

# STELLENBOSCH UNIVERSITY STUDENT COURT RULES

These are the preliminary Stellenbosch University Student Court Rules as at 30 August 2016, subject to the approval of the Students' Representative Council.

## 1 DEFINITIONS

In these Rules and attached forms, unless the context otherwise indicates –

**“Alternative Dispute Resolution”** means the use of methods such as mediation or arbitration to resolve a dispute without resorting to litigation.

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

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

**“Service”** means delivery via electronic mail.

## 2 SCOPE AND PURPOSE OF RULES

(1) Pursuant to section 65 of the Stellenbosch University Student Constitution (hereinafter referred to as the “Student Constitution”), the Stellenbosch University Student Court (hereinafter referred to as the “Court”) has the authority to adopt and enforce its own procedural Rules, with due consideration of the Rules of natural justice and the need for the Court to be accessible.

(2) These Rules govern the procedure in matters brought before the Court.

(3) The Rules shall be construed and administered to secure the just, speedy, and inexpensive determination matter brought 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 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 copy of the dates shall also be available at the SRC (Tygerberg and Stellenbosch) offices.

(2) Notice may be published by any other reasonable means determined by the Court.

(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 PROCEEDINGS OPEN TO THE PUBLIC**

Proceedings shall take place in an open Court unless it is in the interests of the administration of justice or the request one or more of the parties to the matter for reasons considered sufficient by the Court, that that the proceedings to be held behind closed doors.

#### **5 FILING OF DOCUMENTS**

(1) Any document initiating application proceedings shall be effected by electronic mail, addressed to the Court including all other relevant parties to the matter via means of the “CC” function.

(2) Parties to an application must inform the chair of any other parties that might have a material interest in the proceedings; upon which the chair shall notify via electronic mail such parties of the application procedure and invite them to make submissions.

#### **6 COMMENCEMENT OF AN APPLICATION TO THE COURT**

(1) Every application –

- (a) shall be brought via Notice of Motion;
- (b) be in accordance with the forms drafted by the court; and
- (c) shall be supported by a founding affidavit.

(2) Every Notice of Motion shall set out:

- (a) a short and plain statement of the order that the applicant wishes the Court to grant;
- (b) all the names of the persons deposing affidavits in support of the applicant’s case.

(3) Every founding affidavit shall set out:

- (a) a short and plain statement of the grounds upon which jurisdiction of the Court is founded;
- (b) a short and plain statement of facts surrounding the dispute;
- (c) a short and plain statement of the claim showing that the applicant is entitled to requested relief;
- (d) the section(s) of the Student Constitution on which the applicant relies in seeking relief; and
- (e) with reference to the above, the ability of the Court to provide the remedy or remedies sought by the applicant.

(4) In an urgent application, the Court may dispense with the forms and service provided for in these Rules and may dispose of the matter at such a time and place

and in such manner, which shall as far as practically possible, be in accordance with the procedure set out in these Rules.

(5) In every affidavit filed the applicant shall set forth explicitly the circumstances which he/she avers renders the matter urgent and the reasons why he/she claims that he/she could not be afforded substantial redress at a hearing in due course.

## **7 RESPONSES TO AN APPLICATION**

(1) Every respondent shall answer the applicants founding affidavit by means of an answering affidavit, in which the respondent will answer the allegations and evidence set fourth in the applicant's founding affidavits following the order of that affidavit.

(2) The respondent shall meet the requirements as set out by Rules 3 and 4 in so far as they are applicable to the respondents answering affidavit.

(3) Within 3 (three) days of the service of the affidavit and documents referred to in Rule 5, the respondent shall serve his/her notice of intention to defend to the court and applicant.

(4) Within 7 (seven) days of service of the affidavit and documents referred to in Rule 5, the respondent must serve his / her answering affidavit on the applicant.

(5) If necessary, and as the result of new facts being brought into dispute by (4), the applicant shall submit a replying affidavit within 3 (three) days after service of the answering affidavit.

(6) Any party failing to submit a response upon request is deemed to have admitted any allegations contained within the pleading opposing party's affidavit, and to have waived any available defenses or relief.

## **8 APPLICATION FOR EXTENSION BY A PARTY TO THE CASE**

(1) A written submission explaining the reasons for extension and the number of days may be submitted to the Court.

(2) The Court holds the right to approve, amend or deny the request for extension and will notify all parties to the proceeding as to the decision and the effect thereof on the forthcoming proceedings.

## **9 CERTIFICATION OF PLEADINGS**

(1) All pleadings submitted to the Court must be signed by the party or that party's representative.

(2) By signing, the party or representative certifies that he/she has read the document, that there are legitimate grounds to support it, and that it is submitted in good faith and not the sole purpose of delaying proceedings.

## **10 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 statute or constitutional clause in question;  
and
- (b) any question of law or potential conflict between the parties.

## **11 PRESENCE AT COURT PROCEEDINGS**

- (1) All parties shall be present at proceedings before the Court.
- (2) Pursuant to section 66 of the Student Constitution –
  - (a) any party before the Student Court may appear before the Court with or without representation; but
  - (b) only students may act as representatives before the Court.
- (3) A party shall notify the Court prior to the proceedings if he/she is will unable to attend.
- (4) If a party fails to attend the hearing, the matter may proceed in the absence of the party.

## **12 ADMINISTRATIVE APPEAL**

Any decisions of the Court may be appealed to the Appeal Court.

## **13 APPEAL PROCEDURES**

- (1) Any party who wishes to appeal any decision by the Court shall notify both the Court and the Dean of the Law Faculty of the University of Stellenbosch within 30 (thirty) days of the Court's decision being published.
- (2) The process to then be followed shall be prescribed by the Appeal Court

## **14 ALTERNATIVE DISPUTE RESOLUTION**

- (1) Subject to the discretion of the Court, based on the affidavits of the parties, the Court may elect to divert the matter for alternative dispute resolution (hereinafter referred to as "ADR").

(2) In any matter, either party can at any time notify the Court to divert the matter to ADR, subject to such party showing *prima facie* good cause for diversion.

(3) Notwithstanding the foregoing Rules, ADR shall not be considered if either party can show that:

- (a) the application is urgent; or
- (b) the nature of the relief is such that ADR is not appropriate; or
- (c) it is shown that the parties have taken steps to reach consensus.

(4) If ADR methods are successful, the process shall continue without prejudice to any party.

## **15 CONSEQUENCES OF NON-COMPLIANCE**

Any party that fails comply with the Rules promulgated by the Court shall be dismissed without prejudice.

## **16 ORDER OF HEARING**

Hearings held before the Student Court may, where appropriate, proceed in the following order:

- (a) Introduction of parties –
  - i. Introduction of the applicant; followed by
  - ii. Introduction of the respondent;
- (b) Opening statement of applicant;
- (c) Opening statement of respondent, unless given after the presentation of the applicant's case;
- (d) Applicant's case — presentation of evidence; testimony; cross-examination of witnesses, parties, and / or counsel by the Court;
- (e) If not previously given, opening statement of respondent;
- (f) Respondent's case — see (d) above;
- (g) Applicant's closing statement;
- (h) Respondent's closing statement;
- (i) The Court reserves the right to change the order of the hearing.