

# Judicial Board Procedures

Rules and Regulations of Practice



Updated as of 2018-10-18



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# 1. DEFINITIONS

- a) **"Action"** shall mean a Petition or a Reference Question filed by a Party to the Judicial Board;
- b) **"Advocate"** shall mean a Member of the SSMU who is designated by a Party or Intervenor to represent them before the Judicial Board;
- c) **"Board of Directors"** shall mean the body established by and under Section 6 of the Constitution;
- d) **"Chief Justice"** shall mean the Justice selected pursuant to Section 6 hereof;
- e) **"Conflict of Interest"** shall mean a situation in which there are serious reasons for questioning a Justice's impartiality and for justifying the Justice's recusal. The following situations, among others, may be considered a Conflict of Interest:
  - a. the Justice being united by marriage or civil union with one of the Parties, or the Justice or the Justice's spouse being related to one of the Parties, up to the fourth degree inclusively;
  - b. the Justice or the Justice's spouse having an interest in the Proceedings;
  - c. the Justice being in a conjugal partnership with one of the Parties;
  - d. the Justice being a Party to Proceedings pertaining to an issue similar to the one before the Justice for determination;
  - e. the Justice having given advice or an opinion on the dispute or having previously dealt with the dispute as mediator during a mediation session under Section 14 hereof;
  - f. the Justice having represented one of the Parties or Intervenor(s);
  - g. the Justice being an executive of any club, service or independent student group that is a Party or Intervenor to the Proceedings;
  - h. a serious conflict existing between the Justice and one of the Parties, or threats or insults having been uttered between them during the Proceedings or in the year preceding the Hearing.
- f) **"Constitution"** shall mean the Constitution of the SSMU;
- g) **"Day"** shall mean every day including weekends (Saturday and Sunday), but excluding civic and academic holidays;



- h) **"Declaration"** shall mean the document submitted to the Judicial Board which contains the written arguments of the Petitioner(s), the Respondent(s) and the Intervenor(s), where applicable, and which can be found in Annex 4 hereof as Form D-1;
- i) **"Decision"** shall mean the written opinion of the Judicial Board on the subject-matter of a Hearing, and which details the conclusion reached by the Justices;
- j) **"Executive Summary"** shall mean a brief but comprehensive summary that highlights the main points of the Judicial Board's opinions, and serves to increase the accessibility of Judicial Board opinions to the Members of the SSMU;
- k) **"Forms"** shall mean collectively all documents submitted to the Judicial Board which are attached in the Annexes hereof, namely the Form P-1, Form R-1, Form I-1, and Form D-1;
- l) **"Hearing"** shall mean a hearing referred to in Section 17 hereof;
- m) **"Interim Order"** shall mean an order issued by the Judicial Board prior to the Decision that compels a Party to do or refrain from specific acts and serves to preserve the rights of all Parties until the Judicial Board's final opinion;
- n) **"Internal Regulations"** shall mean the Internal Regulations of Governance of the SSMU;
- o) **"Intervenor"** shall have the meaning ascribed to it in Section 11 hereof;
- p) **"Judicial Board"** shall refer to the SSMU Judicial Board, established in accordance with Section 15 of the Constitution;
- q) **"Justice"** shall mean a duly appointed member of the Judicial Board;
- r) **"Jurisdiction"** shall have the meaning ascribed to it in Section 7 hereof;
- s) **"Legislative Council"** shall have the meaning ascribed to it in Sections 2(m) and 8 of the Constitution;
- t) **"Members of the SSMU"** shall have the meaning ascribed to it in Sections 2(o) and 5 of the Constitution;
- u) **"Officer"** shall have the meaning ascribed to it in Sections 2(q) and 10.1 of the Constitution;



