

Title III
Judicial Affairs

Part 1

Student Supreme Court

Article I. The Student Supreme Court General Provisions

Section 101. Short Title of Act

This act may be known and cited as "The Student Supreme Court Act of 1999"

Section 102. Effective Date of Act

This act shall become effective upon passage and shall supercede the former Supreme Court Act.

Section 103. Statement of Mission and Purpose of the Student Supreme Court

The judicial power of the Student Body shall be vested in courts of two separate jurisdictions. These Courts derive authority differently. There is no appeal from one Court to another.

- A. The Honor Court is provided by the Instrument of Student Judicial Governance for the University of North Carolina at Chapel Hill. The Instrument, accepted by the Chancellor, approved by the Student Body and approved by the Faculty Council, shall be set forth in a separate document and provide for its own procedures for amendment. The Instrument shall provide a Code of Conduct for the student body and establish officers, structures and procedures by which the Code is implemented and offenses adjudicated. Provisions of the Instrument in relation to these matters shall be exclusive. The jurisdiction of the Honor Courts shall extend to student responsibilities under the Instrument and the Campus Code.
- B. The Student Supreme Court, provided by Title I, Constitution, Article II, Judiciary and by Title III, The Student Supreme Court Act of 1999 of the Code of Permanent Laws of the Student Government of the University of North Carolina at Chapel Hill. The jurisdiction of the Student Supreme Court shall extend to controversies concerning actions of the executive branch, legislative branch, elections board or other organizations and committees organized under the authority of this Code of Permanent Laws. This jurisdiction is extended to questions of law arising under this Constitution, the laws enacted under its authority and the governing documents of the other organizations and committees recognized under its authority.

Section 104. General Definitions

Subject to additional definitions which may be contained in the subsequent sections of this chapter which are applicable to specific sections or parts thereof, and unless the context otherwise requires or indicates, in this chapter:

- A. The word "act", when used as a noun in the sense of a deed subject to judicial review under the jurisdiction of the Supreme Court, may include a refusal to act, a proposed act, a completed act, or a continuing act.
- B. The word "action" means a suit and includes all controversies and cases.
- C. The phrase "executive act" means an act by an official or agency of the executive branch of Student Government or an act of an executive nature by any other governmental official or agency.
- D. The word "jurisdiction" when applied to a court means the legal power of the court to hear and decide an action
- E. The phrase "legislative act" or legislative action means any act passed by the Student Congress and signed into law by the Student Body President or enacted over the veto of the Student Body President, any resolution passed by the Student Congress, or any completed action of a legislative nature.
- F. The phrase "member of the Supreme Court" refers exclusively to the Chief Justice of the Student Body and the several Associate Justices.
- G. The word "standing" means the right of a particular person, student organization or association, or the Student Body to bring an action before the Supreme Court.
- H. The phrase "student organization or association" means a student organization or association other than a governmental agency.

Article II. The Student Supreme Court Constituted

Section 201. Supreme Court Constituted

There shall be within the judicial branch of Student Government a permanent court to be known as the Supreme Court of the Student Body.

Section 202. Composition of Supreme Court

The Supreme Court shall be composed of members as follows:

- A. A Chief Justice of the Student Body, appointed by the President of the Student Body and confirmed by a two-thirds (2/3) vote of the Student Congress.
- B. Four (4) Associate Justices of the Supreme Court, appointed by the President of the Student Body and confirmed by a two-thirds (2/3) vote of the Student Congress.

Section 203. Selection Committee

The President of the Student Body shall appoint a selection committee. The selection committee must widely distribute applications and advertise open seats on the Court. The selection committee shall interview applicants and forward recommendations to the President. The President appoints and, subject to the approval of the Rules and Judiciary Committee the Student Congress confirms by two-thirds (2/3) vote.

Section 204. Appointment of Chief Justice

The President of the Student Body may fill a vacancy in the position of Chief Justice of the Student Body. If an Associate Justice of the Supreme Court is appointed as Chief Justice of the Student Body, the refusal of the Student Congress to confirm the appointment shall not have the effect of removing the appointee from his/her position as an Associate Justice of the Supreme Court.

Section 205. Supreme Court Seat Vacancies

- A. Upon the vacancy of any seat on the Supreme Court, the President shall expedite the search for a replacement Associate of Chief Justice, as required by Sections 203 and 204 of this article. Such a search shall proceed as to leave an unfilled seat for no longer than one month during the regular school year.
- B. Time requirements for subsection (a) shall not be effective from the first Reading Day through the first day of classes in the following Spring or Fall Semester. Seats vacated over the Summer Sessions shall therefore be vacant no longer than one month following the first day of classes in the Fall Semester.

Section 206. Qualifications Required of Appointees

At the time of appointment, a person appointed to serve on the Supreme Court shall be:

- A. A person duly enrolled as a full-time student in the University of North Carolina at Chapel Hill.
- B. Free from sanction due to judgment by the Honor Court.
- C. Free from any disability to hold the position due to previous impeachment and removal from public office by the Student Congress.
- D. Free from conflict of interest.

Section 207. Conflicts of Interest

- A. No person shall serve on the Student Supreme Court at the same time that:
 - (1) He/She holds a position or campaigns for a position in Student Government made elective under the General Elections Law.
 - (2) He/She is a member of the Student Congress.
 - (3) He/She is a member of the Attorney General's Staff or the Elections Board.
 - (4) He/She is a cabinet, executive or senior-level staff person in the Executive Branch.
 - (5) He/She is a senior-level staff person in any of the other committees and organizations including but not limited to the Graduate and Professional Student Federation, the Carolina Athletic Association, and the Residence Hall Association.
- B. A person whose appointment to serve on the Supreme Court is barred by subsection A (1-5) of this section may remove the disability which bars his/her appointment by submitting to the President of the Student Body, prior to taking the oath of office, a copy of a letter sent to the appropriate official by and in which the person resigns from the position which caused the disability.
- C. A member of the Supreme Court shall immediately forfeit membership on the Court by accepting a position or campaigning for an elected office in contravention of subsection (a) of this section.

