

# NON-ACADEMIC MISCONDUCT POLICY AND PROCEDURES

## ALMA MATER SOCIETY OF QUEEN'S UNIVERSITY

<b>Responsibility</b>	Secretary of Internal Affairs
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## Part 1 – PRINCIPLES

The Alma Mater Society (AMS) Judicial System is guided by the following five central pillars:

1. Restorative
2. Peer-administered
3. Complaint-driven
4. Non-adversarial
5. Adherence to the principles of natural justice

Each of these pillars are integral to the effective functioning of the system and in ensuring the strength of the other pillars. The system aims to restore damages done to the community, individuals, and the University. The system also notes the importance of deterring further violations and preventing recidivism. While the system is not based on decisions made in preceding cases, the Society recognizes the importance of addressing repeat violations of the sections herein. The system is also predicated on the notion that students are best suited to hold their peers accountable for their actions, thereby building a genuine sense of community and fulfilling the objective of providing restorative and non-adversarial justice.

## Part 2 – DEFINITIONS

1. **AMS Non-Academic Misconduct (NAM):** The system for dealing with alleged category 1 violations of the Student Code of Conduct (the “Code”), with authority derived through the NAM Agency Agreement between the AMS and Queen’s University. Cases are delegated to the AMS by the NAM Intake Office. See Part 5 of this policy for more information.
2. **Judicial Committee (JCOMM):** The adjudicative branch of the AMS Judicial System and shall hear all cases pursued by the Judicial Affairs Office.
3. **AMS Judicial System:** The combined judicial system of the Alma Mater Society, incorporating both the AMS Non-Academic Misconduct (NAM) and Policy Infringement Protocol (PIP) systems for both individuals and groups.
4. **AMS Society Policy:** Society Policy consists of the AMS Constitution and all Policy Documents over which AMS Assembly exercises ultimate authority.
5. **GNAM:** Equivalent to NAM this systems deal with any alleged violation of the Student Code of Conduct or AMS Society Policy performed by an AMS-ratified extracurricular organization, group, or club, or a Faculty Society committee, service, club, organization, or group. Such cases shall be heard by an Alternate Judicial Committee as outlined in the following policy.

6. **Respondent:** An individual or group of individuals alleged by the AMS Judicial Affairs Office to have violated the Student Code of Conduct or AMS Policy (as outlined in Section 4.1.4 of this policy). This may include an AMS-ratified extracurricular organization, club, or group, or a Faculty Society committee, club, organization, service, or group.
7. **Designated Representative(s):** In cases involving student groups, designated Representatives will be responsible for representing the respondent group in hearings and interactions with the Judicial Affairs Office.
8. **Named Parties:** In GNAM cases, any individuals who, acting within the scope of their position within the group or organization, were directly involved in the alleged violation.
9. **Complainant:** The party aggrieved by the violation of the Code or AMS Policy. Complainants can include, but are not limited to, individuals and groups directly harmed by the violation and agents of the University, the AMS, and the SGPS acting within the scope of their authority. A complainant may also be someone who files a complaint on behalf of the harmed individual(s) or group, providing that the complainant has the written consent of such individual(s); such written consent shall be provided to both the Judicial Affairs Manager and the Judicial Committee Chair.
10. **Witness:** Any person whom the Judicial Affairs Office, Judicial Committee, or any party to the proceedings calls upon during investigation or hearing for additional testimony.
11. **Settlement:** An agreement to a specified violation of the Student Code of Conduct, and an agreement for the respondent to complete a set of sanctions by the prescribed date.
12. **Settlement Hearing:** A hearing that arises from a settlement. Such a hearing is presumptively closed to the general public and the media.
13. **Non-Settlement Hearing:** A hearing that arises from a case in which there was no settlement reached. Such a hearing may be open or closed to the public and/or the media.
14. **Counsel:** An agent, lawyer or otherwise, who represents a party in the proceedings. The Judicial Affairs Manager, and/or their delegate (if applicable), serves to represent the complainant throughout the process, including in settlement agreements and at hearings before the Committee.
15. **Parties:** The parties to the proceedings shall include, without limitation, the Judicial Affairs Manager, the complainant(s), and the person(s) allegedly in violation of the Code of Conduct or AMS Policy. In Group cases, this shall also include the Designated Representative(s) of the group alleged to have violated the Code or AMS Policy.
16. **Sanction:** Any order made by the Judicial Committee (including summer, Alternate, or Extraordinary Judicial Committees), as outlined in this policy or as may be appropriate.
17. **USAB:** University Student Appeal Board
18. **GDAB:** Group Discipline Appeals Board
19. **Forms:** The Judicial Committee and the Judicial Affairs Office use the following forms in the execution of their responsibilities under the AMS Judicial System. The following list is not exhaustive, and is intended for convenience of reference only; as such, this list shall not limit the documentation used in the AMS Judicial System or described in this Policy Manual:
  - A. Form 1: Acknowledgement of Rights and Understanding of the Judicial Process
  - B. Form 2: Acknowledgement of Refusal of Recording

