings without reasonable and probable cause shall be guilty of contempt.
 - b. Any party withholding information, perverting the course of justice or instigating others to do so shall be guilty of contempt.
 - c. The Working Group shall determine the penalty of contempt, including but not confined to moving a regret motion, degradation, disaffiliation or other penalties; or refer it to the Union Council.

SECTION VII

JUDGMENTS

1. The Judicial Committee may grant monetary compensation, declarations, injunctions, enforcement orders and/or other remedies it deems suitable, or recommend the Union Council to follow up on the matter.
2. The remedies may be conditional, deferred, or interim.
3. The judgment shall include an order that an Office Bearer, Council Committee, or Student Body enforce the decisions.
4. The judgments and orders of the Judicial Committee carry full weight and effect of, but shall not exceed the authority of, a resolution of the Union Council carried by simple majority as defined by the Standing Order of the Union Council.
5. If a party refuses or fails to execute orders issued by the Judicial Committee, that party is guilty of contempt. The convenor shall inform the Union Council to follow up on the issue. The Union Council shall consider moving a regret motion, degradation, disaffiliation or other penalties as it deems fit.
6. The Working Group shall submit a report on behalf of the Judicial Committee to the Union Council. The report shall include attendance matters, a brief summary of the investigation, the judgment, the orders, and recommendations requiring further actions by the Union Council.
 - a. A motion that “*The Report of the Judicial Committee [Case No.] on the matter of [Matter] be received.*” shall be moved.
 - b. The recommendations of the report requiring further actions by the Union Council shall be moved subsequently.
7. The report shall be made available to Full Members of the Union.

SECTION VIII

RECONSIDERATION

1. There is no general right to appeal against a decision of the Judicial Committee.
2. If the Council Chairperson is satisfied that there is substantial error in procedures causing injustice in the proceedings of the Working Group, he/she may order the Working Group to reconsider its decision once.
3. If either the Complainant or the Respondent(s) is aggrieved by, or dissatisfied with the adjudication of the Judicial Committee, the case or complaint may be reconsidered by the Union Council only if the motion of receiving the report is defeated.
4. If the motion to receive the report is defeated, and if the Complainant and Respondent(s) are present, the Union Council may reconsider the case. If any party is not present, that agenda item shall immediately be adjourned to the subsequent Council Meeting. The decisions of the Judicial Committee are temporarily suspended until that Meeting.
5. In a reconsideration hearing by the Union Council
 - a. the Standing Orders of the Union Council shall prevail in case of any inconsistency;
 - b. Councillors who have a conflict of interest may be present, and may speak, but shall not vote;
 - c. the parties may be present in the meeting during deliberations.
6. Reconsideration by the Union Council
 - a. A reconsideration shall be construed as considering the rescission of a resolution of the Union Council. A motion that “*The Appeal on [Case No.] on the matter of [Matter] be allowed. [Orders]*” shall be moved at the end of the discussion, which shall only be carried by a two-thirds majority vote. The Orders shall vary the previous decision or order further investigation.
 - b. If the motion is defeated, the original report of the Judicial Committee shall be construed as received by the Union Council. The recommendations of the report requiring further action by the Union Council shall be moved subsequently.
7. Appeals from decisions of Council Committees
 - a. Matters from Council Committees may be appealed to the Union Council or Judicial Committee. Appeals shall be lodged within 14 days of the relevant decisions, unless the Council Chairperson is satisfied that the Complainant has a reasonable excuse.
 - b. A motion shall be moved similarly as Article 5 at the end of discussion, the motion shall be carried by simple majority.
 - c. Chairperson of Council Committees shall inform Members of the Union, where applicable, their right to appeal to the Union Council.

SECTION VIII

INTERPRETATION AND AMENDMENT

1. The Council Chairperson may preliminarily decide on procedural matters.
2. The interpretation of the Judicial Procedures shall rest with the Judicial Committee. The Union Council may, by a two-thirds majority vote, override the interpretation.
3. The Judicial Committee may, at its discretion and being satisfied that there will be no adverse effect to justice rendered, waive any breach of the Judicial Procedure.
4. The Judicial Procedures may only be amended by a two-thirds majority vote in the Union Council.