Section 208. Oath of Office

- A. Before entering upon the performance of his/her duties, a person appointed to serve on the Supreme Court shall take the following oath of office: "I do solemnly affirm that I shall faithfully perform the office of Justice of the Supreme Court and that I will, to the best of my ability, preserve, protect and defend the Student Constitution of the University of North Carolina at Chapel Hill and the laws enacted under its authority."
- B. The oath of office of the Supreme Court shall be administered by the Chief Justice of the Student Body in the presence of the other persons serving on the Court. The Student Attorney General or a member of her staff may administer the oath to the Chief Justice.

Section 209. Tenure of Supreme Court Members

- A. The Chief Justice and Associate Justices of the Supreme Court shall serve during good behavior or until they accept a position which disqualifies them to serve on the Supreme Court and, except as provided in subsection B of this section, as long as they are students duly enrolled in the University of North Carolina at Chapel Hill.
- B. Members of the Supreme Court who are students during a spring semester and will be students the following fall semester, but who are not enrolled as students for the intervening summer sessions, shall not cease to be members of the Supreme Court because of that fact nor shall that fact prevent him/her from serving on the Supreme Court during the summer sessions.
- C. A member of the Supreme Court may resign at any time by delivering a letter to the Student Body President.

Article III. Student Supreme Court Administration

Part A. Justices of the Supreme Court

Section 301. Seniority

- A. The Chief Justice of the Student Body shall have the greater seniority on the Supreme Court.
- B. An Associate Justice of the Supreme Court shall have greater seniority than those Associate Justices appointed after him/her. When two (2) or more Associate Justices of the Supreme Court are appointed at the same time, seniority among those Associate Justices shall be determined according to age with the older among them having greater seniority than the younger.

Section 302. Presiding Justices

- A. Whenever the position of Chief Justice of the Student Body is vacant or the Chief Justice of the Student Body is temporarily absent or unable to attend to his/her duties, the justice having the greatest seniority among those justices serving on the Supreme Court during the absence shall serve as the presiding justice.
- B. A presiding justice may exercise all powers and shall perform all responsibilities which the Chief Justice of the Student Body may exercise or is to perform under the law.

Section 303. Certain Conduct by Members Prohibited

- A. Members of the Supreme Court shall refrain from:
 - (1) Rendering formal or informal advisory opinions as to questions of law.
 - (2) Making public statements out of court as to particular questions of law.
 - (3) Discussing out of court the merits and issues of controversies or cases before the court or to be before the court.
 - (4) Urging the amendment, passage, or defeat of any measure before the Student Congress or other legislative body.
 - (5) Campaigning for, publicly endorsing or supporting any campus political candidate or issue to be voted on by the Student Body.
 - (6) Doing any act or making any statement out of court which would tend to disparage the impartiality of the Supreme Court.

- B. Nothing in subsection A of this section shall be construed to prohibit free discussion among the persons serving on the Supreme Court and between the persons serving on the Supreme Court and the court staff.
- C. Nothing in subsection A of this section shall be construed to prohibit the Chief Justice from discharging his/her responsibilities to administer the Court and speak on administrative questions to petitioners of the Court.
- D. The blatant or repeated commission by members of the Supreme Court of any of the acts prohibited by subsection A of this section may be grounds for impeachment and removal by the Student Congress. A lesser commission may be the basis for a member to recuse him/herself from hearing and deciding a case on the matter in question.

Section 304. Supreme Court Term

The term of the Supreme Court shall begin on the day on which the President of the Student Body is inaugurated in the spring and shall continue until the beginning of the following term. The Chief Justice of the Supreme Court shall make appropriate arrangements for the continuation of the Supreme Court during the summer sessions.

Section 305. Quorum

The attendance of at least four (4) members of the Supreme Court shall constitute a quorum for the Supreme Court to hear and determine controversies and cases or to exercise any powers or perform any functions required of the Supreme Court by law.

Part B. Staff of the Supreme Court

Section 306. Chief Clerk

- A. The Chief Justice of the Student Body shall appoint a Chief Clerk of the Supreme Court, subject to the approval of the members of the Supreme Court serving on the court at the time of the appointment. The Chief Justice of the Student Body may appoint an Acting Chief Clerk of the Supreme Court during the temporary absence or incapacity of the Chief Clerk of the Supreme Court.
- B. The Chief Clerk of the Supreme Court or an Acting Clerk of the Supreme Court shall have the power and duty:
 - (1) To maintain an accurate record of the proceedings of the Supreme Court.
 - (2) To maintain an individual file for each controversy or case before the Supreme Court into which he/she shall place copies of all papers filed with the Supreme Court and copies of other relevant material.
 - (3) To exercise such other powers and perform such other functions as may be required of him/her by law or by the Chief Justice.
- C. The Chief Clerk of the Supreme Court shall serve at the pleasure of the Chief Justice of the Student Body, and he/she may resign at any time.

Section 307. Marshal

- A. The Chief Justice of the Student Body shall appoint a Marshal of the Supreme Court, subject to the approval of the members of the Supreme Court serving on the court at the time of the appointment. The Chief Justice of the Student Body may appoint an Acting Marshal of the Supreme Court during the temporary absence or incapacity of the Marshal of the Supreme Court.

- B. The Marshal of the Supreme Court or an Acting Marshal of the Supreme Court shall have the power and duty:
 - (1) To make physical preparations for hearings of the Supreme Court.
 - (2) To maintain order and decorum during hearings of the Supreme Court.
 - (3) To exercise such other powers and perform such other functions as may be required of him/her by law or by the Chief Justice of the Student Body.
- C. The Marshal of the Supreme Court shall serve at the pleasure of the Chief Justice of the Student Body, and he/she may resign at any time.

