

Benchbook

AS Judicial Council Bench Book



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Before Coming to a Hearing

Judicial Council Jurisdiction

The Judicial Council shall be empowered to hear and decide any case under original jurisdiction as set forth in Article VII of the A.S. Constitution. Included in this provision is the responsibility to adjudicate completely and diligently questions pertaining to The A.S. Legal Code, and as such the By-Laws and policies of any A.S. entity including, but not limited to, all A.S. Boards and Committees, KCSB and all A.S. Business Services in order to render a just and equitable resolution. Accordingly, the Judicial Council may hear, under the auspices of just representation, cases on alleged violations by a Candidate of the Elections By-Laws. Moreover, the Judicial Council may hear cases regarding balloting issues including, but not limited to, review of ballot wording. The Judicial Council may hear cases on Code of Conduct only as they pertain to a direct violation of Legal Code.

Filing a Petition

Individuals with an active affiliation to UCSB may bring a case to Judicial Council. Cases are brought to Judicial Council through Petitions for Hearings.

Pursuant to Associated Students By-Laws Article VII, Section 3, Petitions are required to have the following:

- a) Petitioner name, e-mail, and who they are representing
- b) Respondent name, e-mail, and who they are representing
- c) Charges and contentions
- d) Specific Policy or By-Law at issue
- e) Statement of the case
- f) Evidence (including names and phone numbers or e-mails of all persons involved, all written evidence and any documentation)
- g) Remedy sought

If your petition does not satisfy these requirements, Judicial Council may contact you to request a complete petition. A complete petition satisfying Legal Code requirements is required for a case to be heard.

Note that once a complete petition has been received by Judicial Council, it becomes a public document.

Representation

The Attorney General may serve as a prosecutor in cases brought before the Judicial Council, either acting independently or in their official capacity as a representative of the Office of the Attorney General. Individuals may contact the Attorney General to inquire about the Office of the Attorney General taking on their case in a representative capacity. See [motion to substitute](#).

Additionally, the Attorney General may act as an advisor to individuals or organizations seeking to file a petition themselves, providing guidance on the judicial process while remaining within the bounds of their office's responsibilities.

The Solicitor General serves as the primary spokesperson of the ASUCSB if it is a defendant in any case, serving as the Public Defender when the Association is named as a Respondent in a case.

Understanding a Petition

When a petition is submitted to the Judicial Council, a petitioner issues a formal complaint or challenge against a respondent under the Legal Code. The respondent expected to reply to the claims made by the petitioner. Being named as a respondent does not imply fault or wrongdoing; indicates that the Council has accepted a petition requiring review, and provides an opportunity for the respondent to respond through a fair and structured process.

Once the petition is received, the Judicial Council will date and number it. Within two (2) days, the Council will notify the respondent, the Attorney General, and the Executive Director that a petition has been submitted. The Judicial Council is responsible for serving both the petitioner and the respondent with a copy of the petition.

The version of the Legal Code in effect at the time the petition is submitted will be the version considered during the hearing. Any changes to the Legal Code made after the petition is filed, but before the hearing, will not apply.

Both parties will be given at least three (3) days notice prior to the scheduled hearing. The petitioner and the respondent must each submit a case brief outlining their arguments to the Judicial Council Chair by a deadline set by the Chair.

Respondents are strongly encouraged to review the Legal Code, prepare your materials carefully, and meet all deadlines. The Judicial Council is committed to upholding due process and ensuring a fair, impartial hearing for all parties involved.

Case Briefs

As part of the formal hearing process, both the Petitioner and the Respondent are required to submit a **case brief**. The purpose of the brief is to provide the Judicial Council with a clear and organized summary of each party's case prior to the hearing. Briefs must **not exceed ten (10) pages in length** unless special approval is granted by the Judicial Council. Each brief should clearly outline the relevant facts of the case, the specific provisions of the ASUC Legal Code at issue, the party's interpretation or application of those provisions, and any remedies or outcomes being sought. Any **written testimony** to be considered as part of the case must be included with the submitted brief and must be signed by the author. Late submissions of testimony will not be accepted under any circumstances.

All briefs must be **submitted via email to the Judicial Council Chair** no later than a deadline determined by the Chair. The Chair will communicate this deadline to both parties in advance of the hearing. The Judicial Council Chair will serve both the Petitioner(s) and the Respondent(s) with copies of all submitted briefs and written testimony no later than one (1) full day prior to the scheduled hearing.

If either party fails to meet the submission requirements, the case will be placed on hold pending further decision by the Judicial Council.

Burden of Proof

The **burden of proof** refers to the level of certainty the Judicial Council must have in order to find a party responsible for a policy violation. It sets the standard for how persuasive and reliable the evidence must be in order to support a finding. That burden lies with the **Petitioning Party**, not the Responding Party. The Responding Party is always presumed not responsible unless and until sufficient evidence proves otherwise (innocent until proven guilty).

