

Procedures for Filing a Complaint to the SGA Judicial Council (Certiorari)

Step 1:

Fill out the attached form. The plaintiff is the person(s) bringing the complaint to the court; usually this person is you and/or the club or group you represent. The defendant is the person(s) or group you are filing the complaint against.

Please date the form, and on the lines provided give a brief summary of your complaint.

Step 2:

Please attach a statement, called a legal brief, to the form provided. It must be 12 point font double spaced. This brief should have the details of who you are or who you represent and who the defendants are. Your complaint should be detailed in full and include a list of all of the evidence you intend to provide to the court. The brief is considered to be a legal statement so tell the truth the WHOLE truth and nothing but the truth. While the brief is not mandatory the court will have a much better understanding of your arguments if it is in this format. All court rulings will be posted on the SGA web site and archived.

If possible you should also cite under what law you believe that your complaint falls under.

1. The U.S. Constitution, federal or state case law, federal or state statute.
2. The IU Code of Conduct, the SGA Constitution and/or By-laws.
3. Student club constitution and/or By-laws.

Step 3:

Deliver this complaint to the SGA Office and drop in the mail box marked "Judicial".

Step 4:

The Judicial Council will hold a certiorari hearing. You will be notified by the court by IUSB email within one week after the court receives the complaint/brief.

Step 5:

At that time you will be notified that the court has exercised any of the four following options:

1. If your application for certiorari is approved you will be notified and you may be given a date to appear in court.
2. If your application for certiorari is approved you will be notified that the defendant has been given one week to prepare their brief. The court may ask you to appear at a given date.
3. You will be denied certiorari and will be offered a copy of the courts reasoning.
4. A summary judgment will be made and you will be offered a copy of the courts reasoning.

If the court determines at the certiorari hearing that you have standing and that the complaint is justiciable, you may be granted *Certiorari*. To have standing YOU MUST show in your brief that you have been damaged in some way. You may not sue for someone else unless that person is incapacitated. To be justiciable the issue you bring before the court must be something that is not an issue that has a simple political solution and must be an issue that the court would not find grossly improper to rule over, for example, if you sue “Billy” because you think that “Billy is a jerk”, you will be denied *Certiorari* and any chance for oral argument because such a case is not justiciable. Disputes over mundane issues of law will likely be handled through summary judgment. Oral arguments are allowed/handled at the courts discretion.

The court will accept amicus briefs. This means that if others wish to offer a statement for your side they may offer them to the court and they will be considered at the pleasure of the court.

You may be represented by council. Be advised that if an attorney acts as council and prepares a brief for you that cites statute and/or case law, than ALL laws and case law surrounding the issue must be listed in the brief for the court to examine. If the court finds significant relevant case law that has been omitted in a brief that has been prepared by an attorney it is considered to be an offense worthy of contempt.

Other Important Points to Consider

Depending on the nature of your complaint, your complaint will most likely fall into one of two categories.

Trial of Fact:

A trial of fact is what most people think of when they think of a court proceeding. Determining the best facts in light of the evidence is what the court will attempt to decide. An example would be a trial to determine “if Billy punched Johnny”, such a trial would call witness A and B to help determine if Billy did indeed punch Johnny or not. A trial of fact can often have oral arguments and cross examination that you could expect from a conventional trial.

Trial of Law:

A trial of law is when you are asking the court to interpret the law in hopes for a remedy to your problem. A trial of law seeks a judicial remedy for an argument over the law or when the law is difficult to apply to an unusual or unforeseen set of circumstances. Oral arguments in a trial of law are rarer. If the court grants oral arguments they will consist of both sides giving a short statement and the Justices of the court asking both sides questions at the pleasure of the court.

Trials of law are where most students have the most misunderstanding. Keep in mind that what may be very controversial for you, may be a mundane point of law to the court. Most misunderstandings come from a lack of knowledge of how constitutional law works. A popular example is a failure to understand the difference between expressed and implied powers. Our SGA Constitution, like our Constitution of the United States, operates on expressed and implied powers. Just as the U.S. Constitution does not detail every act that the President or Senate can and cannot do the SGA Constitution does not either. If Constitutions did that they would be 500 pages long and would have to be amended almost daily to meet new unforeseen circumstances. It is a staple of Constitutional Law that the Senate and the President may take steps that are prudent or necessary to fulfill their constitutionally mandated duties whether they are specifically listed in the constitution or not.

Separation of powers is the second most common area of misunderstanding. A clause in a constitution may put a limit on the power of the entire government, or it may simply put a limit on one branch of the government and not apply to the others. Each branch of government is independent from the others as long as they stay within the bounds of constitutional limits. A great many arguments over constitutional law are over separation of powers.

The vague text of a constitution is also a cause for many legal arguments. While constitutions do contain some specifics, much of the text is written with a certain degree of vagueness in mind. This concept is called “the virtue of vagueness” and is a valued concept that makes it easier for the law to apply to a wider set of unforeseen situations.

It would be wise to read all previous decisions of the court before you submit this application.

Conflict is a part of every day life and in any government body conflict is routine. Conflict can be a very good thing but it can have some problems. In today’s society if people are put out of their comfort zone they can simply change the channel, walk away, or in some social environments they can just remove that person from their myspace.com group.

Gone are the days where people would talk about the issues of the day at the local drug store, coffee shop, or barber shop. As a result people’s ability to deal with conflict in a healthy and functional manner has atrophied a great deal. People who are inexperienced with conflict often cannot help themselves but to get angry or hostile because they have not developed or exercised the skills to behave otherwise.

The university has also recognized this problem and has added a course in critical thinking to the general education curriculum. While that is not nearly enough to solve this problem, it is a beginning. People in society at large need to understand that conflict can be healthy and fun and does not need to lead to genuine hostility or emotional outbursts. It is expected that all parties involved will maintain a certain level of decorum and good cheer even when the conflict at hand is of a serious nature.

Best wishes from the SGA Judicial Council,

Chuck Norton,
SGA Chief Justice

Joe Spencer
Associate Justice

Sherin Raval
Associate Justice

Jessica Hanning
Associate Justice

Shannon Renfrow
Associate Justice

IUSB Application for Certiorari

Plaintiff(s) (please include contact information) _____

Defendant(s) _____

Abstract of Complaint **Date** _____