Section 308. Certain Conduct by Supreme Court Staff Prohibited

The Chief Clerk of the Supreme Court and the Marshal of the Supreme Court, or any persons who act in either of those capacities, shall refrain from:

- A. Divulging any information learned by them concerning any controversy or case before the Supreme Court, except where the information is of general public knowledge.
- B. Seeking to influence the outcome of any controversy or case before the Supreme Court or any issue to be decided by the Supreme Court.
- C. Doing any act or making any statement out of court which would tend to compromise the impartiality of the Supreme Court.

Part C. Counsel for Parties (Officers of the Court)

Section 309. Right to Counsel

Every party before the Supreme Court shall have the right to the assistance of counsel chosen by him/her from among the student body.

Section 310. Counsel for Student Body

The Student Solicitor General of the Student Body or an appropriate delegate may serve as counsel for the Student Body whenever the Student Body is a party in an action before the Supreme Court. The Student Body President reserves the right to hire other counsel if a conflict may exist for the Student Attorney General.

Section 311. Conduct of Supreme Court Counsel

- A. Counsel appearing before the Supreme Court serve in the capacity of officers of the court. Supreme Court counsel shall have the responsibility of aiding the Supreme Court in the just, speedy, and efficient performance of its duties and of refraining from knowingly misleading the Supreme Court on any relevant fact or issue of law. Counsel's failure to cooperate with the Court may constitute a violation of the Honor Code.
- B. The Supreme Court may issue rules, consistent with law, governing the conduct and ethics of Supreme Court counsel. Such rules shall have no retroactive effect.

Section 312. Enforcement of Standards of Counsel Conduct

The Supreme Court may refuse to permit a person to practice as counsel before the Supreme Court who it is determined has repeatedly or flagrantly violated the rules of conduct and ethics for Supreme Court counsel. Such a determination shall be made only after full notice and opportunity to be heard has been granted to the person in question. However, this section to the contrary notwithstanding, any person who is a party in an action before the Supreme Court shall have the right to represent him/herself.

Article IV. Jurisdiction of the Student Supreme Court and Standing of Students to Sue

Part A. General Jurisdiction

Section 401. Jurisdiction Over Controversies: Legal Power

- A. The Supreme Court shall have legal power, as to both questions of law and fact, over controversies where the matter in controversy is the validity, under the Student Constitution or laws enacted under its authority of actions of the executive branch, legislative branch, elections board or other organizations and committees organized under the authority of this Code of Permanent Laws. This jurisdiction is extended to questions of law arising under this Constitution, the laws enacted under its authority and the governing documents of the other organizations and committees recognized under its authority. These organizations include but are not limited to the Residence Hall Association, Graduate and Professional Student Federation, Carolina Athletic Association and other organizations receiving funds from the Student Congress.
- B. The jurisdiction of the Supreme Court must be based on a substantial controversy in law, and the Supreme Court shall have no jurisdiction or power to render advisory opinions.

Section 402. Retention of Jurisdiction for Enforcement

If the Supreme Court determines that it has jurisdiction of an action and decides the issues raised therein, it may retain jurisdiction of the action for the purposes of enforcing its judgment and punishing for contempt of court.

Section 403. Jurisdiction Presumption and Burden of Proof

In any action before the Supreme Court, there shall be a presumption that the court has jurisdiction, and the party seeking to invalidate the jurisdiction of the Supreme Court shall have the burden of showing that the Supreme Court has no jurisdiction over the action.

Section 404. Consent of Parties to Jurisdiction Effective

The consent of the parties to submit themselves to the jurisdiction of the Supreme Court or the failure of the parties to raise the issue of jurisdiction shall be effective to give the Supreme Court jurisdiction in any action in which it otherwise lacks jurisdiction.

Section 405. Raising of Jurisdictional Issue

The issue of the jurisdiction of the Supreme Court over an action may be raised by any party to the action at any stage of the proceedings.

Part B. Legislative Actions and Standing to Challenge

Section 406. Standing Required to Bring Action

In order to bring an action before the Supreme Court, the party bringing the action must have the appropriate standing as provided by law, and no standing shall extend to any person in controversies arising from a proposed legislative act.

Section 407. Standing to Bring an Action Based on Legislative Act

- A. Standing to bring an action before the Supreme Court based on the invalidity of a legislative act by the Student Congress shall extend to any student or officially recognized student organization whose powers, rights, privileges, benefits or immunities are adversely affected, restricted, impaired or diminished by the legislative act in question.
- B. No standing shall extend to any student or organization arising from a proposed legislative act.

Part C. Executive Actions and Standing to Challenge

Section 408. Standing to Bring an Action Based on Executive Act

Standing to bring an action before the Supreme Court based on the invalidity or illegality of an act of a student body officer, member of the administration executive committee, cabinet or committee of the executive branch shall extend to any member of the student body except Student Body Officers. Student Body Officers include:

- A. The President of the Student Body;
- B. The Vice-President of the Student Body;
- C. The Attorney General of the Student Body;
- D. The Secretary of the Student Body
- E. The Treasurer of the Student Body

Part D. Elections Board Actions, Standing to Challenge and Injunctions

Section 409. Standing to Bring Election Action

Standing to bring an action before the Supreme Court for an election error or fraud in the acts, decisions and rulings of the Elections Board extends to plaintiffs who must have his/her powers, rights, privileges, benefits or immunities adversely affected, restricted impaired or diminished and the plaintiff must be:

- A. A candidate or political party alleging injury through an election error or fraud.
- B. A student directly and adversely affected by a regulation, ruling, or determination of the Elections Board.
- C. A student alleging election error in relation to a constitutional referendum, a constitutional initiative, a special referendum, an initiative election, or a review election.

