

PROPOSED BYLAW AMENDMENT:

This Amendment to the ASI Bylaws may be known as the “Judiciary Amendment of 2009.”

Summary of Amendment: This Amendment would create an independent Judiciary with seven AS Justice positions, and a Court Clerk or other support staff, replacing the Appellate Council, and granting the Judiciary original and appellate jurisdiction over most AS controversies and disputes. The Amendment would create regular AS offices of the Attorney General, the Public Defender’s and the Government Recruitment and Training Officer.

Section VII, Directors, is amended as follows:

“6. To adjudicate [impeachment of a justice of the Judiciary or removal of a Director] ~~disputes~~ as provided for in these bylaws.”

Section IX, Appointive Offices, is amended as follows:

“2. The student [nominees to the AS Judiciary] ~~of the Appellate Council~~ must also present the following qualifications:”

“B. Authority to Appoint and Confirmation. The President shall [, in consultation with the Recruitment and Training Office,] make all appointments subject to confirmation by the Board.

Section XII of the ASI Bylaws is stricken in its entirety and replaced with a new Section XII as follows:

~~XII. — Conflict Resolution:~~

~~A. — Original Jurisdiction:~~

~~The Board shall have original jurisdiction in all disputes, except those dealing with elections. In such cases, jurisdiction shall rest with an Elections Complaint Committee appointed by the Dean of Students in consultation with the Associated Students President.~~

~~B. — Appellate Council Appointment~~

~~1. — The Council shall consist of:~~

~~a. — Dean of Students or designee;~~

~~b. — A faculty member, appointed by CSUS Academic Senate;~~

~~c. — Three students, appointed by the ASI President in consultation with the Dean of Students or designee;~~

~~d. — Composition of the Appellate Council shall be determined in May of each academic year, and resigning members replaced as needed throughout the year.~~

~~2. — The Appellate Council may also review and comment on proposals for payment of stipends to Directors.~~

~~3. — The Appellate Council shall establish its operating procedures and shall have final authority within the Associated Students to resolve matters under its jurisdiction.~~

~~4. — The Appellate Council shall always meet in open session, except for deliberation.~~

~~5. — The Appellate Council shall have jurisdiction over all Board and Election Complaint Committee decisions.~~

~~6. — Any Board member, Election Complaint committee member, Appellate Council Member, or student with a petition of five percent (5%) of the Membership may order an Appellate Council review and ruling.~~

~~7. — The Appellate Council may only overturn the original decision due to a violation of applicable rules or laws.~~

Section XII. SPECIAL OFFICERS, JUDICIARY DEPARTMENT AND CONFLICT RESOLUTION

A. Special Officers: General Provisions

1) Purpose

To serve the Associated Students body and Executive Branch as described for their respective offices.

2) Appointments

Except as indicated in these Bylaws, all appointed AS Special Officers shall be appointed by the AS President, and shall be subject to confirmation by the AS Board.

3) Compensation

The Special Officers may be granted a sum of money during their term in office. The AS Board Directors shall determine that amount during the normal budgetary process in accordance with the appropriate provisions of these Bylaws and the policies of the Associated Students.

4) Office Hours

The Special Offices shall be required to maintain a minimum of 3 office hours per week. All office hours must be recorded with the AS Department Secretary [or other designated recordkeeper](#).

B. Special Officers: Duties and Powers

1) AS Attorney General

a. Duties

- i. To prosecute for the Associated Students before the AS Judiciary.
- ii. To defend the Associated Students when involved in litigation before the Associated Students Judiciary.
- iii. To enforce the AS Bylaws.
- iv. To serve as prosecutor on behalf of the Associated Students, in all impeachments and impeachment trials.
- v. To assist, upon request, in the initiative, referendum, recall, or impeachment procedures by reviewing the petition(s) to insure conformity to the requirements as stated in the AS Bylaws.
- vi. To annually update and supplement the Manual of Rules, Procedures, and Operations of the Office of the Associated Students Attorney General.
- vii. To report to the Board of Directors at least twice a semester.

b. Powers

- i. The AS Attorney General shall have the power to appoint deputies.
- ii. Subpoenas
 - (a) The AS Attorney General shall have the power of AS Subpoena, Subpoena Ad Testificandum, and Subpoena Duce Tecum.
 - (b) The AS Attorney General shall have the final authority and responsibility for all subpoenas issued by the office of the Attorney General.
 - (c) Failure to obey a subpoena issued by the office of the Attorney General may result in a contempt citation being charged.
 - (d) The AS Attorney General may recommend to the Dean of Students appropriate actions for persons found guilty of contempt.