The Judicial Council's standard of proof is generally **clear and convincing evidence**. This means the Council must be reasonably persuaded that the allegation is true, based on evidence that is highly and substantially more likely to be true than not. It is a higher standard than a "preponderance of the evidence" (more likely than not), but not as strict as "beyond a reasonable doubt." This standard ensures that findings of responsibility are based on strong, credible, and well-supported evidence, given the potential seriousness of conduct outcomes.

While "clear and convincing" is the default, the Council reserves the right to adjust the burden of proof on a case-by-case basis when necessary, depending on the nature of the allegations, governing policies, or applicable legal or institutional requirements.

Hearing Procedures

Once a petition is submitted, the Judicial Council will conduct a **Preliminary Hearing** at their next regularly scheduled mandatory meeting. The Council will review the petition and decide whether or not to hear the case. The formal hearing will occur not less than two (2) weeks from the time of preliminary hearing unless circumstances dictate otherwise.

General Procedure

Judicial Council proceedings follow a basic trial procedure with an opening statement, witness examinations and a closing statement. The Petitioner always presents his or her side of the case first since they are the one petitioning the case to the Council. The Petitioner makes the first opening statement and conducts his/her direct examinations first. After each direct examination, the respondent has the opportunity to cross examine the witness. Once all the petitioner's witnesses have been called the respondent begins the direct examinations of his/her witnesses, who are then cross examined by the petitioner. Once all the witnesses have been called and all the evidence has been recorded, the petitioner makes his closing statement, followed by the respondent. Once the respondent is done with its statement, the Council will move into executive deliberation and dismiss all participants. A decision will be reached and an opinion issued no later than one week after the hearing will be announced.

Relevant Legal Code

Article VII § 3 Subsection C part 6 of the Bylaws of Associated Students outlines formal hearing procedures.

Formal Hearing Procedures:

- 1) Format:
 - a) Adjudication of outstanding motions
 - b) Opening Statements
 - c) Presentation of arguments, evidence, and cross-examination
 - d) Rebuttals and Refutation
 - e) Summation
 - f) Courtroom returns to Executive Session
- 2) The Judicial Council has the authority to impose time limits on proceedings.
- 3) Judicial Council has the authority to limit the number of witnesses and/or active participants.
- 4) Judicial Council will enter private deliberation and decide the issue(s) based on the arguments and evidence presented.
- 5) Judicial Council shall not hear or decide matters not originally raised by the Petitioner(s) in their Petition for Hearing.

Hearing Procedure Format in Practice

- 1) Pretrial Motions
- 2) Opening Statements
- 3) Petitioner Presentation of Evidence
 - a) Petitioner Direct Examination of Witnesses
 - b) Respondent Cross Examination of Witnesses
- 4) Respondent Presentation of Evidence
 - a) Respondent Direct Examination of Witnesses
 - b) Petitioner Cross Examination of Witnesses
- 5) Rebuttals and Refutation
 - a) Petitioner Rebuttal Witness Callback Direct Examination
 - b) Respondent Cross Examination of Petitioner Rebuttal Witness
 - c) Respondent Rebuttal Witness Callback Direct Examination
 - d) Petitioner Cross Examination of Petitioner Rebuttal Witness
- 6) Closing Arguments
 - a) Petitioner Closing Argument
 - b) Respondent Closing Argument

Pretrial Motions

A pretrial motion is a formal request made to the Chair or Judicial Council before the start of the hearing, asking for a specific decision or action related to how the hearing will be conducted. These motions help clarify procedures, resolve disputes, or set boundaries before the main presentation of evidence and testimony begins. Pretrial motions are important because they help ensure that the hearing proceeds in a fair, organized, and efficient manner, giving all parties a clear understanding of the rules and expectations in advance.

See the [Pretrial Motions section](#) for the full list and set of explanations for all recognized motions.

Opening Statements

An **opening statement** is a *statement* (not an argument) structured summary presented at the beginning of a hearing. It outlines the key points each party intends to make and frames the issues to be addressed during the hearing. The statement sets the tone for the hearing and helps all participants understand the case's context and the arguments that will follow.

The Petitioning Party and Responding Party both deliver opening statements, in that order.

What an opening statement should include :

- A clear summary of the case from the party's perspective
- The allegations, or response to the charges
- A brief overview of key facts or events that support the party's position
- The type of evidence or names of witnesses the party intends to introduce (without detailed presentation)
- The desired remedies

What an opening statement is not :

- Not an opportunity to argue the full case
- Doesn't include witness testimony or detailed evidence presentation
- Not a substitute for testimony or closing arguments

Tone and Style

- Opening statements should be respectful, professional, and fact-focused
 - No personal attacks, inflammatory language, or speculative claims

Duration

- Typically 3-5 minutes per party, unless otherwise directed by the Judicial Council

A well prepared opening statement helps clarify complex issues, guide the Council's attention to the most relevant facts, set the tone for what to expect during presentations of evidence, and promote a fair and orderly hearing.