Section 410. Issuance of Injunctions by Supreme Court

- A. The Supreme Court may issue temporary injunctions against the Elections Board stopping an election to protect the Court's jurisdiction or to preserve the status quo until a judicial determination can be reached. The Supreme Court shall only issue elections injunctions in extreme circumstances and when necessary.
- B. If, in the opinion of the Chief Justice, there is insufficient time to convene the court in order to issue a temporary injunction, he/she may issue a temporary injunction in the name of the Supreme Court.
- C. The Supreme Court may issue permanent prohibitory or mandatory injunctions to preserve and execute the effect of its judicial determinations.

Part E. Actions of Other Committees/Organizations and Standing to Challenge

Section 411. Standing to Bring Other Action

Standing to bring an action before the Court based on the invalidity or illegality of an act by an officer, official or agent of the Residence Hall Association, Graduate and Professional Student Federation, Carolina Athletic Association or other recognized organizations and committees or groups receiving funds from the Student Congress extends to:

- A. Any student or officially recognized student organization whose powers, rights, privileges, benefits or immunities are adversely affected, restricted, impaired or diminished by the act in question; or,
- B. Any student who is a constituent of the Residence Hall Association, Graduate and Professional Student Federation, Carolina Athletic Association or other recognized organization and committee or group receiving funds from the Student Congress.
- C. For the purposes of standing, a constituent is defined by:
 - (1) any resident of the residence hall for the Residence Hall Association.
 - (2) any graduate or professional student for the Graduate and Professional Student Federation.
 - (3) any full-time, fee paying student for the Carolina Athletic Association.
 - (4) a member of any other recognized organization and committee or group receiving funds from the Student Congress.
 - (5) the invitee to a program or event of any (a-d).

Article V. Pretrial Procedures of the Student Supreme Court

Part A. Commencement of an Action (Pleadings)

I. Complaints

Section 501. Complaints: Preparing and Filing

- A. Complaints filed in the Supreme Court shall contain in concise and clear language in separate, numbered paragraphs, with the following headings, the following five allegations:
 - (1) Jurisdiction. An allegation of the grounds upon which the jurisdiction of the Supreme Court depends.
 - (2) Standing. An allegation of the grounds upon which each plaintiff claims standing to bring the action.
 - (3) Necessary Defendants. An allegation of the grounds upon which it is claimed that each of the defendants are necessary defendants to the action.
 - (4) Relief. An allegation of the grounds upon the plaintiff claims he/she is entitled to relief.
 - (5) Demand for Judgment. A demand for judgment for the relief to which the plaintiff deems him/herself entitled, which may consist of alternative demands for relief.
- B. Except as may be required by subsection A of this section, it shall be otherwise unnecessary for a plaintiff to anticipate in his/her complaint possible defenses of the defendant by pleading matters showing a possible defense invalid.
- C. All allegations in a complaint shall be made in numbered paragraphs the contents of each of which shall be limited, insofar as possible, to a statement of a single set of circumstances.

- D. A complaint shall be signed by the plaintiff who shall indicate his/her address and telephone number, if any, and shall certify as follows: "I do affirm that I have read in full the foregoing complaint and that the allegations contained therein are true to the best of my knowledge and belief."
- E. A complaint submitted by a plaintiff represented by counsel also shall be signed by the counsel who shall indicate his/her address and telephone number, if any.

Section 502. Number of Copies of Complaint to Be Filed

In commencing an action in the Supreme Court there shall be filed six (6) copies of the complaint plus a sufficient number of additional copies for one (1) to be served on each of the defendants named in the complaint.

II. Answers

Section 503. Answers: Preparing

- A. Answers to complaints filed in the Supreme Court shall contain in concise and clear language in separate, numbered paragraphs with headings, the following contents:
 - (1) An admission or denial of every allegation made in the complaint.
 - (2) An allegation of any defense upon which the defendant relies.
 - (3) An allegation of any grounds upon which the defendant claims he/she is entitled to relief.
 - (4) A demand for judgment for any relief to which the defendant deems him/herself entitled, which may consist of alternative demands for relief.
- B. When preparing an answer, the defendant shall refer to the corresponding numbers of the paragraphs of the complaint in which the allegations are made, and shall:
 - (1) Admit the allegation.
 - (2) Admit the allegation in part, and deny it in part, specifying the part denied and the reason for denial.
 - (3) Deny, specifying the reason for the denial.
- C. If a defendant is without knowledge or information sufficient to form a belief as to the truth of an allegation made in a complaint, he/she shall so state, and this shall have the effect of a denial.

Section 504. Admission or Denial of Allegations in Complaint

- A. When an answer is required, allegations in a complaint are admitted:
 - (1) If not denied in the answer.
 - (2) If no answer is filed.
- B. When an answer is not required:
 - (1) If an answer is filed anyway, allegations are admitted if not denied
 - (2) If an answer is not filed, allegations shall be taken as denied or avoided.

Section 505. Determining Whether to Require Answer

All actions require an answer to be filed, unless upon the commencement of an action in the Supreme Court the Chief Justice determines that requiring the defendant to file an answer to the complaint would result in such delay in adjudicating the action as would cause substantial injury to the rights or remedies of either party that the Chief Justice suspends this requirement for an answer.

Section 506. Limitation on Time in Which Answer Must Be Filed

A defendant shall not be required to file an answer within twenty-four (24) hours after the issuance of the summons unless he/she consents to the requirement.

Section 507. Extension of Time for Filing Answer

If the defendant is required to file an answer to a complaint and he/she fails to file an answer in the time directed, the Chief Justice of the Student Body may grant him/her an extension of time in which to file the answer if the Chief Justice determines that there were circumstances beyond the control of the defendant justifying the delay and the extension of time will not result in injury to the rights and remedies of the plaintiff.

Section 508. Filing an Answer

- A. An answer to a complaint shall be filed in the Supreme Court and served upon the counsel for each plaintiff in the action or upon the plaintiff if he/she is without counsel.
- B. An answer to a complaint shall be filed in the Supreme Court by submitting to the Chief Justice of the Student Body six (6) copies of the answer.

