



ASBSU

Judicial Code

CHAPTER 2: JUDICIAL CODE

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II. Chapter Overview

A. Students are entitled to have complete confidence in the effectiveness and integrity of ASBSU, and in every elected or appointed student in ASBSU working to serve the student body. This chapter exists to ensure ASBSU is ethical and accountable to the students of the University.

III. Guiding Principles

A. ASBSU exists to promote educational, social, and cultural engagement; finance student activities and initiatives; facilitate student involvement; and act as the official voice of University students.

B. In fulfilling these duties, ASBSU and all personnel will follow the Student Code of Conduct and strive to uphold the University Statement of Shared Values.

C. In every action and decision, ASBSU will strive to fulfill its purpose as specified in the Preamble of the Constitution and do what it believes is best for the students of the University.

D. The Review Board is thus formed in order to ensure these guiding principles are upheld by operating in a manner independent from the undue influence of any individual, group, or branch of ASBSU.

E. The ASBSU Constitution belongs to all of the Associated Students, and the duty and authority to uphold and interpret the Constitution is vested in the Review Board.

IV. The Review Board

A. Composition

1. The Review Board will be composed of one (1) elected Review Board Chief and four (4) appointed Review Board Members. The Associate Vice President of Ethics Affairs is considered an agent of the Review Board, but is not considered a member for purposes of voting.

B. Duties and Responsibilities of the Review Board Chief

1. Provide a transparent, fair, and unbiased adjudication process for Complaints received.

2. Be fully knowledgeable and able to provide guidance about all ASBSU governing documents.

3. Provide opinions as a Board to members of ASBSU regarding Code or Constitutional inquiries and issues, as requested.

4. Ensure that Review Board Members are held to their job descriptions and to the duties outlined in the ASBSU Constitution and Code.

5. Adhere to the wording of the ASBSU Constitution and Code when reasoning and ruling on complaints. Rulings from the Review Board on Code or Constitutional questions are considered final and binding. Decisions may be appealed, as described in Section VI of this document.

6. Organize and preside over meetings of the Review Board.

a. If the Review Board Chief is unable to attend or preside over a meeting, he or she will

designate a Review Board Member as the presiding officer for the meeting.

b. In the event of a vacancy in the position of Review Board Chief, the most senior member of the Review Board will preside over the meeting.

7. May attend meetings of the Executive Cabinet and Joint Meetings of the Legislature in an advisory role on Constitution- or Code-related questions. The Review Board Chief may not serve as a legislative Scribe, as described in Legislative Code III.F.

C. Duties and Responsibilities of Review Board Members

1. Provide a transparent, fair, and unbiased adjudication process for Complaints received.
2. Be fully knowledgeable and able to provide guidance about all ASBSU governing documents.
3. Ensure that incoming members of ASBSU have a complete and accurate understanding of the governing documents.
4. Provide opinions as a Board to members of ASBSU regarding Code or Constitutional inquiries and issues, as requested.
5. Serve as a member of the Election Committee for Regular Elections and as the Special Election Committee, as required.
6. Adhere to the wording of the ASBSU Constitution and Code when reasoning and ruling on complaints. Rulings from the Review Board on Code or Constitutional questions are considered final and binding. Decisions may be appealed, as described in Section VI of this document.
7. Attend meetings of the Executive Cabinet and Joint Meetings of the Legislature in an advisory role on Constitution- or Code-related questions. Members may not serve as legislative Scribes, as described in Legislative Code III.F.

D. General Procedure

1. Meetings of the Review Board need not be publicly announced, but they must be recorded on audio. Recordings of meetings must be posted no later than 48 hours after each meeting.
2. Meetings will be called to order by the Review Board Chief. Meetings should not officially start until all relevant parties are present, but in the case of excess tardiness, the Review Board Chief may decide to either start or postpone the meeting.
3. A quorum is required in order for voting to take place during a hearing. In this chapter, quorum is defined as five out of the five members of the Review Board for Complaints Against Persons.

a. If quorum is lost during a meeting, or if quorum can no longer be met due to resignation, impeachment, administrative removal, or other extenuating circumstances, the Board may continue to hear a complaint without meeting Quorum, but voting may not proceed until quorum is reestablished. Quorum must still be met for new complaints to be heard.

b. Once the Review Board begins hearing a complaint, membership is locked until the complaint is resolved. Locked membership means that the complaint can still be heard and voted on with the remaining members, but any new members (who were not present at the beginning of the hearing) cannot vote. This requirement should not be construed to prevent replacement members from hearing and voting on complaints in the event of a recusal.