Example Key Phrases - Opening Statements

- "This case is about..."
- "The evidence will show that..."
- "You will hear from (witness), who will tell you about..."
- "(respondent) violated (section) of the Legal Code when they did..."
- "At the end of this hearing, I'll ask that the Council holds (respondent) accountable for (violation) by (remedy sought)"

Direct Examinations

Direct examination is the portion of a party's presentation of evidence where they present their own witnesses and ask them questions to provide testimony in support of their case. It is a structured, question-and-answer format intended to establish facts and clarify the witness' knowledge of the events in question. Direct examinations are used to **present facts** from the perspective of the witness, **build credibility** for the party's version of events, and **introduce evidence** through testimony. They provide the Judicial Council with the information needed to make a fair and informed decision based on the facts presented.

Witnesses may be individuals directly involved or relevant to the incident, reference witnesses, or subject matter experts (advisors, relevant previous position holders, etc), if applicable.

Guidelines

- Questions should focus on what the witness **observed**, what the witness **knows**, and any **clarifying context** around key events
- Questions should be **open-ended**
 - Not yes/no question
 - Not leading questions
 - Not acceptable : "You saw XXX leave the building, right?"
 - Acceptable : "what did you see from the courtyard?"
- Questions should have a specific **relevance** to the case
- Questions should allow the witness to tell their story clearly and truthfully
- Questions should lay foundation for witnesses to corroborate physical evidence (see entering evidence section)
- The Judicial Council may ask clarifying questions during or after the direct examination
- The opposing party will have the opportunity to **cross-examine** each witness after every direct examination.

Duration

- Typically 5-10 minutes per witness; the Judicial Council may set specific time limits on a case by case basis

Example Key Phrases - Direct Examination

- "Can you introduce yourself to the Council?"
- "How do you know (respondent)?"
- "What did you see?"
- "When did this happen?"
- "What do you know about...?"

Entering Evidence

Evidence must be on the record to be officially reviewed. Documents, photos, videos, messages, meeting minutes, and other materials that are formally presented during a hearing must be formally **entered into evidence** in order for the Judicial Council to consider them when making a decision. This process ensures fairness, transparency, and a clear hearing record. Entering evidence properly allows the **opposing party to review and object**, protecting due process. Evidence must be relevant, authentic, and not overly prejudicial.

What can be entered as evidence?

- Text messages, emails, social media posts, photographs, videos
- Screenshots, documents, written statements
- Diagrams, timelines, or other visual aids

How to enter evidence - step by step

1. Lay Foundation

- Use open-ended questions during direct examination to help establish that the evidence is authentic and relevant
 - Show that the evidence is what it claims to be and is relevant to the hearing, and relevant to the witness introducing it
- Example questions :
 - “Do you recognize this document?”
 - “What is it?”
 - “How do you know what it is?”
 - “When and how did you obtain it?”
 - “Has it been altered in any way?”

2. Confirm Accuracy and Fairness

- Ask questions that show the evidence is accurate and reliable
- Example questions :
 - “Is this a true and complete copy of the message you received?”
 - “Does this photo fairly and accurately depict the scene as you saw it?”

3. Enter the Evidence onto the Record

- “I’d now like to enter [description of evidence] into evidence as Petitioner (or respondent) Exhibit A”
 - The opposing party will be given an opportunity to raise an objection
- Evidence should be labeled A-Z for organizational and reference purposes
- Provide a copy (or share electronically) with the Council and the opposing party

If admitted, evidence becomes part of the official hearing record and may be referenced in direct or cross examination, closing arguments, and Judicial Council deliberations.

Cross Examinations

Cross examination is the opportunity for a party to ask questions of the other party's witnesses after their direct examination. It is used to challenge the witness' credibility by testing the accuracy and reliability of the witness' statements, to highlight inconsistencies by identifying gaps, contradictions, or bias in testimony, or to undermine or clarify facts that may support their version of events. The party who did not call the witness conducts the cross-examination. Cross examinations give the Council a fuller picture of the events in question.

Parties must remain respectful and professional at all times. The Judicial Council does not allow for badgering or intimidation of witnesses, and will intervene if a question is inappropriate, leads to confusion, or is overly argumentative.

Guidelines

- Respond to a witness' direct examination
 - Focus on areas that don't add up, contradict other evidence, or lack detail or clarity
- Use leading questions, **close-ended questions**
 - Unlike direct examination, cross examination questions should ask for **yes/no answers**, to limit the scope of a witness' response
- Reference supporting evidence that challenges the witness' testimony
- Know when to stop; if the witness gives you the answer you're looking for, move on

Example Key Phrases - Cross Examination

- "You didn't mention this to anyone until four months later, correct?"
- "You were not present when the conversation took place, were you?"
- "Isn't it true that this message contradicts what you just said?"
- "You said you saw the lights turn off at 9pm, right?"