Section 509. Pleadings and Stipulations Binding on Parties

Except for an allegation or admission of jurisdiction contained in a pleading or stipulation, a pleading or stipulation made by a party is binding upon that party. No offer of proof or claim for relief shall be made by a party which does not find basis in the pleading of that party. No offer of proof shall be made by a party contrary to the pleading or stipulations of that party.

III. Defendants and Joinder

Section 510. Necessary Defendants in Action Before the Supreme Court

- A. In any action before the Student Supreme Court, the plaintiff must name all necessary defendants. Necessary defendants include all students who caused or contributed to the plaintiff's injury, officials or officers in charge of the student group that caused or contributed to the plaintiff's injury and all students whose powers, rights, privileges, benefits or immunities would be affected if the Court grants the relief the plaintiff requests.
- B. In any action before the Student Supreme Court, if:
 - (1) The suit is based on an act of the Student Congress, the necessary defendants could include the Speaker, the Student Body President and officers of any other student group affected.
 - (2) The suit is based on executive act, the necessary defendants could include the Student Body President, executive officers, cabinet officials and other members of the executive branch involved in the act.
 - (3) The suit is based on an election action, the necessary defendants could include all parties who would be directly and adversely affected if the complaint were upheld, or against whom an injunction would have to be issued. The Elections Board Chairperson shall be a formal party defendant in every action.
 - (4) The suit is based on the act of an officer, official or agent of the Residence Hall Association, Graduate and Professional Student Federation, Carolina Athletic Association or other recognized organizations and committees or groups receiving funds from the Student Congress, the necessary defendants shall include officers of the group and any other affected students.
- C. The list in (B) is not exhaustive. Necessary defendants include all those students justice requires to be named.

Section 511. Improper Joinder of Defendant

- A. In an action before the Supreme Court, a plaintiff may, by timely motion to the Supreme Court, move that a defendant be dismissed from the action because he/she was improperly brought into the action as a defendant. A defendant also may, upon timely motion to the Supreme Court, move that he/she be dismissed from the action because he/she was improperly brought into the action as a defendant. The Supreme Court shall grant or deny such motions upon their merits.
- B. The Supreme Court may dismiss an improper defendant from an action before it on its own motion.

Section 512. Omission of Necessary Defendants

- A. In an action before the Supreme Court, a plaintiff may, by timely motion to the Supreme Court, move that a party improperly omitted as a defendant be brought into the action. A party may, upon timely motion to the Supreme Court, move that he/she be made a defendant in an action in which he/she was improperly omitted as a defendant. The Supreme Court shall grant or deny such motions upon their merits.
- B. The Supreme Court may dismiss any action in which a necessary defendant has been omitted.

IV. Time Limits (Statute of Limitations)

Section 513. Statute of Limitations

- A. Actions shall be commenced in the Supreme Court no later than ninety-six (96) hours after the legislative, executive, elections board, or other act which causes injury.
- B. The period of limitation shall not run during any time in which the University is in recess for a scheduled University holiday, but shall run during weekends.

Section 514. Commencement of Action

An action in the Supreme Court shall be commenced by giving verbal petition to the Chief Justice of the Supreme Court, within the statute of limitations; or, if the Chief Justice is not readily available, by filing a written petition stating an intention to file a complaint with the Chief Clerk of the Supreme Court. The complaint must be filed within a time period to be determined by the Chief Justice, not longer than fourteen days after verbal commencement.

Part B. Types of Court Papers

Section 515. Supreme Court Papers

Papers filed in the Student Supreme Court generally shall be written on paper, distributed to all parties to the suit and delivered with reasonable time accorded to opposing parties to respond before the Court makes a decision. Nothing in this Part or its Sections prevents the Court from using electronic mail to distribute Court papers with the parties' agreement and with additional hard copies available to all parties at pretrial and trial proceedings.

Section 516. Types of Supreme Court Papers

- A. In an action before the Supreme Court, the types of papers which may be submitted by the parties to the action are as follows:
 - (1) Complaints
 - (2) Answers

- (3) Motions
- (4) Affidavits
- (5) Briefs

B. In an action before the Supreme Court, the types of papers which may be issued by the Supreme Court or by its officers are as follows:

- (1) Orders
- (2) Opinions

Section 517. Motions

- A. An application to the Supreme Court for an order shall be by motion unless made in a complaint or answer. Motions shall be in writing.
- B. Motions shall contain in concise and clear language:
 - (1) An allegation of the grounds for the order sought.
 - (2) The order sought.
- C. A motion shall be signed by the counsel of the party seeking the order or, if the party is not represented by counsel, the motion shall be signed by the party seeking the order.
- D. Motions must be delivered to opposing counsel in advance. Opposing counsel can request and must be granted a reasonable period of time to prepare arguments opposing the motion.
- E. All motions to dismiss a complaint on any grounds, including summary judgement, must be delivered to opposing counsel twenty-four (24) hours before they are argued at pretrial or trial.

Section 518. Affidavits

- A. Voluntary testimony in Supreme Court may be submitted in the form of written affidavits. A subpoenaed witness may not file an affidavit, nor is an affidavit a substitute for live testimony.
- B. The contents of an affidavit shall be confined to facts known firsthand by the affiant. Opinions and hearsay testimony shall be excluded.
- C. All statements made in an affidavit shall be made in numbered paragraphs the contents of each of which shall be limited, insofar as possible, to a statement of a single set of facts.
- D. An affidavit shall be signed by the affiant who shall indicate his/her address and telephone number and shall certify as follows: "I do affirm that the statements made in this affidavit are true to the best of my knowledge and belief." An affidavit shall be signed in the presence of a Notary Public or the Chief Clerk of the Supreme Court who shall certify the signing.