- iii. Office of the Attorney General
 - (a) The Attorney General, Deputy Attorney General, and other staff members shall constitute the office of the Attorney General.
 - (b) It shall be the duty, power, and responsibility of the Attorney General to ensure the efficient operation and proper functioning of the office of the Attorney General.

2) AS Public Defender

The appointment of the AS Public Defender will be made directly by the AS Board of Directors.

a. Duties

- i. To defend, upon request, any individual or AS organization being prosecuted by the Associated Students.
- ii. To act in the capacity of a consumer advocate and call to the attention of the appropriate body or persons unfair practices, which may exist on campus.
- iii. To assist any individual or AS organization, upon request, in filing papers preparatory to bringing a case to the AS Judiciary.
- iv. To assist students, upon request in the presentation of initiative, referendum, recall, bylaw amendment, or impeachment petitions and actions.
- v. To assist any individual or AS organization, upon request, in the presentation of cases before the AS Judiciary.
- vi. To report to the Board of Directors at least once a month.

b. Powers

- i. The AS Public Defender shall have the power to serve AS subpoenas, Subpoena Ad Testificandum, and Subpoena Duce Tecum.
- ii. The AS Public Defender shall have the power to appoint deputies.

3) AS Government Recruitment and Training Officer

a. Purpose

The Government Recruitment and Training Officer shall be responsible for providing leadership and management training for students to be future leaders of the Associated Students. The Office shall provide recruitment information to the Associated Students and actively seek participants. The Office shall be responsible for general and branch specific training programs for students.

b. Membership

- i. The Government Recruitment and Training Officer
- ii. Elements specified in Section "c"
- iii. Additional membership officers, agencies and activities offices, agencies and activities established by the Bylaws, the AS President or the Government Recruitment and Training Officer.

c. Duties of the Government Recruitment and Training Officer

- i. To serve as head of recruitment and training for the Associated Students
 - ii. To recommend to the Treasurer the annual budget for the recruitment and training activities of the Associated Students
 - iii. To act as a principal advisor to the President for the leadership training program of the Associated Students
 - iv. To supervise and coordinate the recruitment and training program of the Associated Students including:
 - (a) Freshman recruitment
 - (b) Transfer student recruitment
 - (c) Government mentor program.
 - v. To be responsible for providing information on recruitment and training to and consult on specific programs [as requested by managers of the AS departments, and required by these bylaws.](#)
- d. Associate Members of the Government Recruitment and Training program
- i. Assistant Government Recruitment and Training Officer
 - (a) There shall be maximum of three (3) Assistant Government Recruitment and Training Officers appointed by the President with the advice and consent of the Board of Directors.
 - (b) Assistant Government Recruitment and Training Officers shall serve in general or specific areas assigned by the President with a recommendation of the Officer.
 - ii. Junior Officers Training Program
 - (a) There shall be Junior Officers Training Program, also known and hereafter referred as the JOT Team.
 - (b) The JOT Team shall establish its own procedure with concurrence of the Officer.