3. All Review Board Members, including the Review Board Chief, are required to recuse themselves from a matter as specified in the Constitution and when they have a conflict of interest. A Member who has recused him- or herself may still attend the meeting and ask questions, but may not vote on any matter before the Review Board.

a. If a member is found to have knowingly failed to recuse him- or herself from a matter in which he or she had a conflict of interest, that member may be subject to sanctions, up to and including impeachment.

b. A conflict of interest is defined as a conflict between a Member's duties and his or her financial interests, academic interests, or personal relationships.

i. Clarifying example: If a Member cosponsored a piece of legislation that was the subject of a complaint before the Review Board, that member would be required to recuse him- or herself.

4. Specific requirements for hearing complaints are further detailed in Section VI of this document.

E. Election Committee

1. As outlined in the ASBSU Constitution, Article VI Section 1, the four (4) appointed Review Board Members will serve as the members of the Election Committee.

2. The sole purpose of the Election Committee is to aid the Election Manager in fulfilling their duties.

3. The Election Manager will chair the Election Committee. In the case that he or she is unavailable or unresponsive to the time constraints of complaints, a Review Board member from the committee will chair committee meetings and handle any necessary business.

4. In the event that a replacement member must be appointed, any fee-paying student who is not a candidate for election or a member of a Candidate or Ticket's team is eligible to be a member of the committee. Committee members are appointed to serve for one election cycle, but may be reappointed as long as they are continuing University students.

5. The committee will meet on an as-needed basis. Meetings need not be publicly announced or recorded.

V. The Associate Vice President of Ethics Affairs

A. Duties and Responsibilities

1. Hold all ASBSU Personnel accountable to both this Chapter and their job descriptions. The Associate Vice President of Ethics Affairs can request, up to three (3) times per year per person, that any ASBSU Personnel provide a report that briefly explains how he/she is fulfilling his/her position description.
2. Provide a transparent, rigorous, and unbiased defense of the ASBSU Governing documents by receiving, processing, filing, and presenting complaints before the Review Board.
3. Attend Executive Cabinet and joint legislative meetings, as well as meetings of the Funding Board and other ASBSU bodies as needed.
4. Receive, process, and present any Complaint regarding a violation of the ASBSU Constitution or ASBSU Code, either by an individual or by a body of ASBSU. This authority is considered discretionary when dealing with Complaints Against Persons, but is not discretionary when dealing with complaints Involving ASBSU Actions and Legislation.
5. File appropriate Complaints and play a proactive role in ensuring ASBSU Personnel fulfill their duties.
6. Work with faculty, staff, and fellow ASBSU personnel to ensure transparency between all branches of ASBSU and between ASBSU and the student body.
7. The Associate Vice President of Ethics Affairs will report to any body of ASBSU as requested.
8. Act as an advisor and interpreter of code for any of ASBSU as relevant.

VI. Complaints

A. Filing Complaints and Responses

1. University students, staff members, and administrators may file Complaints against any ASBSU Officer for violating ASBSU Code, the ASBSU Constitution, their job description, or other governing documents. When a Complaint alleges a violation of a University policy, the University's process will supersede and displace ASBSU's complaint process. It is the responsibility of the Associate Vice President of Ethics Affairs to forward these complaints to the appropriate administrators. However, if

the Associate Vice President of Ethics Affairs is unclear as to whether the Complaint should be heard or referred out, they will consult with a representative from the Office of General Counsel.

a. Complaints may only be handled if they are with regard to conduct that occurred in the current academic or calendar year, or in response to a conclusion or verdict of a body of authority that superseded ASBSU's process.

2. Once ASBSU has adjudicated a Complaint, whether formally or informally, including dismissal, it cannot be refiled unless there is new evidence to substantiate the Complaint that was not available at the time of the initial filing.