- v) **"Party"** shall mean, as the context requires, either the Petitioner(s) or the Respondent(s);
- w) **"Parties"** shall mean, collectively the Petitioner(s) and the Respondent(s);
- x) **"Petition"** shall mean the written application from the Petitioner(s) to the Judicial Board asking that it exercise its Jurisdiction to settle a dispute which shall be submitted under Form P-1 as found in Annex 1 hereof;
- y) **"Petitioner"** shall mean the Party who submits the Petition;
- z) **"Presiding Justice"** shall mean the lead Justice for a Hearing or presiding over a mediation;
- aa) **"Procedures"** shall mean these SSMU Judicial Board Procedures;
- bb) **"Proceedings"** shall mean collectively, and where it applies, the Petition, the Declarations, the Hearing, the mediation session, the Decision and any other formal procedural requirements made by the Judicial Board to the Parties and Intervenor(s);
- cc) **"Reference Question"** shall have the meaning ascribed to it in Section 20 hereof;
- dd) **"Respondent"** shall mean the Party against whom a Petition is submitted;
- ee) **"SSMU"** shall mean the Students' Society of McGill University; and
- ff) **"SSMU Office"** designates the place that, from time to time, may be designated as such.

## 2. GENERAL

- 2.1 The Judicial Board is an official dispute resolution body of the SSMU empowered to hear Actions involving Members of the SSMU and emit Decisions within its Jurisdiction.
- 2.2 The Judicial Board shall not render an opinion on the interpretation of SSMU documents without a proper consultation. Judicial Board opinions require a thorough decision-making process during which principles of legal interpretation and reasoning are applied to the facts of a matter before the Judicial Board.



- 2.3 These Procedures are the Judicial Board's rules of practice established in accordance with the Internal Regulations.
- 2.4 The Judicial Board shall abide by the applicable laws and SSMU's governing documents in the following order of priority:
- (a) The *Companies Act*, RSQ, c C-38;
  - (b) The Constitution;
  - (c) The Internal Regulations;
  - (d) Any SSMU Policies; and
  - (e) These Procedures.
- 2.5 Every communication to the Judicial Board shall be addressed to [jboard@ssmu.ca](mailto:jboard@ssmu.ca).

### 3. LANGUAGE OF PROCEEDINGS

- 3.1 English, being the language of instruction at McGill University, is the de facto language of the Judicial Board. As such, Proceedings shall be carried out primarily in English.
- 3.2 The Judicial Board shall make all reasonable efforts—in consideration of available resources—to accommodate French-speaking Parties and Intervenors who may wish to bring forward Actions, defend against them or intervene in them.

### 4. QUORUM

- 4.1 The quorum during an internal meeting of the Judicial Board shall be a simple majority of Justices appointed, but no less than three (3) Justices.
- 4.2 The Judicial Board may sit in a panel of three (3), five (5), or seven (7) Justices during a Hearing.
- 4.3 In instances of vacancy among the Justices constituting the Judicial Board, the Board of Directors shall fill the vacancy with all due dispatch.



## 5. JUSTICES' OBLIGATIONS

- 5.1 The Justices shall endeavor to act honestly and in good faith with a view to the best interests of the Members of the SSMU and shall exercise the care, diligence, and skill that a reasonably prudent person would exercise in comparable circumstances.
- 5.2 Where a Justice is in a Conflict of Interest, they shall withdraw from any Proceedings so concerned and shall not attempt to influence any Justices involved therein. The Justice(s) shall immediately declare such Conflict of Interest and recusal in a written notice to the other Justices.
- 5.3 No Justice shall give an opinion on a matter susceptible of being the subject of an Action before the Judicial Board.

## 6. CHIEF JUSTICE

- 6.1 A Chief Justice shall be selected by the Justices annually or as a vacancy arises through a single majority secret ballot vote during the first formal internal meeting of the Judicial Board for the year or at the next formal internal meeting since the vacancy arose.
- 6.2 The Justices may, for serious and valid reasons such as ineptitude, impossibility of performance, and any similar reason, replace the Chief Justice by a single majority secret ballot at a duly called internal meeting. The Chief Justice must be provided with notice of the motion and an opportunity to present their position.
- 6.3 The former Chief Justice shall not be stripped of their status as Justice.

## 7. JURISDICTION

- 7.1 In accordance with Section 15.1 of the Constitution, the Judicial Board has the authority to adjudicate on matters outlined by Section 1 of the Internal Regulations concerning the Judicial Board.
- 7.2 By filing a Petition, the Petitioner(s) agree to submit the dispute to the sole Jurisdiction of the



Judicial Board and agrees to be bound by the Judicial Board's Decision upon ratification by the Board of Directors pursuant to Sections 4.2, 5.4 and 5.5 of the Internal Regulations concerning the Judicial Board.