C. Judiciary Department

1. General Provisions

a) Purpose

To review all actions or documents of any Associated Student agency, body, organization, or office holder within the Associated Student upon filing of a petition. The petition must be filled in compliance with the Working Rules and Procedures of the AS Judiciary.

b) Appointments

All AS Justices shall be appointed by the AS President, and shall be subject to confirmation by the AS Board of Directors. [No AS Justice may also hold another position within AS government without creating a conflict of interest. Acceptance of appointment as a Justice requires the candidate vacate any other AS position held.](#)

c) Compensation

The Judiciary members may each be granted a sum of money during his/her term of office. The AS Board of Directors shall determine the amount during the normal budgetary process in accordance with the appropriate provisions of the Bylaws and policies of the Associated Students.

d) Office Hours

The Judiciary members shall be required to maintain a minimum of 3 office hours per week. All office hours must be recorded with the AS Department Secretary or other designated staff.

e) Judiciary Meetings

The Judiciary shall set regular meetings each semester sufficient to timely discuss all Judiciary business, review petitions and complaints, make judiciary rules, forms, policies or procedures, set docket calendars and other needful business of the Judiciary. A simple majority vote of a quorum present shall carry all motions in judiciary meetings. Annually the Judiciary shall prepare and submit a budget request for its operations.

2. Voting Membership

a) The voting members of the Judiciary shall consist of the following:

i. The AS Chief Justice

a) The Chief Justice shall have a term of office of one year.

b) The Chief Justice shall have served as an Associate Justice prior to being appointed as Chief Justice. When there are one or no Associate Justices available for appointment to Chief Justice, a Chief Justice may be appointed who has not serve as an Associate Justice.

c) The Chief Justice shall set the Judiciary's agenda and case docket.

d) The Chief Justice shall call meetings of the Judiciary no less than once per month during the regular academic semester.

e) The AS President-elect, prior to taking office, shall be allowed to appoint a Chief Justice Designate. This appointment shall be subject to approval by the current AS Board of Directors. The Chief Justice Designate shall assume office on the last day of the Spring Semester.

ii. Six AS Associate Justices

a) Associate Justices shall have a term of one year. They shall be designated as holding offices A, B, C, D, E, and F.

b) Terms of office for Associate Justices holding offices A, B, and C shall start the first day of fall semester and terminate on the last day of the following spring semester. The terms of office for Associate Justices holding offices D, E, and F shall start on the first day of spring semester and terminate on the last day of the following fall semester.

c) It is the duty of all Associate Justices to attend the meetings of the AS Judiciary.

1) Any Associate Justice that accumulates three unexecuted absences in a single semester shall be referred to the AS Judiciary for disciplinary action to include removal from office as stated in these Bylaws, Chapter I, Article III, Sections 8 and 9.

2) Any Associate Justice that misses 50% or more of a meeting because of late arrival or early departure shall receive an unexcused absence.

3) Any Associate Justice that fails to attend a scheduled meeting, regardless of quorum or business conducted, will receive an unexcused absence.

4) Proof of medical emergency is grounds for an excused absence.

- 5) The Chief Justice of his/her designated representative shall be responsible for recording absences and reporting any Associate Justice who violates the above rules.
- 6) As soon as possible following an Associate Justice's impeachment or resignation, the AS Chief Justice shall notify the AS President that a new appointment is required in the Judiciary.

3. Non-Voting Membership

The non-voting members of the Judiciary shall consist of the following:

- a) The Judiciary Court Clerk, who shall be appointed by the Chief Justice.
- b) The President of the University or his/her designated representative.
- c) One Faculty representative selected by the Academic Senate.

4. Procedure for Judicial Action

- a) Request for Judicial Review

The petitioner shall be an individual who is personally and directly affected by, or who is a member of an organization which is directly affected by, the action for which review is requested; subject to the stipulation that only the AS Attorney General or his/her designee may represent the Associated Students.

- b) Request for Judicial Action

A request for judicial action may be made in the form of a petition by any member of the Associated Students. The petition must be heard by the Judiciary within 30 days of the officially filed petition whenever the University is in a regular academic semester.

- c) Judicial Authority in Contested Elections

The AS Judiciary shall be the final authority in all contested elections.

- d) Legal Counsel

At no time shall professional or hired legal counsel, whether for compensation or pro-bono, represent any member of the Associated Students before the AS Judiciary.

- e) Petition for Request for Judicial Action

This petition form must be obtained from the AS Judiciary, the AS Attorney General, or the AS Public Defender.