Rebuttal Witnesses

A rebuttal witness is someone called to testify after the initial presentation of evidence in order to **respond directly to new or unexpected information** presented by the other party during their case. They are not used to repeat earlier testimony but to challenge, clarify, or counter specific claims that came up during the hearing. Rebuttal is not an automatic right; the Chair may ask you to explain why your rebuttal is necessary and whether the testimony is truly responsive.

Rebuttal witnesses are limited in scope: their testimony can only respond to specific claims made by the opposing party. This is not an opportunity to bring up new evidence. Rebuttal witnesses are still subject to direct and cross examination rules.

Example situations when a rebuttal is appropriate

- **Situation** : A witness claims you were not present at a meeting
 - **Response** : call a rebuttal witness who saw you there
- **Situation** : the opposing party introduces a text message implying intent
 - **Response** : call a rebuttal witness to explain the full context of that conversation
- **Situation**: a witness says no one else witnessed the incident
 - **Response** : call a previously unlisted rebuttal witness who also witnessed the incident

The Judicial Council may **deny a rebuttal witness** if the testimony is duplicative or not directly responsive, if the information could have been introduced earlier, or if the witness is being used to ambush or unfairly surprise the other party. Be prepared to briefly explain the purpose of each rebuttal witness.

Closing Arguments

A **closing argument** is each party's final opportunity to speak directly to the Judicial Council at the end of the hearing. It is a summary of your position, highlighting the most important facts, testimony, and evidence that support your case. This is your chance to **connect the dots** between the testimony, evidence, and storylines that came out during the hearing, and explain why the Council should decide in your favor. Remind the Council what they heard during the hearing.

The Petitioning Party and Responding Party both deliver closing arguments.

What a closing argument should include :

- A brief summary of the case
- Key evidence and testimony
 - Reference witness statements and evidence admitted during the hearing
 - Emphasize facts that support your side, highlighting the most important ones
- A response to the opposing party's argument
 - Point out inconsistencies, lack of evidence, contradictions, or biases in their case
- A connection between your argument and the specific Legal Code Section at issue
 - **Connect the facts of the case to the language of the Legal Code**
- A clear statement of remedies sought, should the Council decide in your favor

What a closing argument is not :

- A chance to introduce new evidence
- A chance to reference evidence that was not entered onto the record

Duration

- Typically 8-10 minutes per party, unless otherwise directed by the Judicial Council

Closing arguments restate a party's version of events clearly and persuasively, highlight key witness testimony and evidence, and address and refute the opposing party's main claims.

Example Key Phrases - Opening Statements

- "You heard from Witness A, who saw the interaction firsthand. You also reviewed the text message sent immediately afterward."
- "The Responding Party said they didn't intend to cause harm, but their own message shows they acknowledged the impact."
- "The Code defines harassment as repeated behavior that causes fear. Based on the testimony and evidence, that standard is clearly met."
- "The Code defines harassment as repeated behavior that causes fear. Based on the testimony and evidence, that standard is clearly met."

Appealing a Case

The Judicial Council handles **appeals regarding Election Board complaint rulings**; an appeal can be submitted to the Judicial Council on any matter pertaining to the administration or adjudication of a complaint by the Elections Board. The appeal must be submitted no later than five (5) business days after the ruling is given by the Election Board.

The appeal will be reviewed by Judicial Council at their next regularly scheduled meeting, and a decision to accept or deny the appeal will be issued within one (1) business day after their meeting. If the Council denies the appeal, the decision of the Election Board stands, and the case is considered closed.

If it is deemed that a new hearing must be scheduled entirely, standard measures in accordance with the Legal Code must be adhered to and there will need to be a resubmission of case briefs, where revisions of evidence and witnesses will be allowed.

Pretrial Motions

The list of acceptable motions to make is found in the By-Laws of Associated Students, **Article VII § 3 Subsection C part 6**. These motions are made via email prior to a hearing, and/or at the beginning of each hearing, before opening statements and the presentation of evidence. Below is an explanation of the different motions and how they are employed. The Chair shall decide all motions, subject to appeal by the full Council upon the objection of either party. Judicial Council shall determine whether or not to allow debate on these matters.

Motion to Dismiss

The Motion to Dismiss is, in essence, asking the Council to **dismiss the case due to a lack of significant evidence** or the absence of an infraction of the Legal Code. The Motion to Dismiss is voiced before either side presents their case.

Ex. “At this time, I (the respondent) would like to make a **motion to dismiss** this case. I believe that there is a lack of evidence that any violation of legal code was made.”

Motion of Continuance

A Motion of Continuance asks the Council to postpone or continue the proceedings at a later alternative time. This motion is used to assert that there was insufficient time for adequate preparation for the hearing, and the hearing date and time must be postponed to a later date. To use a Motion of Continuance to request that a hearing be postponed, the **motion must be filed in writing at least 24 hours before the hearing**. A motion of continuance can also be made during a hearing to request that additional time be allotted for the presentation of evidence, if it has become apparent during a hearing that time constraints significantly hinder the hearing proceedings. This could result in a hearing spanning over the course of multiple days.

