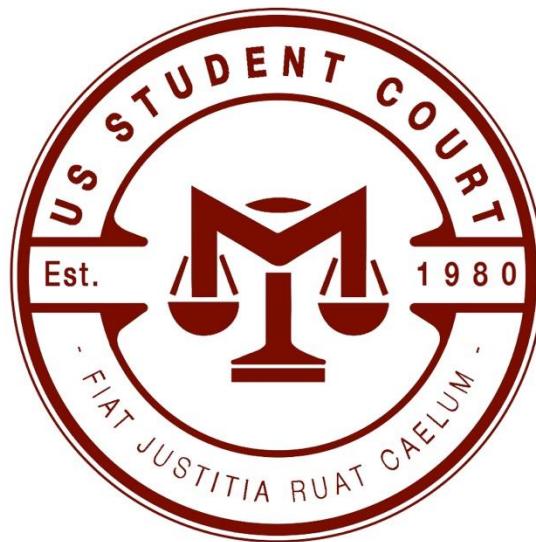


STELLENBOSCH UNIVERSITY STUDENT COURT RULES OF PROCEDURE



TRANSPARENCY, ACCESSIBILITY & ACCOUNTABILITY
Stellenbosch University

These Rules have been adopted by the Student Court, in consultation with the Student Representative Council, on **4 OCTOBER 2017** and approved by the Appeal Court on **DD MMMM YYYY**, as required by section 65 of the Stellenbosch University Student Constitution, 2014.

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1 DEFINITIONS

In these Rules, unless the context otherwise indicates –

“**Advisory opinion**” means an order sought in terms of section 62(a) of the Student Constitution.

“**Appeal Court**” means the Appeal Court constituted by sections 68-71 of the Student Constitution;

“**Court**” means the Student Court constituted by sections 55-67 of the Student Constitution;

“**Day**” means a day that is not a public holiday, Saturday, Sunday or a University holiday;

“**Notice**” means the receiving party has been made aware, including successful delivery of an email;

“**Prima facie**” means on the face of it.

“**Student**” means a student, undergraduate or post-graduate, registered at the University;

“**Student Constitution**” means the Stellenbosch University Student Constitution, 2014;

“**Student Representative Council**” or “**SRC**” means the body constituted by Chapter 3 of the Student Constitution;

“**Representative**” means a student who, according to section 66 of the Student Constitution, has been appointed by a party to assist in litigation;

“**Rules of Procedure**” or “**Rules**” means these rules which the Student Court has adopted in terms of section 65 of the Student Constitution;

“**Tygerberg Student Council**” or “**TSR**” means the body constituted by Chapter 10 of the Student Constitution;

“**University**” means Stellenbosch University; and

“**Written**” or “**in writing**” means electronic or physical documentation.

2 SCOPE AND PURPOSE OF THE RULES

- (1) Pursuant to section 65 of the Student Constitution, the court has the authority to adopt and enforce its own Rules of Procedure, with due consideration of the rules of natural justice, the need for the court to be accessible, and principles of procedural fairness.

- (2) These Rules regulate the procedure in matters brought before the court and Appeal Court.
- (3) The Rules shall be construed and administered to secure the just, speedy and inexpensive determination of a matter before the court.
- (4) These Rules may be departed from upon the showing of a just cause by any party or at the court's discretion if it is in the interests of natural justice and procedural fairness to do so.

3 SITTING OF THE COURT AND VACATIONS

- (1) Notice of the terms of the court shall be published on the website of the court and a copy of the dates shall also be available at the SRC and TSR offices.
- (2) In addition to the notice of sub-rule (1), the court may publish such a notice in any other reasonable manner.
- (3) If it is convenient for all the members of the court, the court may sit at any place or time other than a time prescribed in terms of these Rules.