- f) [Access to Working Rules and Forms](#)

[The ASI Bylaws, Judiciary Working Rules and all Judiciary forms must be conspicuously published online on the AS website and made available for reading and download. All parties to any cause before the Judiciary shall be informed in writing where the ASI Bylaws and Judiciary Working Rules are to be found.](#)

- g) Filing of Decisions

Filing of decisions of the AS Judiciary shall be placed in permanent document files of the Associated Students under the custody of the AS Executive Director and the Vice President for Student Services or his/her designated representative.

5. Judicial Authority

- a) Authority Vested in Judiciary

The Judicial authority of the Associated Students shall be vested in the Associated Students Judiciary.

6. Composition of Judiciary

The Judiciary shall consist of the following members:

The Chief Justice and six Associate Justices, all appointed by the President, with the approval of the Board. In addition, there shall be the following non-voting advisors: the President of the university, or his designated representative and a representative chosen by the faculty.

7. Quorum

A quorum for Judiciary meetings shall be defined as four voting members and at least one non-voting member.

8. Rules and Procedures

a) The Judiciary shall provide for its own rules and procedures under the guidance of one or more of its non-voting members.

b) The Judiciary meetings, hearings and working-rule sessions shall operate subject all applicable sunshine laws, including the Open Meetings Act, except for case deliberations, which are private and are not subject to public attendance or participation.

c) In creating its working rules and procedures, the AS Judiciary may, in its discretion, consult with the Attorney General, the Public Defender's office, other officers of the AS government or anyone else it deems appropriate.

9. Assignment of Cases by Chief Justice

The Chief Justice may, in his or her discretion, assign cases to an individual Justice for the original hearing or to a three-judge panel, except in appeal cases; a minimum of three Justices assigned by the Chief Justice, shall be necessary to hear appeals. Any Justice who has any conflict of interest in any controversy or concerning any party to a case shall make such known and shall recuse himself from presiding over any related controversy or dispute before the Judiciary.

10. Duties and Powers of the Judiciary

The Judiciary shall:

- a) Hear timely all petitions properly brought before it.
- b) Interpret the provisions of the AS Bylaws or any other AS document when a dispute arises.
- c) Take disciplinary action, including suspension or revocation of charter privileges, against organizations chartered by the Associated Students.
- d) Render final decisions in election disputes.
- e) On all judiciary case decisions, write a majority and, if applicable a minority opinion, which must be made readily available to all who request it. It must be prepared within four working days after the decision has been rendered.
- f) Notify in writing the AS Board of Directors and Executive members of any changes to the Judiciary Working Rules within five working days prior to its enactment.
- g) Notify all individual and group defendants of any complaint filed against him or her within two working days of the filed complaint.
- h) Forward a copy of Judiciary Minutes to AS Board of Directors and Executive members within four working days after their latest meeting.
- i) The Judiciary has full subpoena powers over all AS organizations, personnel and documents.

- j) Among its various powers, the Judiciary has the powers to issue: declaratory and injunctive relief, contempt citations, writs of mandate, civil judgments and interpretations of AS constitutions, bylaws, rules, policies, procedures or other documents of any AS organization. In the event of a conflict among the bylaws, the Judiciary shall decide which provision prevails.

11. Judiciary Decisions

Decisions of the Judiciary shall constitute the final authority of the Associated Students.

12. Judiciary Removal from Office

A Justice of the AS Judiciary shall be removed from office on impeachment for failure to execute the specified duties of office, or for other specified ~~impudent~~ improper actions.

13. Process of Impeachment

The process of impeachment and removal shall be as follows:

- a) A petition containing the specified charges against the Justice must be circulated among the students, and signed by a minimum of 5% of the entire student body.
- b) The signed petition containing the charges must be submitted to the Chairman of the Board of Directors. Within two weeks of receipt of the petition the Chairman of the Board must hold a special meeting wherein the Board will act as a court. The Chairman will preside or a non-voting member. **In such a proceeding, the Justice must have the opportunity to defend the allegations.** If 2/3 of the entire Board finds the Justice guilty, the said Justice will be removed.