3. Once a Complaint is received, the Associate Vice President of Ethics Affairs will determine if ASBSU has jurisdiction over the Complaint. If not, the Associate Vice President of Ethics Affairs will forward the Complaint to the appropriate administrator, notifying the Complainant that the matter has been forwarded to the appropriate university department.

4. If the Associate Vice President of Ethics Affairs determines that ASBSU has jurisdiction over the Complaint, they may explore informal methods of resolving the complaint, in addition to interpreting the Code and Constitution. If it is determined that an informal resolution is not appropriate, it will be forwarded to the Respondent with instructions on how to submit a Response, which may include arguments and any evidence, including third-party statements, that the Respondent deems relevant. The Response must be sent back to the Associate Vice President of Ethics Affairs within 7 business days. Respondents may elect not to participate in the process, in which case the process will continue without their input.

B. Complaints Against Persons

1. A standard form will be available upon a request made to the Associate Vice President of Ethics Affairs. Complainants must specify the Respondent and the alleged violation. Complaints should be filed as soon as possible after the alleged violation has occurred and cannot be submitted anonymously to the Associate Vice President of Ethics Affairs, though the Complainant may remain anonymous in the complaint process if they so choose. Should a Complainant wish to remain anonymous, the Associate Vice President of Ethics Affairs may be limited in their ability to address the complaint. Such requests will be assessed on a case-by-case basis, as there are certain instances where remaining anonymous is not possible.

2. Complainants must include any evidence, including third-party statements, they wish to be considered with the Complaint

C. Complaints Involving ASBSU Actions and Legislation

1. A standard form will be available upon a request made to the Associate Vice President of Ethics Affairs. Complainants must specify the ASBSU action or legislation and the alleged violation of the

code or Constitution. Complaints should be filed as soon as possible after the alleged violation has occurred.

2. Complaints must include the action or legislation in question, the applicable portions of the ASBSU Constitution and code, and arguments detailing why the action or legislation constitutes a violation.

3. When an action or piece of legislation is the subject of a complaint, it is the responsibility of the sponsor of the action or legislation (“Respondent”) to prepare a defense in the Judicial process. The Respondent or his/her representative may prepare and present this defense.

D. Hearing Complaints Against Persons

1. Once a Complaint and the Response, if any, have been received (or the deadline for submission of a Response has passed), the Associate Vice President of Ethics Affairs has 7 business days to present the complaint to the Review Board for a complaint review hearing to determine whether the Complaint can be dismissed entirely (because if true, does not constitute a violation of ASBSU Code or Constitution), can be addressed informally, or a full hearing is warranted.

a. If the Review Board determines a full hearing is warranted, parties to the Complaint will be notified in writing within 24 hours. The hearing, which shall involve the Complainant and Respondent, will occur within 7 business days of notice of the hearing.

b. If the Review Board determines that the matter should be resolved informally, the Board will notify the parties of the informal resolution and next steps in the process. Generally, informal resolutions will consist of a mediated resolution guided by the Associate Vice President of Ethics Affairs and a professional staff advisor.

c. If the Review Board determines that the Complaint should be dismissed without further action, the parties to the Complaint will be notified in writing.

d. The Complainant may elect to withdraw their complaint prior to a hearing or to an informal resolution, however, may not then refile the Complaint without new evidence that was unavailable at the time the Complaint was filed.

2. Once a Complaint has been received and processed and it has been determined that a full hearing is warranted, the Associate Vice President of Ethics Affairs will present it to the Review Board.

3. The Review Board Chief will preside over the Review Board meeting and be a voting member.

4. The Review Board will convene prior to the arrival of the Complainant and Respondent to discuss the case and prepare questions for both parties.

5. For all hearings, including appellate hearings, parties to the complaint are permitted to have a personal advisor present.

6. The Review Board will hear a brief statement from each party, 20 minutes maximum. Parties may provide physical, written, digital, eyewitness, or other evidence to support their case. During and after arguments, Members may ask questions of the parties. When all questions have been answered, the Review Board will deliberate and render a decision in private. Determinations of “responsible” or “not responsible” to each charge will be made based on a supermajority ($\frac{4}{5}$) vote of the members of the Review Board, excluding staff representatives, and communicated to the parties to the Complaint in the form of an official written opinion within 72 hours.