4 FILING OF DOCUMENTS

- (1) All parties must file the necessary documents with the court in accordance with these Rules by addressing an email to the court, and all other parties to the matter carbon copied ("CC") to that email.
- (2) Any document filed at the court, without all other parties CC'd will be deemed defective, and may be disregarded by the court.
- (3) Any document filed after 18:00 on any calendar day, will be deemed to have been filed at 08:00 the next court day.
- (4) All parties must inform the court of any other parties (other than the applicants and respondents) who may have a material interest in the proceedings when they file their first document with the court.
- (5) All documents must be filed in English.

5 COMMENCEMENT OF AN APPLICATION TO THE COURT

- (1) Every application shall be in accordance with the forms provided for by the court and shall be –
 - (a) brought via a Notice of Motion;

- (b) supported by a Founding Affidavit.
- (2) Every Notice of Motion shall set out –
- (a) the order that the applicant wishes the court to grant;
 - (b) the full names of all the persons whose affidavits will support the motion;
 - (c) the time periods that the respondent(s) have to file a Notice of Intention to Defend and Answering Affidavits in accordance with Rule 7; and
 - (d) the applicant's preferred email address for service of documents related to the matter.
- (3) Every Founding Affidavit shall set out –
- (a) the applicant's full name, student number and the capacity in which they litigate;
 - (b) the capacity in which the respondents are cited;
 - (c) whether each of the applicants and each of the cited respondents, if any, have standing before the court with specific reference to section 64 of the Student Constitution;
 - (d) whether the court has jurisdiction with specific reference to section 62 of the Student Constitution;
 - (e) a short and plain statement of the facts surrounding the dispute, with each averment/allegation made in distinct paragraphs;
 - (f) a short and plain argument showing why the applicant is entitled to relief; and
 - (g) the relief sought with specific reference to section 63 of the Student Constitution.
- (4) If the court is of the opinion that a party cited by the applicant should not be cited as either an applicant or respondent, either because –
- (a) the cited party has no standing before the court;
 - (b) the cited applicant has not evidenced their consent by means of a Founding Affidavit or Confirmatory Affidavit; or
 - (c) no *prima facie* case has been made out against the cited respondent, the court will remove that party from the matter by notice to all the parties.

6 URGENCY

- (1) An applicant will explicitly set forth the circumstances which render the matter urgent as well as the reasons why the applicant will be prejudiced if the Rules are not dispensed with.
- (2) If the court deems the matter urgent, the court may dispense with any of these Rules, only to the extent that the court deems a deviation from these Rules is necessary and procedurally fair to all parties.
- (3) All parties will be required to give notice to all other parties to the dispute in terms of Rule 4(1), except in exceptional circumstances where a party has exhausted all reasonable means of contacting the other parties.

7 RESPONSES TO AN APPLICATION

- (1) Within 2 (two) days of receiving the applicant's Notice of Motion and Founding Affidavit in terms of Rule 5(1), the respondents must file their Notice of Intention to Defend.
- (2) Within 5 (five) days of receiving the applicant's Notice of Motion and Founding Affidavit in terms of Rule 5(1), the respondents must file their Answering Affidavits.
- (3) Every Notice of Intention to Defend shall set out –
 - (a) the respondent's intention to defend; and
 - (b) their preferred email address for service of documents related to the matter.
- (4) Every Answering Affidavit shall set out –
 - (a) the respondent's full name, student number and the capacity in which they litigate;
 - (b) which facts in the applicant's Founding Affidavit that are disputed by the respondent, which facts are common cause, and any other material facts that are pertinent to the matter; and
 - (c) the legal issues in the Founding Affidavits which are incorrect.
- (5) In the event that there is more than one respondent, the respondents may elect to –
 - (a) file a Notice of Intention to Defend jointly; and/or
 - (b) file an Answering Affidavit jointly, or alternatively, file a Confirmatory Affidavit that supports the Answering Affidavit of another respondent.

8 REPLYING AFFIDAVIT

- (1) If necessary, and only as a result of new facts being brought into dispute in the Answering Affidavits, may an applicant file a Replying Affidavit within 3 (three) days after service of the Answering Affidavits.
- (2) Such a Replying Affidavit will succinctly address only the new facts that arose in the Answering Affidavits and the new legal issues that are disputed.
- (3) The court must strike out any new matter contained in the Replying Affidavit.