14. Manner of Filling Vacancies

- a) All vacancies on the Judiciary shall be filled as expeditiously as possible.
- b) The AS President should rely upon the Recruitment Office to provide him with one or more recommended candidates to interview and consider for nomination to a vacancy. If the President has his/her own candidate(s) in mind, the President shall submit their name(s) to the Recruitment Office for background clearance to ensure they meets all requirements for holding AS office before being named.
- c) The AS President shall name a qualified nominee for any vacant Judiciary position as soon as possible and not more than 30 days after receiving notice of the vacancy, unless extended by the Board for good cause as provided in this section. Upon nominating any qualified person to fill a vacant position, the President shall issue a statement of nomination and ensure it is disseminated promptly to the Board of Directors, the Recruitment Officer, the Attorney General, the Public Defender's office, the Judiciary, the other executive officers and the school newspaper.
- d) The Recruitment Officer shall coordinate to ensure that the name of any nominee for any vacant position shall be published in the school newspaper no less than a week prior to the Board's confirmation hearing, with an announcement that public support or opposition to the nominee may be lodged in advance with the Recruitment Officer, or at the confirmation hearing of the Board of Directors.
- e) The Recruitment Officer shall prepare and deliver to the Board of Directors, prior to their confirmation vote on a nominee, a nonpartisan, written evaluation of the nominee. The evaluation shall make note of all reported public support or opposition to the nominee in their written evaluation of the nominee. The Recruitment Officer may interview the nominee and request information from the nominee. The evaluation shall state the results of the background clearance investigation by the Recruitment Officer to ensure that the nominee meets all requirements for holding AS office. The evaluation may offer an opinion on the qualifications of the nominee.
- f) Nominees must attend the Board's confirmation hearing and answer questions posed by the Board regarding their qualifications, ability to serve, conflicts of interest or any other reasonable questions. If a nominee fails to attend their confirmation hearing, it may be postponed one additional meeting and republication of the revised date for the confirmation hearing is required. If the nominee fails to attend

again, without good cause, the nomination is forfeit and cancelled with prejudice automatically by operation of law. The Board shall allow the public an opportunity to provide input to the Board both before and after the nominee is interviewed by the Board, and before the Board votes to confirm or deny the nomination.

- g) The Attorney General may bring an action to block the nomination if the nominated individual is unqualified to hold the position under the AS Bylaws.
- h) If the neither the President nor the Recruitment Office has any suitable candidates for appointment to the vacant position, the Board may grant the President and the Recruitment Office an additional 15 days for further recruitment and nomination process.
- i) The Board of Directors shall vote on confirmation of the nominee at its next regular meeting scheduled following the nomination's announcement in the school newspaper.

D. Conflict Resolution, Prevailing Law, Resource Provision

1) Judiciary to manage AS donflict resolution

It is the intent of this Amendment that AS organizations may, but are not required to, provide for the removal of their own members, except Justices shall be removed by the Board of Directors rather than by the Judiciary. All other conflict or dispute resolution activities of or regarding Associated Students, any of its elections, operations, subordinate clubs and organizations, shall be conducted through the AS Judiciary created by this Amendment. If an AS organization's constitution or bylaws fails to provide for its own removal of its members, it may petition the Judiciary to remove a member for cause. Where an AS organization removes a member, the Judiciary may hear a petition claiming that the removal was improper.

2) Prevailing law

In the event of any conflict between this Amendment and any other provision of ASI Bylaws, this Amendment shall prevail.

3) Provision of funding, space and additional resources

a) Immediate funding and enactment

It is the intent of the Student Body that the Judiciary and Special Offices created by this Amendment be appropriately funded and equipped to perform the functions designated by this Amendment as soon as possible. The Board is hereby directed to conduct an analysis of the necessary funding, space and equipment requirements to effectuate this Amendment and appropriate such resources at the earliest possible time, and to take all steps to enact the provisions of this Amendment with all diligent haste.

b) Future budgeting

The Board shall annually process Judiciary budget requests and approve such annual budget amounts as it deems sufficient to operate the department in accordance with this Amendment. For the purposes of annual budgeting, the Special Offices created by this Amendment shall each submit their budget requests for consideration by the Board together with the Judiciary budget request, and the Special Offices and the Judiciary may consult with each other in the preparation of their respective budget requests.