

# ARTICLE V. JUDICIAL BRANCH

## Section 5.01 Purpose

- (a) The purpose of the SGC-MMC Supreme Court is to serve as the judicial body of the Student Government Council – Modesto A. Maidique Campus.
- (b) The Supreme Court shall receive *writs of certiorari*, for cases of petitions for legal review or grievances against SGC-MMC officials and entities, and shall decide whether to hear them, and if accepted for a hearing, shall rule on the *writ*.

## Section 5.02 Structure and Leadership

- (a) The SGC-MMC Supreme Court shall be composed of one (1) Chief Justice, four (4) associate justices and two (2) Court Clerks.
  - (i) The Chief Justice shall be confirmed by the Senate with a two-thirds (2/3) majority vote
  - (ii) All Associates shall be confirmed by the Senate with a simple majority vote
  - (iii) The SGC-MMC Chief Justice shall be the chief administrator of the Supreme Court and a member of the Executive Board.
  - (iv) The SGC-MMC Chief Justice shall serve as the SGC-MMC Parliamentarian.
    - (1) In absence of the SGC-MMC Chief Justice during a given SGC meeting, any Associate Justice may serve as the SGC-MMC Parliamentarian.
  - (v) The Court Clerk is responsible for the following:
    - (1) Naming and assigning a citation to petitions received by the Supreme Court.
      - a) In crafting the name of the case, the plaintiff shall be listed first, followed by the defendant (i.e., Wickard v. Filburn).
      - b) In assigning a citation to the case, the Supreme Court designation shall be listed first, followed by the semester and year in which the petition was adjudicated (i.e., S.C. 001 (Fall 2010))
    - (2) Making available, for public consumption, the vote and the majority and dissenting and relative concurring opinions, as well as the name and citation of the case.

- a) A hard copy of the opinions relative to each petition shall be filed in a binder in the SGC-MMC office, located in Graham Center, Room 211.
- b) The opinions shall be published at the SGC-MMC website, or some other online resource to be designated by the Chief Justice.

(b) Requirements

- (i) All Associate Justices shall be required to hold and maintain at least three (3) office hours a week in which they are accessible to anyone within the Student Body.
- (ii) The Chief Justice shall complete 10 regularly-scheduled office hours per week in which they are accessible to anyone within the student body. Their office hours shall be publicly available.
- (iii) All Associate Justices shall be required to attend and prove proof of attending at least three (3) of Student Government Association (MMC) sponsored events during each semester of their term,
  - (1) Associate Justices must provide proof of attendance at each event, preferably in the form of a picture or video, which may be used to promote student government activities.
  - (2) Associate Justices must submit proof of attendance to the Chief Justice three (3) weeks before the end of each semester.

**Section 5.03** Court Procedures

- (a) All writs of certiorari must be validated or declined within ten (10) business days of being submitted to the Court Clerk.
- (b) All writs of certiorari must be heard within ten (10) business days of being validated, unless the writ is a complaint or grievance filed against an SGC-MMC Official. If the writ is a complaint or grievance filed against an SGC-MMC Official, the Judiciary must hear the writ within fifteen (15) business days of validating the Writ.
- (c) Any SGC official can be referred for judicial hearing for misfeasance, malfeasance, or nonfeasance as stated in the SGC- MMC Statutes. This review shall be instigated by a written grievance, filed as a writ of certiorari, which may be submitted by any member of the student body to the Supreme Court.

- (i) Upon the decided validity of the grievance, the SGC-MMC Chief Justice and the SGC-MMC Advisor will inform the charged SGC Official of the allegations, charges, student's rights, and an explanation of the judicial hearing process. The charged student's academic schedule should be taken into account for consideration of their later scheduled hearing.
- (ii) Once the judicial hearing is scheduled, the SGC official under investigation shall be notified within five (5) business days by the SGC-MMC Chief Justice of the time, date, and location of the SGC-MMC judicial hearing, and notice of witnesses who will be called to testify against him/her.
- (iii) Prior to the hearing, the plaintiff shall compile all evidence of the official actions of the SGC Official in question; this evidence shall be used during the hearing. The evidence shall be submitted to the SGC official being investigated five (5) business days prior to the hearing.
  - (1) In the case that the plaintiff is the Senate Internal Affairs Committee or the Department of Justice, the committee or department shall prepare a report containing all the applicable information regarding the official.
  - (2) In the case that a student presents the *writ of certiorari*, that student is entitled to present the case and evidence or request and allow the Department of Justice to take up the plaintiff role, by presenting the evidence and presenting the argument in the hearing.
    - i) The Department of Justice has the prerogative to accept or deny the student's request to present a case on the student's behalf.
- (iv) Should the charged official not present him/herself at the hearing, the hearing will take place and a decision will be rendered in *absentia*.
- (v) The hearing will be recorded for documentation purposes, will be chaired by the SGC-MMC Chief Justice, and will proceed as follows:
  - (1) Opening statement by the SGC-MMC Chief Justice.
    - i) At any point throughout the proceedings any justice may interrupt to ask a question
  - (2) Opening statement by the plaintiff, and submission of any pertinent written information (e.g., records, exhibits, written statements) except for witness statements for consideration by the Supreme Court.

- (3) Opening statement by the defendant, and submission of any pertinent written information (e.g., records, exhibits, written statements) except for witness statements for consideration by the Supreme Court.
  - (4) Plaintiff witness statements are submitted, and their witnesses are questioned in the following order: the plaintiff, the defendant, and any justices present.
  - (5) Defendant witness statements are submitted, and their witnesses are questioned in the following order: the defendant, the plaintiff, and any justices present.
  - (6) Closing statement are made by the plaintiff.
- (vi) Upon conclusion of the hearing, the SGC-MMC Supreme Court will move into deliberations. The Supreme Court's determination of "guilty" or "not guilty" will be based solely on the information presented at the hearing using the standard of "clear and convincing". Determination may be made by a simple majority vote of the SGC-MMC Supreme Court.
  - (vii) The SGC official under investigation will receive written notice within ten (10) business days regarding the outcome of the hearing.
  - (viii) The SGC official under investigation has the right to challenge the inclusion of any Supreme Court member in the hearing. This challenge must be submitted at least three (3) business days prior to the scheduled hearing. The challenge must be in writing, and be based on cause, which clearly provides evidence of a conflict of interest, bias, pressure, or influence that could preclude a fair and impartial hearing.