- 7.3 The Petitioner(s) may, at any time prior to the Hearing, withdraw the Action, by way of a written notice to the Judicial Board. Where multiple Petitioners do not agree on the withdrawal or the Action has taken on a larger importance, the remaining Petitioner(s) or any interested Member of the SSMU may continue the Action.
- 7.4 The Judicial Board will not entertain Petitions which are frivolous, vexatious or of inconsequential merit. Such determination shall solely rest on the Judicial Board's interpretation of the submitted Petition and contextual background.

## 8. FORMS, DECLARATIONS, AND DEADLINES

- 8.1 All Forms must conform substantially to their respective format as specified in Annexes 1 through 4 hereof.
- 8.2 All Declarations must contain the Party's written arguments and substantially conform to the format of Form D-1 found in Annex 4 hereof. Declarations must be limited to twenty (20) pages double spaced, with size 12 Times New Roman font and 1" margins. The cover page, table of contents, authorities and appendices are excluded from the page limit. A Party may request, in writing, to extend the page limit.
- 8.3 Any Form that is not submitted before the applicable deadline shall be automatically rejected by the Judicial Board without further consideration.
- 8.4 Notwithstanding Section 8.3 hereof, a Party or Intervenor may make a request for extension at least twenty-four (24) hours prior to the deadline. The Judicial Board has complete discretion whether to approve such request and will only grant requests under exceptional circumstances, unless all the Parties agree to the extension in writing.
- 8.5 All Forms must be submitted electronically to [jboard@ssmu.ca](mailto:jboard@ssmu.ca).





## 9. PRELIMINARY PROCEDURES

- 9.1 An Action is commenced when a Member of the SSMU submits a signed Petition (Form P-1) accompanied by a Declaration (Form D-1) and all relevant documents, to the Judicial Board no more than ten (10) Days after:
  - (a) the event that is the cause for the Petition; or
  - (b) the Petitioner becoming aware of the event that is the cause for the Petition.
- 9.2 The Judicial Board shall decide, within 48 hours after receiving the Petitioner's Forms, whether it has Jurisdiction to hear such Petition brought before it in accordance with Sections 7.1 and 7.4 hereof.
- 9.3 Should the Judicial Board deny Jurisdiction, it shall provide written reasons for the rejection to the Parties.
- 9.4 Should the Judicial Board accept Jurisdiction, it shall send written notice of the acceptance to the Parties and invite the Respondent(s) to submit their position by duly completing Form R-1 and submitting a Declaration. Such a response must be filed no more than ten (10) Days after the invitation of the Judicial Board. Upon reception, the Judicial Board will forward the Respondent's Forms to the Petitioner(s).
- 9.5 Should the Judicial Board receive requests from third-parties asking it to publish the Parties' Declarations, the Judicial Board will forward these requests to the relevant Parties. A Party may publish their own Declaration.

## 10. INTERIM ORDERS

- 10.1 A Party may file a separate request for an Interim Order.
- 10.2 The Judicial Board may issue an Interim Orders only upon the request of at least one of the Parties. Interim Orders shall be binding on all Parties, and on all persons advised of the order who are subject to the authority of the Judicial Board.
- 10.3 The Judicial Board shall provide an Executive Summary of its written reasons for an Interim Order. The Executive Summary is not part of the written reasons, and is thus not binding.



- 10.4 The Judicial Board may convene a hearing to decide upon an Interim Order.
- 10.5 The Judicial Board may exceptionally determine the issue based solely on the written submission and in an *ex parte* manner if the request for an Interim Order is time-sensitive.
- 10.6 The Judicial Board shall decide upon the merits of an application for an Interim Order as soon as reasonably possible. This decision may be made by no less than three (3) Justices.
- 10.7 The Judicial Board shall consider the following factors when determining whether it should grant a Party's request for an Interim Order:
  - (a) The existence of a serious issue to be heard;
  - (b) Whether the Party requesting an Interim Order will suffer irreparable harm if the Interim Order is not granted;
  - (c) The balance of inconvenience.