Section 519. Briefs

- A. Briefs filed in the Supreme Court shall contain in concise and clear language:
 - (1) A table of contents.
 - (2) An index to statutory, judicial, and other authority cited within the brief.
 - (3) A statement of the facts of the controversy or case.
 - (4) A statement of the questions of law presented.
 - (5) The arguments of the party submitting the brief.

(6) A conclusion consisting of a petition for the relief to which the party submitting the brief deems him/herself entitled.

B. A brief shall be signed by the counsel of the party submitting the brief or, if the party is not represented by counsel, the brief shall be signed by the party submitting the brief.

Section 520. Orders

A. Orders may be issued by the Supreme Court or by its authority for the following purposes:

- (1) To summon the defendant to appear and defend in an action before the Supreme Court.
- (2) To subpoena witnesses or evidence on the request of a party.
- (3) To state preliminary and final decisions of the Supreme Court concerning actions before it.
- (4) To perform such other functions as may be appropriate and consistent with law.

B. An order shall be in writing and signed by the Chief Justice of the Supreme Court.

Part C. Types of Motions

Section 521. Subpoenas

Before trial of action, a party may file a motion requesting that an order be issued subpoenaing a student and requiring him/her to appear before the Supreme Court as a witness in the action or to submit material evidence in his/her possession. Failure to respond to a subpoena may constitute a violation of the Honor Code.

Section 522. Temporary Restraining Order

A. Before trial of an action, a party may file a motion requesting that an order be issued restraining the other party from doing a particular act until the rights of the parties may be adjudged.

B. A motion requesting a temporary restraining order shall be granted and the proper order issued only if it is determined that:

- (1) The granting of the temporary restraining order is necessary to preserve the jurisdiction of the court or the rights and remedies of the party requesting the order.
- (2) The party requesting the temporary restraining order be issued is clearly entitled to the relief requested under principles of justice.

Section 523. Disposal of Claim

A. Motion to Dismiss. Before trial of an action, a party may file a motion to dismiss the claim based on failures of the opposing party to comply with the requirements of this Title or any Sections or provisions under its authority, or if justice requires.

B. Summary Judgment. Before trial of an action, a party may file a motion for summary judgment. A summary judgment shall only be granted when there is no genuine issue of any material facts in the case and the moving party is entitled to a decision based on the law.

Section 524. Amendment of Pleadings

A. Before trial of an action, a party may file a motion requesting that an order be issued amending his/her pleading.

B. A motion to amend a pleading shall be granted and the proper order shall be issued if it is determined that the granting of the amendment will not result in prejudice or hardship to the other party.

Section 525. Striking Matter from Pleading

- A. Before trial of an action, a party may file a motion requesting that an order be issued striking from the pleading of the adverse party matter which is immaterial, impertinent, scandalous, or redundant.
- B. A motion to strike matter from a pleading shall be granted and the proper order shall be issued if it is determined that the matter to be stricken is clearly immaterial, impertinent, scandalous, or redundant.

Part D. Form of All Papers Filed In the Court

Section 526. General Form of Supreme Court Papers

- A. All papers used in the Supreme Court should conform to the following style:
 - (1) They shall be typed or printed on plain white paper the dimensions of eight and one-half (8 1/2) inches by eleven (11) inches.
 - (2) They shall have a left margin of one and one-half (1 1/2) inches and a right margin of one-half (1/2) inch.
 - (3) They shall have a top and bottom margin of at least one (1) inch.
 - (4) In papers of more than one (1) page, the pages shall be consecutively numbered in the center of the bottom margin.
 - (5) In papers of more than one (1) page, the pages shall be stapled at the top left margin.
- B. All papers used in the Supreme Court shall contain a caption at the top of the first page setting forth the name of the court, the file number of the action, the title of the action consisting of the names of the parties, and the type of paper, which shall generally conform to the following style:

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IN THE SUPREME COURT                )
                                     )
Action No. _____                 )
                                     )
A.B.                                  )
PLAINTIFF                             )
                                     )
versus                                 )           [TYPE OF PAPER]
                                     )
C.D. and E.F.                         )
DEFENDANTS                            )

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- C. All papers filed in the Supreme Court by a party shall have at the end thereof a statement for the certification of the time of filing. The statement shall be as follows: "Filed this the _____ day of _____, 19____, at ____ : ____ .m."
- D. All papers issued by the Supreme Court or its members shall have at the end thereof a statement for the certification of the time of issuance. The statement shall be as follows: "Done this the _____ day of _____, 19____, at ____ : ____ .m."

Section 527. Examples of Supreme Court Papers

The Supreme Court may issue rules, consistent with law, providing examples of the form of various Supreme Court papers along with examples of particular types of allegations.

Section 528. Citation Form

The Supreme Court may issue rules establishing a uniform system of citation for statutory provisions, controversies, cases, and other material cited as authority in Supreme Court papers.

Section 529. Flaws in Papers

Failure of Supreme Court papers to conform to the specific requirements of form shall not be, in itself, sufficient grounds for dismissal.

Part E. Service of Process

Section 530. Issuance of Summons

- A. Upon the commencement of an action in the Supreme Court, the Chief Justice of the Student Body shall issue an order directed to the defendant in the action and summoning him/her to defend.
- B. The summons shall notify the defendant that upon his/her failure to appear and defend, judgment shall be entered upon plaintiff's pleadings and arguments.
- C. If the Chief Justice of the Student Body has determined to require the defendant to answer the complaint, the summons shall notify defendant that:
 - (1) He/She is required to serve an answer to the complaint on the counsel for the plaintiff or upon plaintiff if he/she is without counsel.
 - (2) He/She is required to file six (6) copies of his/her answer within the time determined by the Chief Justice of the Supreme Court and after having served his/her answer on the counsel for the plaintiff or upon plaintiff if he/she is without counsel.
 - (3) His/Her failure to answer as required shall result in judgment being entered upon plaintiff's pleadings.

