

UNIVERSITY OF THE FREE STATE

THE CONSTITUTION OF THE STUDENT COURT (MAIN CAMPUS)

FINAL

(Approved at the Council Meeting of 9 June 2006)

To provide for the establishment of a Student Court for the Main Campus of the University of the Free State

1 Definitions

In this Constitution, unless inconsistent with the context -

"campus residence" is a residence situated on the Bloemfontein main campus of the University of the Free State providing accommodation for students.

"city residence" is a residence situated on the Bloemfontein main campus of the University of the Free State, which provides the opportunity for students who are not accommodated on the aforesaid campus to become a member and engage in student activities.

"clerk of the court" is an official of the Student Court, who keeps records, files and accounts.

"judge" is an official of the Student Court, who tries cases and passes judgment in terms of this jurisdiction.

"student" is a full time or part time student, registered as such at the University of the Free State.

"student committee" is a house committee or any other committee consisting only of students, in terms of University regulations.

“student organization” is a group of students, registered at the University of the Free State as a student organization, student association or student society.

“University” is the University of the Free State.

2 Student Court

- (1) The Student Court of the Main Campus of the University is hereby established.
- (2) The Student Court will be the judicial branch of student governance at the Main Campus of the University.
- (3) The Student Court is an independent judicial body and will exercise its functions impartially and subject to this Constitution, the rules and regulations of student governance at the Main Campus of the University, the policies and decisions of the University Council and Senate.

3. Interpretation, application and enforcement of the provisions of this Constitution

When interpreting and applying this Constitution, any rule or regulation of the University, the Court must promote the spirit, purport and objects of the Bill of Rights of the Constitution of the Republic of South Africa.

4 Composition

- (1) The Student Court shall be composed of a judge-president, deputy-judge president, five judges and a clerk of the Court.
- (2) The judges and clerk will be appointed jointly by the Dean of the Faculty of Law and the Dean of Students.
- (3) Applications for appointment as a judge or clerk will be invited by the Dean of the Faculty of Law at least three weeks prior to the date of appointment.
- (4) After appointment, the judges will elect a judge-president and deputy-judge president.
- (5) The term of office of a judge and the clerk of the Court will be for one year only. A judge and the clerk of the Court may serve for a maximum of two terms.
- (6) Judges may be removed from office jointly by the Dean of Students and

the Dean of the Faculty of Law on any ground that is just and equitable.

- (7) To be eligible to be appointed and hold the position of a judge, the applicant must be a registered student, who has completed or is completing the LLB-, B.Com (Law)-, LLM- or LLD- degree at the University of the Free State and have successfully completed the prescribed subjects of the third year of the applicable degree.
- (8) To be eligible to be appointed and hold the position of clerk of the Court, the applicant must be a registered student, who has completed or is completing the LLB or B.Com (Law) degree at the University.
- (9) No member of the Student Representative Council or the Student Parliament is eligible for appointment as a judge or clerk of the Court.

5 Jurisdiction

- (1) The Student Court may only decide any matter regarding - :
 - (a) the compatibility of the constitutions or founding documents of any student organization or campus and city residences with the rules and regulations of the University;
 - (b) the compatibility of any decision or conduct of the Student Representative Council, the Student Parliament, a student organization, a student committee and a campus or city residence with their own constitutions or founding documents or the rules and regulations of the University.
- (2) Only students, the Student Representative Council, Student Parliament, student organizations, committees and residences of the main campus will be subject to the jurisdiction of the Court.

6 Standing

- (1) Proceedings may be instituted before the Court by any of the following persons or organizations –
 - (a) students;
 - (b) student organizations;
 - (c) campus and city residences;
 - (d) student committees;
 - (e) subject to subsection (2), the Student Parliament.
- (2) A matter must be referred to the Court by the Student Parliament if a resolution to that effect is supported by twenty-five-percent of its

members.