## 11. INTERVENORS

- 11.1 Following the submission of the Respondent's Forms or the expiry of the ten (10) Day delay, whichever comes first, an invitation shall be extended by the Judicial Board inviting interested parties who may wish to intervene in the dispute to complete Form I-1 "Application for intervention" and submitting an electronic copy to the Judicial Board no more than three (3) Days following first publication of notice. The invitation to the interested parties shall be made through at least two (2) of the following:
  - (a) Campus media;
  - (b) SSMU Facebook page;
  - (c) SSMU Listserv.
- 11.2 The Judicial Board may recognize any Member, club, or services of the SSMU, any independent student groups, or any other student associations and their clubs and services as an Intervenor.
- 11.3 A Member, club, or service of the SSMU, any independent student groups, or any student associations and their clubs and services will only be accorded Intervenor status if, among other, it ensures that an affected interest group is represented, or the submissions will be useful to the Judicial Board and different from those of the Parties. Such determination shall



rest exclusively on the Justices' own interpretation of the matter. For greater certainty, Intervenor are appointed without the permission of the Parties.

- 11.4 Should the Judicial Board accept an Intervenor, it shall notify the Intervenor no later than five (5) Days after the end of the submission period mentioned in Section 11.1 hereof.
- 11.5 There shall be a maximum of three (3) Intervenor per Action or Reference Question. Where the Judicial Board sees it as necessary, this number may be increased under special circumstances.
- 11.6 Intervenor must submit a Declaration prior to the Hearing. Intervenor may choose to make oral submissions at the Hearing, but are not obliged to do so. Written submissions shall be in the Form of a Declaration and conform to all restrictions described in Section 8.2 hereof. The Intervenor's Declaration must be sent within five (5) Days of receiving notice of acceptance as an Intervenor. The Judicial Board shall forward the Intervenor's Declaration to the Parties upon reception.

## 12. ADVOCATES AND REPRESENTATION

- 12.1 A Party or an Intervenor involved in a Proceeding may designate an Advocate. Only Members of the SSMU, not remunerated in any way for their services may be designated as an Advocate.
- 12.2 No Party or Intervenor is required to be represented by an Advocate during the Proceedings, and may self-represent. A SSMU club, service or independent student group must be represented by a representative duly-authorized to speak on behalf of the entity.
- 12.3 Each Party and Intervenor shall be entitled to no more than one (1) Advocate during the Hearing, and the said Advocate shall have been designated to the Judicial Board by written notice at least two (2) Days prior to the scheduled Hearing.
- 12.4 No witness shall be represented by an Advocate in a Hearing.



## 13. PRESIDING JUSTICE

- 13.1 The Chief Justice shall be the Presiding Justice to lead a Proceeding.
- 13.2 Where multiple separate Actions are simultaneously brought before the Judicial Board, the Chief Justice may remain on the panel, but refrain from exercising their duties as the Presiding Justice for one of the Actions.
- 13.3 Where a panel is composed absent the Chief Justice or where the Chief Justice refrains from exercising their duties as the Presiding Justice, the Judicial Board shall appoint, by common understanding, one (1) Presiding Justice to lead the Proceedings. Such appointment shall be effective only for the duration of such Proceedings.

## 14. MEDIATION

- 14.1 The Parties may agree, upon mutual consent, to enter into a mediation process at any time before the Hearing, except for Actions involving the interpretation of the Constitution. A Hearing must be held to resolve issues concerning the constitutionality of SSMU documents.
- 14.2 Upon reception of the applicable Forms of the Petitioner(s) and the Respondent(s) and where agreed to by both Parties, the Judicial Board shall appoint a Justice to preside over a mediation session as an alternative and preferred recourse. The purpose of mediation is to amicably resolve the dispute without proceeding to a hearing.
- 14.3 Advocates may be present at the mediation session at the request of the respective Party.