9 FAILURE TO RESPOND

Any party that fails to file a response required by Rule 7 or Rule 8, or if such a response is disregarded in terms Rule 4(2), is deemed to have admitted to the facts averred by an applicant.

10 APPLICATION FOR EXTENSION

- (1) Any party to a matter may make written submissions to the court requesting an extension of any time period in Rules 5 to 8, if they will be prejudiced by the time periods as they are.
- (2) A request in terms of sub-rule 10 must be –
 - (a) brought to the attention of all other parties by the party requesting the extension; and
 - (b) supported by the reasons for such an extension and the number of days that the extension is required.
- (3) The court may approve, amend or deny the request for extension and will notify all parties to the proceeding as to the decision and effect thereof on the forthcoming proceedings.

11 APPLICATION TO LITIGATE AGAINST MEMBERS OF THE COURT

- (1) If any person wishes to bring an application against a member of the court that person must first request permission, supported by reasons therefore, from the Dean of the Law Faculty to bring such an application.
- (2) The Dean of the Law Faculty may, if they are of the opinion that there are sufficient *prima facie* grounds, grant permission in writing to proceed with the application.

- (3) The applicant must attach proof of permission granted in sub-rule (2) to their Founding Affidavit. Failure to do so will result in the application being dismissed insofar as it relates to that member.
- (4) The member who is litigated against will not be a member of the court for the purposes of that matter.

12 RECUSAL OF MEMBERS AND APPLICATION TO REMOVE

- (1) Any member of the court may recuse themselves from deciding a matter, by notice to the Chairperson, if they are of the opinion that they cannot conduct themselves impartially and without fear, favour or prejudice.
- (2) Any party to a matter may apply to the Dean of the Law Faculty in writing to have a member of the court removed from deciding a matter.

13 CERTIFICATION OF PLEADINGS

- (1) All affidavits filed to the court must be signed by the party or that party's representative.
- (2) By signing, a party or representative certifies that –
 - (a) they have read the document;
 - (b) the contents of it are true;
 - (c) there are legitimate grounds to support it; and
 - (d) it is filed in good faith and not for the sole purpose of delaying proceedings.
- (3) For the purposes of proceedings before the court or Appeal Court, no affidavit will be inadmissible because it has not been commissioned by a commissioner of oaths.

14 ADVISORY OPINIONS

A request for an advisory opinion shall be in the form of a Notice of Motion and shall, in plain and clear language with sufficient detail set fourth –

- (a) the applicable and relevant provision; and
- (b) any question of law or potential conflict with other law.

15 HEARINGS

- (1) If, at any time after the filing of all the Answering Affidavits, the court deems it necessary because the dispute is not sufficiently clear from the filed documents, the court may request the parties to present oral argument at an open hearing.
- (2) The date, time and venue of the hearing will be determined by the court after consultation with all the parties.
- (3) The Chairperson of the Student Court, or their nominated member of the Student Court –
 - (a) chairs the hearing and is empowered to ensure there is a forum for sensible, orderly and constructive debate;
 - (b) shall, more than 24 hours before the hearing, give notice to all the parties to the dispute of –
 - (i) the rules of engagement; and
 - (ii) the proposed structure of the hearing; and
 - (c) may deviate from the rule or structure in sub-rule (3)(b)(ii) upon good cause shown by any of the parties at the hearing.

16 APPEAL PROCEEDINGS

- (1) Any party who wishes to appeal any decision by the court shall notify the court, the Dean of the Law Faculty of the University, and all other parties to the dispute within 5 (five) days of the court's decision.
- (2) The Appellant's Notice of Appeal must –
 - (a) state what part of the of the judgment or order is appealed against; and
 - (b) state the particular respect in which the variation of the judgment or order is sought.
- (3) The Respondents to the appeal may file a Cross-Appeal with the court, the Dean of the Law Faculty of the University, and all other parties to the dispute within 5 (five) days of receiving the Notice of Appeal.
- (4) The Appeal Court will only decide the appeal on all the documents filed and the court's judgment.