7. If necessary to gain more information, make inquiries, or discuss further, the Review Board may adjourn without deciding on the complaint, but must notify both parties if this occurs. Members must decide on time for the next meeting before adjourning in this fashion.

E. Hearing Complaints Involving ASBSU Actions and Legislation

1. Once a Complaint has been received and processed, the Associate Vice President of Ethics Affairs has 7 business days to present the complaint to the Review Board. All Complaints involving ASBSU Actions and Legislation must receive a full hearing.

2. The Review Board Chief will preside over the Review Board meeting and be a voting member.

3. The Review Board will convene prior to the arrival of the Complainant and Respondent to discuss the case and prepare questions for both parties.

4. The Review Board will hear an argument from each party, 20 minutes maximum, and may ask questions of the parties. The Complainant will present his/her argument first, followed by the Respondent. Once arguments have concluded and all questions have been answered, the Review Board will deliberate and render a decision in private.

a. On questions of the constitutionality of an action or legislation, determinations of “constitutional” or “unconstitutional” will be rendered by a simple majority vote of the Review Board and will be communicated to the parties to the Complaint in the form of an official written majority opinion within 72 hours. If any member(s) fall in the minority, they may choose to issue a minority opinion detailing their conclusion and reasoning, though this opinion is not considered to have any controlling effect.

b. On questions of whether an action or piece of legislation violates code, determinations of “violation” or “not a violation” will be rendered by a simple majority vote of the Review Board and will be communicated to the parties to the Complaint in the form of an official written majority opinion within 72 hours. If any member(s) fall in the minority, they may choose to issue a minority opinion detailing their conclusion and reasoning, though this opinion is not considered to have any controlling effect.

5. If an action or piece of legislation is found to be unconstitutional or a violation of code, it is immediately considered null and void. Failure to abide by these rulings will result in sanctions, up to and including impeachment.

F. Miscellaneous Issues

1. Complaints regarding elections will be handled according to the standard process, with Candidates being held to Election Code and Judicial Code.
2. If a Complaint is filed against the Associate Vice President of Ethics Affairs, the President will manage all affairs related to the Complaint, including presentation to the Review Board.
3. In the event of a vacancy in the position of Associate Vice President of Ethics Affairs, the Associate Vice President of Inclusive Excellence will assume their duties and responsibilities until a replacement has been appointed by the President and confirmed by the Senate.
4. The ASBSU Review Board shall determine responsibility in complaints against persons based on the preponderance standard, which is the same evidentiary standard used by Boise State University in their conduct processes. The burden of proof is placed on the Complainant for all hearings.
5. The ASBSU Review Board shall determine constitutionality and violations based on the written text of the governing documents of ASBSU.
6. Constitutional amendments do not fall within the jurisdiction of the Review Board and thus cannot be the subject of a complaint, hearing, or ruling. However, ASBSU must abide by its rules regarding the process for amending the Constitution, and violations of this process as described in Article VIII of the ASBSU Constitution are under the jurisdiction of the Review Board.

G. Sanctions

1. Sanctions are determined by the Review Board and, in general, are limited to the following options:
 - a. Requiring weekly reports on work
 - b. Initiating an impeachment trial
 - c. Restitution for damages
 - d. Imposing additional office hours
 - f. Other appropriate sanctions only if the Review Board Chief first consults with their advisor and meets with the Vice President of Student Affairs and Enrollment Management to consider extenuating circumstances.

2. If the Review Board determines the offenses of an Officer merit impeachment as a consequence, the Associate Vice President of Ethics Affairs will bring impeachment charges against the Officer in a Joint Legislative Meeting. The General Assembly and Academic Senate will then hold a trial in which the Associate Vice President of Ethics Affairs serves as the Complainant, with the Review Board Chief presiding over the hearing. Members can ask questions of the Officer against whom impeachment charges are brought and of the Associate Vice President of Ethics Affairs. After the hearing, the Assembly and Senate will vote by silent ballot, with a $\frac{2}{3}$ majority in each respective body required to impeach the Officer. If the Review Board Chief is the defendant, the Associate Vice President of Inclusive Excellence will chair the trial.
3. If and when an Officer is impeached, they are removed from office, and all associated payments, privileges, and responsibilities are terminated immediately.
4. If impeachment is recommended by the Review Board, but not confirmed by the Legislature, the Review Board may still impose other sanctions, subject to the constraints above.