## 15. PRELIMINARY CONFERENCE

- 15.1 Where the dispute is not amicably resolved during mediation, the Parties, Intervenors, where applicable, and Advocates, where applicable, and Justices shall meet in a preliminary conference, and discuss a number of issues informally, including but not limited to:
  - (a) agreement on non-contentious facts of the dispute;
  - (b) stipulation of witness testimony;
  - (c) amendment of Petition or respective Declaration(s);



- (d) explanation of Hearing procedures;
- (e) explanation of admissible evidence; and
- (f) setting a date for the Hearing.

## 16. WITNESSES

- 16.1 Members and employees of the SSMU may be called by the Parties to testify as a witness at a Hearing, subject to the approval of the Judicial Board.
- 16.2 The Judicial Board may reject a Party's application to call Members or employees of the SSMU to testify as witnesses if the Party's application includes an unreasonable number of potential witnesses or if multiple witnesses will make similar testimonies.
- 16.3 No witness shall have the status of an expert witness.

## 17. HEARING RIGHTS AND PROCEDURE

- 17.1 Hearings are open to the public, limited only by space restrictions in the designated Hearing room.
- 17.2 Such Hearing room must be on the premises of the McGill University downtown campus and must be easily accessible to all Members of the SSMU.
- 17.3 Justices shall have the power to remove anyone from a Hearing if they are disruptive, threatening, or offensive.
- 17.4 No audiovisual recordings shall be taken during a Hearing, but attendees may take handwritten notes.
- 17.5 Justices may ask questions directly to witnesses, Parties, Intervenors and Advocates.
- 17.6 Justices shall dress in formal business attire for all Hearings. There shall be no dress requirement for any other attendees.
- 17.7 The Hearing shall proceed as follows, unless decided otherwise by the Justices:



- (a) The Presiding Justice shall introduce each of the sitting Justices and outline the rules of the Hearing;
  - (b) The Petitioner(s), followed by the Respondent(s), may make an opening statement to introduce the nature of the Action, and the facts of the case for no more than five (5) minutes;
  - (c) The Petitioner(s) shall present and question its witnesses and shall tender evidence. The Respondent shall then present and question its witnesses and shall tender evidence. If applicable, the Intervenor(s) shall also present and question its witnesses and shall tender evidence. Each Party and the Intervenor(s) shall limit their respective interventions to twenty (20) minutes;
  - (d) The Respondent(s) or the Petitioner(s) may cross-examine the other Party's witnesses for no more than five (5) minutes respectively;
  - (e) The Intervenor(s) shall not be allowed to cross-examine witnesses;
  - (f) The Parties shall then proceed with oral arguments for no more than twenty (20) minutes each;
  - (g) Justices may intervene at any time to ask questions to an Advocate, Party, or witness; and
  - (h) The Petitioner(s), followed by the Respondent(s), may make a closing statement and/or rebuttal for no more than ten (10) minutes each. No new evidence may be introduced during the closing statement.
- 17.8 The Judicial Board may extend the time periods provided to the Parties by Section 17.7 hereof to make their oral pleadings, to present and question their witnesses, and to tender evidence.

## 18. PRELIMINARY AND WRITTEN DECISIONS

- 18.1 In accordance with Section 3.1 of the Internal Regulations concerning the Judicial Board, and where necessary, the Judicial Board may rule on matters related to the central issue in the form of a preliminary decision. A Party may file a request for a preliminary decision either prior to a Hearing, or by way of motion at the Hearing itself. The Judicial Board shall decide upon the merits of an application for a preliminary decision within a reasonable time.
- 18.2 The Judicial Board must provide written reasons for its Decision on the Action to the Board of Directors and the Parties within two (2) weeks of the Hearing.
- 18.3 The Judicial Board shall provide an Executive Summary of its written reasons for its Decision



on the Action. The Executive Summary is not part of the written reasons, and is thus not binding.

- 18.4 An electronic version of the Decision shall be placed on the SSMU website and serve as official copy. The Decision shall be kept on file at the SSMU Office.

## 19. APPEALS

- 19.1. Decisions of the Judicial Board may be appealed to the Board of Directors in accordance with the rules set out in Section 5 of the Internal Regulations concerning the Judicial Board.