Section 531. Form of Process

A copy of the summons and a copy of the complaint shall be placed in an envelope for each defendant, and the envelope shall be addressed to the defendant to be served. With the defendant's permission, the Court may use electronic mail to serve process.

Section 532. Service of Process upon Defendant

- A. Within twenty-four (24) hours after the commencement of an action in the Supreme Court, the Marshal of the Supreme Court shall make service of process upon each defendant in the action.
- B. Valid service of process upon a defendant shall consist of one (1) of the following:
 - (1) Personally handing the process to the defendant.
 - (2) Personally handing the process to a person who maintains his/her sleeping quarters in the same room as does the person to be served.
 - (3) Leaving the process on the door of the room where the defendant maintains his/her sleeping quarters.
 - (4) Orally confirmed electronic mail to the student.

Section 533. Person to Be Served Process

Service of process shall be made:

- A. On the individual defendant if the defendant is an individual person.
- B. On the chief officer of the student organization or association if the defendant is a student organization or association.
- C. On the President of the Student Body if the defendant is the Student Body.

Section 534. Service of Answer upon Plaintiff

- A. If a defendant is required to file an answer to a complaint or if he/she intends to file a voluntary answer, he/she shall serve a copy of the answer upon the counsel for the plaintiff or upon plaintiff if he/she is without counsel and six (6) copies to the Court. The answer shall be placed in an envelope addressed to the person to be served.
- B. Valid service of an answer shall consist of one (1) of the following:
 - (1) Personally handing the answer to the person to be served.
 - (2) Personally handing the answer to a person who maintains his/her sleeping quarters in the same room as does the person to be served.
 - (3) Leaving the answer on the door of the room where the person to be served maintains his/her sleeping quarters.
 - (4) Orally confirmed electronic mail to the student.

Part F. Pretrial Procedures

Section 535. Pre-Trial Hearing

- A. The Chief Justice of the Student Body shall convene a pre-trial hearing to determine the merits of any motion to be granted before trial of the action. The pretrial hearing shall be open to the public.
- B. Before trial of action, the Chief Justice of the Student Body may in his/her discretion convene a pre-trial hearing before him/her in chambers to consider:
 - (1) The simplification of the issues.
 - (2) The necessity or desirability of amendments to the pleadings.
 - (3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof.
 - (4) The limitation of the number of witnesses.
 - (5) The setting of the date for trial of the action.
 - (6) Such other matters as may aid in the disposition of the action.
- C. Notice of the time and place of a pre-trial hearing and the matter to be determined shall be given to the counsel for each of the parties or to the party if he/she is without counsel. Each party shall have the right to appear and argue the merits of the matter to be determined.
- D. The Chief Justice of the Student Body shall issue an order which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and which limits the issues for trial to those not disposed of by admissions or agreements of counsel. Such order shall control the subsequent course of the action unless modified at the trial to prevent manifest injustice.

Section 536. Hard Copies of Papers Delivered

If not delivered before the pretrial hearing, the Chief Justice shall provide hard copies of all papers filed in the Court to the Associate and Emergency Justices sitting the case and the parties plaintiff and parties defendant.

Section 537. Setting Date for Trial

The date for the trial of an action before the Supreme Court shall be set by the Chief Justice of the Student Body who shall take into consideration the convenience of the parties, witnesses, and persons serving on the Supreme Court. Appropriate notice shall be given to the persons concerned and local media.

Section 538. Place of Trial

The Supreme Court shall convene for trial in the Kenan Courtroom of the Law School unless the Chief Justice of the Student Body shall designate another appropriate, accessible place. Trial proceedings shall be open to the public.

Article VI. Trial Procedures of the Student Supreme Court

Part A. Trial Procedures

Section 601. Convening of Court

The trial of an action before the Supreme Court shall be opened by the call of the Marshal of the Supreme Court.

Section 602. Record of Proceedings

The Clerk of the Supreme Court shall keep an accurate record of the proceedings at trial before the Supreme Court. This record shall be as nearly verbatim as possible.

Section 603. Proof of Facts

- A. In an action before the Supreme Court in which facts are in dispute, the parties shall first proceed to the proof of facts upon which they rely.
- B. The plaintiff shall proceed first with the offer of evidence of facts upon which he/she relies, after which the defendant shall proceed with the offer of evidence of facts upon which he/she relies to dispute the plaintiff's offer of proof and to support his/her own case.
- C. A party shall have the right to cross-examine witnesses of his/her adverse party after the examination of the witness by the adverse party.

Section 604. Calling Witnesses

Witnesses shall be called first by the plaintiff to testify as to facts in the plaintiff's case. After the plaintiff's witnesses have testified and been cross examined by the defense, the defense may call its witnesses. Nothing in this section shall be construed to prevent a rearrangement of the order of witnesses to accommodate schedule conflicts when both parties agree.

Section 605. Oath or Affirmation of Witnesses

All witnesses before the Supreme Court shall affirm an oath to tell the truth: "I name do affirm to tell the truth under penalty of violation of the Honor Code."

Section 606. Arguments on Issues of Law

- A. Following any proof of facts which may be made by the parties in an action before the Supreme Court, the Court shall proceed to hear arguments on the issues of law involved in the action.
- B. The Supreme Court shall allot to the parties plaintiff and the parties defendant an equal amount of time in which to make their arguments. Plaintiff may reserve a portion of his/her total time, not to exceed one-fourth (1/4) of his/her total time, to rebut the arguments made by defendant.
- C. The arguments shall proceed in the following order:

- (1) Argument by the plaintiff.
- (2) Argument by the defendant.
- (3) Rebuttal by the plaintiff if so reserved.

D. The argument of a party may be interposed with questions from the bench. No party shall be permitted to interrupt the argument of his/her adverse party.

Section 607. Court to Retire at Conclusion of Arguments

Following the conclusion of the arguments of the parties, the Supreme Court shall retire to confer on the merits of the action.