Ex.

“Dear Chair,

This email serves as a **motion of continuance** for the hearing set to take place tomorrow evening. I believe that insufficient time for adequate preparation has been given for these matters, and in order to ensure a just hearing, I’d like to request that the trial be pushed back to *this day at this time*, to give both parties the opportunity to continue to collect evidence and prepare witnesses.

Thank you for your consideration,
Petitioner”

Ex. “At this time, I (the petitioner) would like to make a **motion of continuance**, and request that the remainder of my presentation of evidence be presented at a later date. Since this hearing has run past midnight, I find it would be appropriate to close this session for the night and resume presentations of evidence tomorrow afternoon.”

Motion of Summary Judgement

A Motion of Summary Judgment asks the Council to **render a judgment based on the evidence presented in the petition and the submitted case briefs**. This motion is made when the evidence is undisputed, and it is clear that it would be impossible for one party to prevail if the matter were to proceed to a trial. The Council will issue a tentative ruling if the motion is accepted, and then allow for comments from both parties before the final decision is ultimately rendered.

Ex. “At this time, I would like to make a Motion to request a Summary Judgement. I believe that all relevant evidence was outlined in the petition and briefs submitted for this case, and there is no need to call witnesses or present further evidence for the Council to render a just ruling.”

Motion to Substitute

When the petitioner and respondent submit their briefs for a hearing, they are required to specify who will be acting as legal counsel for each party, as well as who will be called as a witness. A motion to Substitute **allows either party to change**, with the approval of the Council, **their representatives, witnesses, or paperwork** that the party believes would optimally clarify and further advance the case. Credentials of the individual substituting a petitioner or respondent must be established with the court and there is no limit to how many times you can substitute information as long as there is consent from the Council (a majority consensus). Motions to Substitute should be used if a witness who was not listed in the original brief is being called in the place of a witness who was listed, or if a representative of either the petitioner or respondent is changing or being added to the counsel of the party.

Ex. “I would like to make a **motion to substitute** a witness. John Doe is unfortunately unable to testify today, and I intend to call Jane Smith in his place, to testify about the same meeting.”

Ex. “I would like to make a **motion to substitute** a representative. Instead of representing myself alone, I would like the Solicitor General to join me at counsel table in my defense.”

Motion for a Demurrer

This allows the opportunity to respond to a complaint that has been filed, **dropping the case altogether on the grounds that the complaint lacks any legal basis**. The complaint itself can be true, and the Council will pragmatically decide whether the complaint has legal standing and should proceed into a hearing. A demure might challenge the petitioner's choice of legal code, arguing that even if the facts of the case are true, the basis to call those facts a violation of a certain part of the legal code is faulty. Normally, even with a sustained demure, the Council will allocate a period of time for revisions, allowing both parties to amend their statements and bring the revised complaint to the Council. Failure to amend the complaint to successfully provide a legal basis in a timely fashion (within 48 hours), will force the Council to dismiss the case entirely.

Ex. "I (the respondent) would like to **motion for a demurrer**. While I do not contest the facts of the case, I do not believe that these facts correspond to a violation of the legal code that the petitioner is presenting."

Motion in Lieu of a Witness

A Motion in Lieu of a Witness is to be made **if a witness cannot attend the scheduled date and time of the hearing to provide courtroom testimony**. If witnesses on either the petitioner or respondent's side cannot be present for the hearing, the Council will allow a **signed witness statement** to be submitted at least 24 hours before the hearing. Witness statements must bear the signature of the witness and be submitted by the witness to the Chair of the Council printed, or via email. The Council will rule on the motion and show the statement to both parties at the beginning of the hearing. Any witness statements that are submitted and accepted will be read aloud during the hearing. The petitioner or respondent entering the witness statement in lieu of witness testimony may decide to read the statement aloud at any point during their presentation of evidence. There will be no cross-examination of the statement. The Council can ask questions for clarification purposes if necessary.

Ex. "At this time, I'd like to make a **motion in lieu of a witness**; John Doe could not attend this hearing today, and has submitted a witness statement to the Council since he is unable to testify in person. I request that this witness statement be accepted as evidence as an alternative to in court testimony."

Motion in Lieu of Other Evidence (to include or exclude)

A Motion in Lieu of Other Evidence refers to a motion in limine, which is used to address evidentiary issues before they are presented in a hearing. It can be used to either exclude certain evidence or to allow for the introduction of specific evidence. Essentially, this motion is used to **preemptively decide whether certain evidence that may be particularly prejudicial or irrelevant can be presented during a hearing**. In making this motion, the presenter must explain why a specific, generally controversial piece of evidence should or should not be admissible in this hearing. If the motion to include is granted by the Chair of the Council, then the evidence is within the scope of the hearing and can be presented as evidence. If the motion to exclude is granted by the Chair of the Council, then the evidence cannot be referenced or presented as evidence during the hearing.