- C. Form 3: Minutes of Settlement to Out-of-Committee Proceedings
- D. Form 4: Notice of Intent to Initiate a Proceeding Before the AMS Judicial Committee
- E. Form 5: Notice to a Party of Proceedings Before the AMS Judicial Committee
- F. Form 6: Agreement to Delay Proceedings
- G. Form 7: Summons to a Witness Before the AMS Judicial Committee
- H. Form 8: Community Service Verification Form
- I. Form 9: Notice of Intent to Appeal (to USAB or GDAB)
- J. Form 12: Formal Notice of End of Proceedings
- K. Form 13: Letter of Apology Guidelines
- L. Form 14: Notice of Constitutional Interpretation by the AMS Judicial Committee

## **Part 3 – JUDICIAL AFFAIRS OFFICE**

### **Section 3.1: GENERAL**

1. The Judicial Affairs Office (JAO) shall act as the investigatory and prosecutorial branch of the AMS Judicial System, including both AMS NAM and AMS PIP.
2. When the AMS Judicial Affairs Manager recognizes or suspects that a pending case could possibly involve issues of racism, sexism, heterosexism, or any other form of discrimination, the Judicial Affairs Manager shall consult with the Human Rights Office of the University for advice on how to proceed.
3. The JAO shall have operational independence for dealing with all case related NAM matters. They are independent from the AMS Executive, the AMS Board of Directors, and the Office of the Secretariat. Such AMS functionaries shall not have the authority to interfere with the proper execution of the JAO's mandate to investigate alleged violations of the Student Code of Conduct.
4. The Secretariat shall aid in administrative tasks to help fulfil the mandate of the Office when needed.
5. The JAO shall follow all contractual obligations as the Authorized Agent of the University for dealing with matters of NAM.
6. The Judicial Affairs Deputies shall, at the discretion of the Judicial Affairs Manager, be assigned as case officers to investigate alleged violations, arrange settlements, and present the cases to the Judicial Committee if applicable.
  - A. As representatives of the Judicial Affairs Office, their work will be overseen by the Judicial Affairs Manager, to whom ultimate responsibility with regards to handling cases will fall.
  - B. Concerns regarding the assignment of Deputies (including, but not limited to, requests to meet with someone of a particular self-identified gender) may be directed to the Judicial Affairs Manager. For concerns regarding conflicts of commitment, see Part 8 of this policy.

- C. Considering the sensitive nature of many group misconduct cases, the Judicial Affairs Manager will generally act as the principal investigator in most instances of GNAM. When the subject matter of the case is determined by the Judicial Affairs Manager-to be relatively innocuous, the case may be delegated to a Judicial Affairs Deputy.
7. Amongst other responsibilities, the Judicial Clerk, overseen by the Judicial Affairs Manager, shall ensure that all sanctions are carried out in a reasonable manner in accordance with the letter and spirit of the Judicial Committee ruling. Should these conditions not be met, the Judicial Clerk may charge the relevant respondent(s) with a separate violation as set out in Section 5.2.1(for NAM cases) and Section 6.2.2(for PIP cases).
  8. Care shall be taken in all matters, even where the JAO serves as the prosecuting party, to inform all parties accurately, fairly, and in an unbiased manner of appropriate policy and procedures, including all applicable rights, and to provide parties with the tools and resources necessary to ensure that their rights are upheld and the matter is dealt with in a fair and just manner.

### **Section 3.2: APPOINTMENT, TERM, AND REMOVAL**

#### **1. APPOINTMENT**

- A. Insofar as the system is peer-based and should be representative of the demographics of the student body, the AMS shall strive throughout the process of hiring members of the AMS Judicial System to ensure a diversity of genders and faculty society affiliations are represented.
- B. Where possible, in the selection of the Judicial Affairs Manager and Deputies, there shall be a presumption in favour of those applicants who have previously served in the AMS Judicial Affairs Office and/or on the Judicial Committee.
- C. All appointments shall be subject to ratification by the AMS Assembly.

#### **2. LENGTH OF TERM**

- A. The Judicial Affairs Manager, Judicial Affairs Deputies, and Judicial Clerk shall be appointed to one-year terms of office, which shall begin on May 1<sup>st</sup> of the year they were appointed and run until April 30<sup>th</sup> the following year.

#### **3. REMOVAL**

- A. The Judicial Affairs Manager may be removed from office as outlined in their contract and according to the AMS Employee Policy and Procedures Manual.
- B. The Judicial Affairs Deputies and Judicial Clerk may be removed from office as outlined in their volunteer agreement and according to the AMS Volunteer Policy and Procedures Manual.

## **Part 4 – JUDICIAL COMMITTEE**

### **Section 4.1: GENERAL**

1. The AMS Judicial Committee (the “Committee” or “JCOMM”) shall act as the adjudicative branch of the AMS Judicial System and shall hear all cases pursued by the Judicial Affairs Office.
  - A. In some cases, a modified form of the Committee may be utilized, as outlined in this Section or in the AMS Constitution. These modified forms may include, but are not limited to the: Alternate Judicial Committee; Extraordinary Judicial Committee; and Summer Judicial Committee.
2. The Committee may exercise authority over any matters of NAM involving inappropriate behaviour, referred to it by the NAM Intake Office.