Part B. Burden of Proof

Section 608. Presumption of Law and Burden of Proof

Every act of an executive, legislative, elections or other body that leads to an action before the Supreme Court shall be presumed valid until proven invalid. The burden of proof rests with the plaintiff to show that an act is invalid.

Section 609. Standard of Proof Required

For an act to be held invalid, plaintiff must prove to the satisfaction of the Court that an act is invalid as a matter of law. For an act to be held invalid, plaintiff must prove that there was an error as a matter of law, and there is a reasonable probability that the error caused the injury.

Part C. Conference

Section 610. Supreme Court Conference

- A. The Supreme Court Conference shall consist of the persons serving on the Supreme Court to hear and determine the action. No other person shall be permitted to be present in the meetings of the Conference and the proceedings of the Conference shall be confidential.
- B. The Supreme Court Conference shall be convened at the conclusion of the trial.

Section 611. Vote Required

The concurrence of a majority of the Supreme Court Conference shall be necessary to make a decision.

Section 612. Manner of Proceeding to Decision of Issues

- A. The Chief Justice of the Student Body shall preside at the Supreme Court Conference and shall open the determination with a formulation of the issues to be decided. The question of jurisdiction and standing to bring an action shall be formulated as issues in every action.
- B. After the formulation of the issues in an action, the Supreme Court Conference shall proceed to discuss and determine each issue separately.
- C. Upon the conclusion of the discussion of an issue, open voting on the issue shall proceed with each member of the Supreme Court Conference voting in turn and expressing his/her reasons for voting in the manner in which he/she did, in order of increasing seniority.

Section 613. Effect of Finding of Lack of Jurisdiction

If it is determined that the Supreme Court lacks jurisdiction of an action, no further issue shall be determined and judgment shall be rendered that the action be dismissed.

Section 614. Assignment of Person to Write Main Opinion

The Chief Justice of the Student Body shall assign a member of the Supreme Court to write the main opinion of the court stating the decision of the court on the issues raised and the reasoning of the court in reaching its decision. The person assigned to write the main opinion shall have voted with the majority on the determination of every issue.

Section 615. Opinions

- A. The final disposition of an action before the Supreme Court shall be stated in a written opinion.
- B. The person serving on the Supreme Court who is assigned to write the main opinion containing the decision of the Supreme Court shall include, before the actual opinion, a synopsis of the holdings of law reached by the Supreme Court in arriving at its decision. The main opinion shall contain:
 - (1) A statement of the relevant facts of the action.
 - (2) Reasoning supporting the decision of the Supreme Court including holds of law made to reach the decision.
 - (3) The decision of the Supreme Court.
- C. A person serving on the Supreme Court who agrees with the decision reached in a particular action but disagrees partially or completely with the reasoning supporting the decision as stated in the main opinion, may file a concurring opinion.
- D. A person serving on the Supreme Court who disagrees partially or completely with the decision reached in a particular action may file a dissenting opinion.
- E. Each opinion shall indicate the person who wrote and delivered it and the other persons serving on the Supreme Court who joined in adopting the reasoning stated by the opinion.

Section 616. Announcement of Decision and Reading Opinions

- A. Except as provided in subsection B of this section, the announcement of the decision of the Supreme Court in an action before it and the reading of the opinions shall not be made on the same day on which the trial of the action was held. The parties shall be informed as to the day on which the Supreme Court shall reconvene for the rendering of its decision and the reading of opinions and shall be required to be present. Rendering of decisions and the reading of opinions shall be made from the steps of South Building when possible.
- B. If the Supreme Court determines that an immediate decision is necessary to preserve the rights and remedies of the parties, it may, after conference, announce its decision in the action on the same day on which the trial was held. The reading of opinions shall be made on another day to be announced by the Supreme Court and the parties shall be required to be present.

Article VII. Authority of the Student Supreme Court

Part A. Legal Authority of the Student Supreme Court

Section 701. Limitation on Authorities Used for Decision

- A. The statutes of the United States or any state, the decisions of the courts of the United States or any state, and treaties on the law of the United States or any state, shall not be used as authority for decision of any action in the Supreme Court of the Student Body.
- B. The Code of Permanent Laws of the Student Government of the University of North Carolina at Chapel Hill, consisting of the Constitution, the laws enacted under its authority and the governing documents of organizations and committees recognized under its authority, prior decisions of the Court and executive, legislative and elections board decisions are the proper sources of law, regulation and administrative action in the Student Supreme Court

Section 702. Previous Decisions Binding: Stare Decisis

Previous decisions of the Supreme Court on issues of law shall be binding on the Supreme Court in its determination on questions of law except:

- A. Where the statutory authority for the previous decision has been altered so as to require a different result.
- B. Where the factual circumstances of the different controversies or cases requires a different result.
- C. Where the Supreme Court determines that the previous decision was erroneous.

Section 703. Rules of Construction and Application

- A. The provisions of this chapter shall be construed and applied to promote their underlying purposes and policies.
- B. If two (2) or more provisions of the law are in apparent conflict if given a certain construction, they shall be construed so as to give effect to both if such a construction can reasonably be adopted and applied.
- C. If any provision of this chapter, or application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application. To this end, the provisions of this chapter are declared to be severable.

Part B. Enforcement

Section 704. Enforcement of Judgment by Injunction

In any action, the Supreme Court may enforce its judgment by the issuance of an appropriate mandatory or prohibitory injunction to the person to be required to do an act or restrained from doing an act. An injunction may be enforced by appropriate contempt proceedings.

Section 705. Enforcement of Judgment by Honor Code

In any action in which a party fails to honor the enforcement authority of the Supreme Court, the Chief Justice may refer the matter to the Graduate or Undergraduate Student Attorney General as a violation of the Honor Code. The basis of the potential Honor Code violation is the Instrument of Judicial Governance.