7 Powers

- (1) Within the limits of its jurisdiction, the Court may declare any constitution, founding document, act, omission or decision to be incompatible with the rules and regulations of the University, or the constitution or other founding document of an organization or committee, as the case may be.
- (2) A decision of compatibility by the Court will be final.
- (3) Upon a declaration of incompatibility, the court must prescribe the appropriate corrective steps to the person or organization concerned.
- (4) Both the declaration of incompatibility and the corrective steps must be confirmed by the Dean of Students after consultation with the Dean of the Faculty of Law within fourteen days of the decision of the Court, in order to have any force and effect. The Dean of Students will have the right to amend the corrective steps prescribed by the Court.
- (5) The Court is not competent to impose any disciplinary steps against any party to the proceedings.
- (6) If the Court is of the opinion that disciplinary measures are warranted in a specific case, the Court must submit written reasons for their decision to the Dean of Students. Disciplinary steps, if any, will be taken by the Dean of Students.
- (7) The Court may hold a party in contempt of court for any action which causes a disturbance of its proceedings. A party that is held in contempt will be referred to the Dean of Students for further appropriate steps.

8 Lodging of complaint

A complaint must be lodged within ninety calendar days of the occurrence of the act or omission that the aggrieved person is complaining about. Late complaints will only be heard on the recommendation of the Dean of Students.

9 Pre-trial procedure

- (1) Action against any party will commence by filing a written complaint with the Student Court. Complaints must be filed with the clerk of the Court at the Student Court's office.
- (2) A complaint must state the specific grievance clearly.

- (3) Within 5 days after a complaint has been filed, a written copy of the complaint will be sent to the respondent. The respondent must submit a written response on the complaint within 14 business days of acceptance. The Court will then meet to decide if a trial is warranted. If a trial is warranted the clerk of the court will notify the complainant and the respondent of the date, time and place at which the trial will take place.
- (4) The complainant and the respondent may submit any written statements or other documents pertaining to the complaint until two weeks prior to trial with the clerk of the Court. The clerk of the Court will ensure that all parties have received all statements and documents which have been filed with the court at least ten days prior to the hearing.

10 Trial

- (1) The procedure during trial must be as informal as possible and facilitate the participation of all parties before the Court.
- (2) The presiding judge will issue directions to the parties at the beginning of the trial regarding the course of the proceedings.
- (3) Subject to the directions of the Court, parties before the Court will have the right to call witnesses on their own behalf and to cross-examine witnesses testifying against them.
- (4) A complete record will be kept by the Court of all trials.

11 Standard of proof

The standard of proof in all trials will be on a balance of probabilities.

12 Decisions

- (1) All court decisions must be in writing, must provide the reasons for the decision, and must be kept on file.
- (2) A copy of each decision must be sent to the complainant, respondent, the Dean of Students and the President of the Student Representative Council.
- (3) All decisions shall be rendered within fourteen business days.

- (4) A minimum of five judges will constitute a quorum.
- (5) All decisions require a majority vote of the judges present at the trial.
- (6) A judge may not abstain from voting.
- (7) All judges shall have an equal vote.

13 Comments

All members of the Court shall refrain from making extra-judicial comments on any pending case before them.

15 Oath

All judges shall take an oath of office. The oath shall be taken upon the first Student Court meeting, following the appointment of the judge. The appointed judge will repeat the following as read by the Dean of Students:

"I do solemnly swear that I will work to the best of my ability as a judge of the Student Court, that I will observe the code of ethics and adhere to and uphold the Constitution of the Student Court and the rules and regulations of the University, and that I will always be mindful of the interests of parties before me and the interests of the University."

16 Attendance policy

- (1) Absences will be recorded as excused or not excused. An absence will only be excused under the following circumstances:
 - (a) illness
 - (b) family tragedy
 - (c) urgent academic reasons
 - (d) exceptional circumstances as approved by the court
- (2) A judge who is absent, without a valid excuse, at three scheduled sittings of the court during a calendar year, will forfeit his/her position.

17 Assessor

The court has the right to co-opt a lecturer of the Faculty of Law as an assessor.