## 20. REFERENCE QUESTIONS

- 20.1 The President of SSMU, the Chief Returning Officer, the Board of Directors, the Legislative Council and the General Assembly may all submit a Reference Question to the Judicial Board.
- 20.2 In such instances, the Judicial Board shall accept to emit its opinion on contentious situations where no dispute has arisen.
- 20.3 A Reference Question shall be submitted by filing and submitting to the Judicial Board the form P-1. Intervenors shall be invited through the applicable process, and shall submit form I-1 to the Judicial Board.
- 20.4 There shall be a Hearing, during which the oral arguments of the Petitioner will be heard for no more than (10) minutes, followed by the oral arguments of the Intervenor(s), where applicable, which may last no more than (10) minutes each.
- 20.5 The Judicial Board must provide written reasons for its Reference Question Decision to the Board of Directors and the Petitioner(s) within two (2) weeks of the Hearing.
- 20.6 The Judicial Board shall provide an Executive Summary of its written reasons for its Decision on the Reference Question. The Executive Summary is not part of the written reasons, and is thus not binding.



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*Located on Haudenosaunee and Anishinaabe, traditional territories*

## ANNEX 1: FORM P-1 PETITION FOR HEARING

Form P-1 Petition for Hearing can be accessed [here](#). For accessibility issues, please email [jboard@ssmu.ca](mailto:jboard@ssmu.ca).





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## ANNEX 2: FORM R-1 POSITION OF RESPONDENT

Form R-1 Position of Respondent can be accessed [here](#). For accessibility issues, please email [jboard@ssmu.ca](mailto:jboard@ssmu.ca).



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## ANNEX 3: FORM I-1 APPLICATION FOR INTERVENTION

Form I-1 Application for Intervention can be accessed [here](#). For accessibility issues, please email [jboard@ssmu.ca](mailto:jboard@ssmu.ca).



## ANNEX 4: FORM D-1 DECLARATION

Each of the following sections must be included in a Petitioner/Respondent/Intervenor's Declaration unless otherwise stated. The examples stated in Annex 4 are not exhaustive.

Declarations must be limited to twenty (20) pages double spaced, with size 12 Times New Roman font and 1" margins. The cover page, table of contents, authorities and appendices are excluded from the page limit. A Party may request, in writing, to extend the page limit.

### **1. Allegations of Facts**

- a. What happened?
- b. Who did what?
- c. What were the relevant dates of any, for example, communications, decisions, official motions?
- d. A copy of all relevant documents in their entirety, excluding the Constitution or any SSMU bylaws, should be attached to the P-1/R-1/I-1 Form.

### **2. Procedures Already Followed (Only in the Declaration of the Petitioner and Respondent)**

- a. Why is it not possible for this Action to be resolved by the Parties?
- b. Have all possible avenues for dispute resolution been exhausted? If not, why not?

### **3. Remedy Sought: What does the Party want?**

- a. The Petitioner/Respondent/Intervenor must clearly state what they want.
  - i. A Petitioner may, for example, ask for an order of the Legislative Council to be overturned, for an act by an Officer to be declared unconstitutional, for an interpretation of the Constitution or bylaws in reference to a specific fact situation.
  - ii. A Respondent may state any counter-claim against the Petitioner. The Respondent may, for example, ask a retraction or a public acknowledgment of error from the Petitioner.
  - iii. An Intervenor may state the desired outcome of the Action.

### **4. Reasoned Argument**

- a. What is the basis of jurisdiction for the Judicial Board? (Only in the Declaration of the Petitioner)
- b. Does this dispute fall within the jurisdiction of the Judicial Board? (Only in the Declaration of an Intervenor)
- c. What is the reason for the intervention? (Only in the Declaration of an Intervenor)



- d. Why should the Judicial Board award the Petitioner/Respondent/Intervenor what they want?
- e. What are the specific statutory provisions involved?
- f. If the Petitioner/Respondent/Intervenor alleges that a statutory provision has been violated, they must address the following questions:
  - i. What are the specific statutory provisions that have been violated?
  - ii. How do the facts as alleged constitute a violation?
- g. How should the statutory provisions be interpreted according to the Party?