Ex.

“At this time, I (the respondent) would like to make a **motion in lieu of evidence**, specifically in objection to a series of text messages that the petitioner wants to introduce into evidence. I think these text messages are only being used to make me look like a bad person, even though that conversation is being taken out of context and has absolutely nothing to do with the current allegations. This evidence should not be allowed to be presented during the hearing.”

Rules of Evidence (Admissible Objections)

The Rules of Evidence are guidelines that determine what information can be presented and considered by Judicial Council during a hearing. These rules ensure that only relevant, reliable, and legally admissible evidence is used to make decisions.

When a party objects during a hearing, they are typically challenging the admissibility of certain evidence, arguing that it violates these rules. For example, an objection might be raised if a witness tries to testify about something they didn't directly observe, which could be considered hearsay.

Objection Overview

Objections are formal challenges raised by a party during a hearing in response to testimony, questions, or the introduction of evidence that they believe violates procedural rules, is irrelevant, or is otherwise inappropriate under the standards of the Judicial Council. The purpose of an objection is to preserve the fairness and integrity of the hearing process by allowing parties to contest specific elements as they arise.

Objections must be stated clearly and concisely at the time of the perceived issue and directed to the Judicial Council Chair. The Chair, in consultation with Council members, will rule on the objection and determine whether to sustain or overrule it. All parties should be familiar with the types and purposes of objections to effectively participate in the hearing process.

Leading Question

A leading question is a **question that suggests its own answer** or contains the information the questioner is looking to have confirmed. These questions often prompt the witness to agree rather than recall or explain from their own knowledge. Objections for leading questions are typically appropriate when an opposing party is conducting a direct examination.

Leading questions are permitted during cross examination.

Example of a Leading Question: "You were at the meeting when the vote took place, correct?"

- This question assumes a fact (that the witness was at the meeting) and suggests the desired answer ("yes").

Corrected (Non-Leading) Version: "Where were you during the time of the vote?"

- This question allows the witness to provide their own recollection without being steered.

How to Make the Objection: "Objection, leading. The question suggests the answer and is being asked during direct examination."

The Chair will determine whether the question is inappropriately leading for the context (i.e., during direct examination) and may instruct the questioning party to rephrase.

Compound Question

A compound question is a question that asks about two or more facts or issues at once, making it unclear which part the witness is responding to. This can **confuse the witness** and **complicate the record**.

Objections for compound questions are appropriate when a question combines multiple inquiries in a way that prevents a clear or precise answer.

Example of a Compound Question: "Did you attend the meeting and talk to the chair afterward?"

- This question asks about two separate events (attending the meeting and talking to the chair) but expects a single answer.

Corrected (Non-Compound) Version: "Did you attend the meeting?" followed by, "Did you speak to the chair afterward?"

- Breaking the question into two parts allows for clear and accurate responses.

How to Make the Objection: "Objection, compound. The question is asking more than one thing at once, and may confuse the record."

Narrative

A **narrative question** is one that prompts the witness to give a broad, open ended, and often unfocused answer, which may include irrelevant or inadmissible information.

Additionally, even if the question itself is proper, **a witness may “lapse into a narrative”** while answering, continuing beyond what was asked and offering extended or off-topic explanations. This too may be objectionable if it affects the clarity or relevance of the record.

Narrative objections are appropriate **when a question is too broad or vague, or when a witness gives an answer far beyond the scope of the question.**

Example of a Narrative Question: “Tell us everything that happened after you got the email.”

- This invites an open ended story without structure or limits

Example of a Narrative Answer: “I told her I was confused, and then I started explaining my entire schedule that week, and how I had exams, and then I brought up how I was feeling overwhelmed for the past semester...”

Corrected (Non-Narrative) Version: “What did you do immediately after receiving the email?” followed by, “Who did you speak to next?”

- These more focused questions help maintain a clear and relevant record.

How to Make the Objection: “Objection, narrative. The question invites an overly broad response and may lead to irrelevant testimony.” **OR** “Objection, narrative. The witness is lapsing into a narrative beyond the scope of the question.”

Argumentative

An argumentative question **challenges the witness rather than seeking information**. It may be accusatory, imply wrongdoing, or be designed to provoke a debate instead of elicit facts.

Argumentative objections are appropriate when a question appears more like a statement, accusation, or argument than a neutral inquiry.

Example of an Argumentative Question: “So you just ignored the policy because you thought it didn’t apply to you?”

- The question assumes misconduct, uses emotionally charged language, and is framed more to confront than to clarify

Corrected (Non-Argumentative) Version: “What was your understanding of the policy at the time?”