H. Appeals

1. The Review is considered the final authority in ASBSU on questions of the Constitution and Code, and thus decisions rendered by the Review Board are final and binding. Appeals may not be filed simply because a party disagrees with the Review Board's decision. An Appeal is appropriate when a party believes the Review Board made a legal or procedural error, or if key evidence is discovered that was not presented in prior hearings and which is likely to change the outcome of a ruling.
 - a. Appeals should not be used lightly, and careful consideration should be given before hearing an appeal or hearing a complaint for the second time.
2. To appeal a decision of the Review Board, a Notice of Appeal must be filed with the Associate Vice President of Ethics Affairs.
 - a. An Appeals Committee will be composed of the Executive Cabinet, except the Associate Vice President of Ethics Affairs, and chaired by the President. Members of the Cabinet who have a conflict of interest are subject to the same recusal requirements as a Review Board Member.
 - a. The Appeals Committee will convene within 10 business days to determine whether or not a Notice of Appeal should warrant a new hearing. If it is found that the evidence may change the outcome of the ruling, the Appeals Committee must schedule a new hearing, hereafter referred to as an appeal hearing, within 14 business days.
 - b. The Appeals will notify the Appellant and Appellee parties within 24 hours of the decision, in writing, as to whether a hearing will be held.

c. The Appeals Committee will hold a hearing at the earliest convenience of all parties, with an advisor present. These hearings will follow regular hearing procedures as outlined in Section VI of this Code.

d. The Appeals Committee will deliberate in private immediately following the hearing and deliver a decision to both parties within 24 hours of the hearing.

e. The Appeals Committee may decide to uphold or overturn the original decision.

3. Impeachments and administrative drops may not be appealed.

VII. Accountability

A. All Personnel will be required to follow the ASBSU Constitution, Code, and Regulations.

B. In the event that an official from any branch is absent for the first three meetings of the semester without communicating these absences in advance to the Chair and the Associate Vice President of Ethics Affairs, and in general, the individual is unable to be reached by the Chair and/or the Associate Vice President of Ethics Affairs, they may be subjected to an administrative drop, and removed upon agreement between the Chair and the Associate Vice President of Ethics Affairs

C. Failure to comply with sanctions, or other determinations from the Review Board will result in administrative removal from office. Administrative drop is not subject to appeal.

1. Impacted parties must comply with sanctions and all other determinations from the Review Board in the interim between its ruling and the result of an Appeals Committee ruling, if applicable.

D. Subject to the constraints in Article VII of the Constitution, members who engage in behavior that creates a hostile or disruptive work or learning environment, be it in or out of meetings, through written or verbal communication, through a violation of privacy, etc., may be subject to sanctions.

VIII. Abuse of the ASBSU Judicial Process

A. This section is based on the “Abuse of Student Conduct Process” section in University Policy 2020 (Student Code of Conduct)

B. Abuse of the ASBSU Judicial Process is defined as follows:

1. Falsification, distortion, or misrepresentation of information during the ASBSU Judicial process.

2. Disruption or interference with an ASBSU Judicial proceeding.

3. Filing a complaint in bad faith.

4. Verbal, physical, or virtual harassment/intimidation of a member of the Associated Students of Boise State University prior to, during, and/or after any Judicial process.

a. Intimidation is defined as engaging in an act directed towards an individual or individuals that is intended to cause said individual(s) fear or apprehension and serves no legitimate purpose.

C. The determination of whether or not an individual has abused the ASBSU Judicial Process shall be made by the Review Board through a supermajority vote.

D. If it is determined that an individual is abusing the ASBSU Judicial Process, the Review Board may intervene through the use of sanctions to prevent an individual from continuing to engage in the offending behavior.

1. These sanctions can only be applied through a supermajority vote.

2. These sanctions expire at the conclusion of the Judicial Process.

3. Failing to comply with these sanctions will result in an administrative drop.