- Rephrased to seek factual information in a non-confrontational way

How to Make the Objection: “Objection, argumentative. The question challenges the witness and is not designed to elicit factual testimony.”

Asked and Answered

This objection is used when the same question has already been asked and sufficiently answered, and the questioner is repeating it unnecessarily.

Asked and answered objections are appropriate when **the repetition of a question appears to harass the witness or waste time.**

Example of an asked and answered Question: “Did you attend the meeting on April 10?” followed by, “So, you were at that meeting on April 10?”

- The information has already been clearly stated, and asking again adds nothing new.

Corrected (Non-repetitive) Version: “To clarify, you already stated that you were at the April 10 meeting; is that correct?”

- Phrasing seeks confirmation for clarity without repeating a question that’s already been answered.

How to Make the Objection: “Objection, asked and answered. The witness has already responded to that question.”

Vague

A vague or ambiguous question is unclear or lacks specific detail, making it difficult for the witness to understand and answer accurately.

Vague objections are appropriate when a question could confuse the witness or **result in an incomplete or misleading answer**.

Example of a Vague Question: “Did you handle that situation the right way?”

- The phrase “that situation” is unclear, and “the right way” is subjective and undefined

Corrected (Non-vague) Version: “How did you respond to the student’s complaint on May 3?”

- Specifies the event and invites a factual description of actions taken

How to Make the Objection: “Objection, vague and ambiguous. The question is unclear and may confuse the witness.”

Non Responsive

A **non-responsive answer** occurs **when a witness fails to directly answer** the specific question asked. Instead, the witness may provide unrelated information, change the subject, or give a vague or evasive response. This can hinder the fact-finding process by leaving key questions unanswered and creating confusion in the record.

Non-responsive objections are appropriate when the witness gives an answer that does not address the question directly or shifts the topic, or when the witness fails to give a real answer at all.

Example of a non-responsive Answer: *Did you send the email before the deadline?* “There were a lot of technical issues that week, and I was busy with other assignments...”

- The witness avoids answering the actual question and introduces unrelated information

Corrected (responsive) Version: *Did you send the email before the deadline?* “Yes, I sent it before the deadline.” or “No, I did not.”

How to Make the Objection: “Objection, non responsive. The witness has not answered the question directly.”

Relevance

Relevance objections are appropriate when a question introduces unrelated or distracting information that has no bearing on the case. Introducing irrelevant information wastes time, distracts from the issues the Council must decide, and may confuse the record. Questions must be directly related to proving or disproving a material fact or establishing an important point in the case.

Relevance objections are appropriate when a question introduces unrelated or distracting information that has no bearing on the case.

Note: Credibility is always relevant.

Example of an irrelevant Question: “What’s your favorite club on campus?”

- The question doesn’t relate to any policy violation, fact in dispute, or issue being decided

Corrected (relevant) Version: “Were you attending any extracurricular activities that may have impacted your availability on the date of the incident?”

- Links the question to the facts of the case by establishing possible relevance to the timeline

How to Make the Objection: “Objection, relevance. The question does not relate to any material issue before the Council.”

Lacks Foundation

A question lacks foundation when the **necessary background facts have not yet been established to show the witness has personal knowledge or is qualified to answer**. Without proper foundation, the testimony risks being based on hearsay, speculation, or assumptions rather than firsthand knowledge. Establishing foundation means confirming the witness's connection to the facts, such as presence at an event or involvement in an incident.

Lack of Foundation objections are appropriate when the question relies on information that hasn't yet been supported by earlier testimony.

Example of a Question Lacking Foundation: "What did the professor say in the meeting?"

- Question assumes the witness was present at the meeting, which hasn't been established yet

Corrected (foundation) Version: "Were you in the meeting with the professor on October 12?"
If yes, "What did the professor say during that meeting?"

- lays the necessary groundwork/foundational context before asking about what was said

How to Make the Objection: "Objection, lacks foundation. There has been no showing that the witness has personal knowledge of this event."

Improper Opinion

Witnesses are generally limited to testifying about facts they have personally observed. An improper opinion arises when a witness offers **conclusions, speculation, or beliefs** about matters outside their firsthand experience, especially about someone's intent, truthfulness, emotions, or mental state. **A witness may only give opinions that are based on their own five senses** (things they saw, heard, touched, smelled, or tasted) and those opinions must be helpful for understanding their testimony or clarifying a fact.

Improper Opinion objections are appropriate when a witness offers an opinion on matters outside their direct sensory observation or without the qualifications necessary to give such testimony.

Example of an improper opinion Question: "I think the respondent meant to cheat. They looked really suspicious."

- The witness is speculating about someone else's intent without having direct knowledge or expertise, and the statement is not based on observable facts

Corrected (proper opinion) Version: "What behavior did you observe that caused you concern during the exam?"

- Focus on observable facts the witness personally saw or heard, rather than speculation or conclusions

How to Make the Objection: "Objection, improper opinion. The witness is offering an opinion without a proper basis or qualification."

Hearsay

Hearsay is a **statement that was made outside of the hearing that is being offered for the truth of the matter asserted** (to prove what was said is true). Hearsay can be **written or spoken**, and typically involves someone quoting or summarizing what **another person said**, rather than what they personally saw, heard, or experienced. Out of court statements (“he said” “she said” “i said”) are unreliable.

Hearsay objections are appropriate when a witness repeats someone else’s statement to prove a fact, rather than testifying about their own direct observations.

Note: some hearsay may be admissible if it falls under an accepted exception. Exceptions are listed below.

Example of Hearsay: “My friend told me the respondent admitted to cheating during lunch.”

- The witness is testifying about what someone else said outside the hearing and is offering that statement to prove the respondent cheated.

How to Make the Objection: “Objection, hearsay. The witness is testifying to an out-of-court statement being used to prove the truth of the matter asserted.”

Exceptions to Hearsay

There are situations where the statement being made is considered reliable enough to be used in a hearing, even though it's hearsay. If a statement is objected to as hearsay, these are acceptable responses to assert that the statement should be reflected on the record and considered in the Judicial Council's deliberations.

1. Not Offered for the Truth of the Matter Asserted

What It Means: The statement is not being used to prove that it's true, only to show that it was said, or to explain what someone did next.

Why It's Allowed: If the statement's truth doesn't matter, then it's not actually hearsay.

Example: "After hearing the rumor that someone was cheating, I reported it to the RA."

- This isn't hearsay because the point is that the person heard something and acted; not that the rumor was true.

Note: This "exception" is not really an exception; it is definitionally not hearsay. Hearsay requires that the statement being made is being brought onto the record for the truth of the matter. That means that any and all out of court statements can be admissible evidence, if you are using them for a reason other than "the statement is true".

2. Admission by a Party Opponent

What It Means: The respondent said it themselves.

Why It's Allowed: You can use someone's own words against them, even if they're not actively testifying

Example: "The respondent told me, 'I used someone else's homework.'"

- This is allowed because the respondent said it, and they're a party to the case.

3. Present Sense Impression

What It Means: The statement was made during or right after someone saw or heard something happening. A statement showing someone's first reaction or understanding of what they were experiencing.

Why It's Allowed: People are less likely to lie or make things up when they're reacting in real time. Immediate reactions are usually honest and not rehearsed.

Example: "She said, 'I think someone just broke into the room!' right after hearing a loud noise."

- This is allowed because it shows her real time reaction.

4. Excited Utterance

What It Means: The statement was made during a sudden or stressful event, while the person was still shocked or emotional.

Why It's Allowed: People caught up in the moment are unlikely to carefully plan a lie.

Example: "Right after the professor yelled, he said, 'I didn't mean to cheat!'"

- This is allowed because it was said during a moment of stress or excitement.

5. Recorded Recollection

What It Means: The witness once remembered the event clearly and wrote it down, but now they've forgotten the details.

Why It's Allowed: If the writing was made when their memory was fresh, it can help fill in the blanks.

Example: "I don't remember the exact words now, but I wrote them in my notes that night."

- This is allowed if the notes were made while the memory was still fresh and the witness says they were accurate.

6. Record of Regularly Conducted Activity

What It Means: The record was made as part of someone's normal job or duty, **like attendance logs or meeting minutes.**

Why It's Allowed: These records are created consistently and not just for one case, so they're considered reliable.

Example: "According to the conduct hearing minutes, the respondent said they took the file by mistake."

- This is allowed because the minutes were recorded as part of standard procedure.

7. Absence of a Record of Regularly Conducted Activity

What It Means: A record that should exist, but doesn't, and that absence is being used as evidence.

Why It's Allowed: If something is normally recorded but isn't this time, it might show the event didn't happen.

Example: "The officer says the student confessed, but there's no mention of it in the meeting minutes."

- This is allowed to question whether the confession really happened.

8. Public Record

What It Means: A document made by a university office or public body while doing its normal job like a conduct report, housing file, or campus safety report.

Why It's Allowed: These records are created in the regular course of operations and are presumed to be accurate.

Example: "In a similar case last year, the Council found that using shared login credentials violated policy."

- This is allowed as it's documented and relevant

9. Absence of a Public Record

What It Means: A record should exist in university files, but it doesn't. That missing record can be used to show something didn't happen.

Why It's Allowed: The absence of an expected official document can be meaningful evidence.

Example: "The student claims they reported harassment, but there's no record in the Title IX office."

- This is allowed to challenge the credibility of that claim.

10. Reputation Concerning Character

What It Means: A statement about someone's general reputation for honesty, integrity, or behavior within a group or community.

Why It's Allowed: In some cases, reputation is relevant, especially when character is part of the issue.

Example: "He's known in the residence hall as someone who always tells the truth."

- This may be allowed if character or credibility is at issue and the reputation is relevant