The Committee is authorized to rule on matters of Non-Academic Misconduct by the Queen’s Board of Trustees as a result of the signed Agency Agreement between the AMS and the University. Without restricting the generality of the foregoing, the AMS Judicial Committee may exercise jurisdiction regarding any matter referred to the AMS by the NAM Intake Office.

### **Section 4.2: APPOINTMENT, TERM, AND REMOVAL**

1. APPOINTMENT
  - A. Insofar as the system is peer-based and should be representative of the demographics of the student body, the AMS shall strive throughout the process of hiring members of the AMS Judicial System to ensure a diversity of genders and faculty society affiliations are represented.
  - B. Where possible, in the selection of the Chair and members of the Committee, there shall be a presumption in favour of those applicants who have previously served on the Judicial Committee and/or in the Judicial Affairs Office.
  - C. All appointments shall be subject to ratification by the AMS Assembly.
  - D. The Vice-Chair of the Judicial Committee shall be a member of the Judicial Committee appointed by the Chair of the Judicial Committee when the Chair sees fit or if required. If appointed, this individual shall also serve as the Vice-Chair of the Alternate Judicial Committee (Section 4.5).
2. LENGTH OF TERM
  - A. The Chair and members of the Committee shall be appointed to one-year terms of office, which shall begin on May 1<sup>st</sup> of the year they were appointed and run until April 30<sup>th</sup> of the following year.
3. REMOVAL
  - A. A member of the AMS Judicial Committee may be removed from office by a two-thirds (2/3) majority vote of all voting members of the Assembly at a meeting where proper notice of such motion has been given.



- i. Proper notice shall be considered a notice of motion included in the agenda of the meeting prior to the meeting where the vote to remove will occur.
- B. The Assembly shall consider whether or not the AMS Judicial Committee member in question is guilty of:
  - i. behaviour in breach of the AMS Constitution and Policies; or
  - ii. an inability to perform their duties satisfactorily.
- C. Members of the Committee are required to be in attendance in all Committee hearings. If a member misses more than three (3) hearings without a valid reason (to be determined by the Chair of the Committee), that member is subject to removal from the Committee at the discretion of the Committee Chair.
- D. Should the functioning of the Committee be precluded because of a removal, and should the Extraordinary Judicial Committee outlined in Section 4.4be unable to fulfil the responsibilities of the Committee, USAB shall assume the duties and functions of the AMS Judicial Committee pending a final outcome of the matter.
- E. In the event of a vacancy on the Committee as a result of removal or resignation, the position shall be filled as soon as possible by an appointment made by:
  - i. the Chair of the Committee
  - ii. the Vice-Chair of the Committee
  - iii. the Secretary of Internal Affairs
- F. Should the office of the Chair become vacant as a result of resignation or removal, the duties of that office shall be assumed by the Vice-Chair.
  - i. At this time, the Vice-Chair, as the new Chair of the Judicial Committee, shall appoint a new Vice-Chair of the Committee.
  - ii. As this would result in a vacancy in the Committee, the new Chair and new Vice-Chair shall appoint a new member to the Committee as outlined in Section 4.2.3.E

### **Section 4.3: EXTRAORDINARY JUDICIAL COMMITTEE**

1. In cases where a conflict of interest in a case, or a review pursuant to Section 4.2of this policy, renders members of the Judicial Committee (including the Summer Judicial Committee) unable to fulfil their responsibilities such that quorum cannot be reached, the AMS Secretary of Internal Affairs may appoint additional members to an Extraordinary Judicial Committee (EJC) to deal with the case in question.
2. These members shall be selected from an expanded pool of candidates that shall include all current AMS members who have training and experience in the AMS Judicial System.
3. All regular members who do not have conflicts will continue to serve on the Committee for the case in question. As such, the number to be appointed shall be such as is necessary to achieve quorum.
4. In the event that the respondent or complainant have concerns that there may be a reasonable apprehension of bias in one or more of the appointed members, such appointments may be appealed to the AMS Assembly.

5. In the event that both the Chair and Vice-Chair of the Committee have declared conflicts, the Acting Chair of this Extraordinary Judicial Committee shall be determined by the AMS Secretary, with consideration given to depth of experience within the AMS Judicial System.
6. The EJC will enjoy the same authority and jurisdiction afforded to the AMS Judicial Committee by this policy and the AMS Constitution, but shall hold power only with respect to the case for which the EJC was struck. Thus, the EJC shall not be permitted to pass rules for regulating the procedures of the Judicial Committee or defining the official duties of each of the members of the Committee, except where it relates directly and solely to the proceedings at hand; such rulings shall not be ratified into policy by AMS Assembly, and may be appealed to the regular Judicial Committee or Alternate Judicial Committee (as the case may be).

#### **Section 4.4: ALTERNATE JUDICIAL COMMITTEE**

1. The AMS Alternate Judicial Committee (AJC) shall act as the adjudicative branch of the AMS Judicial System for matters of Group NAM.
2. The AJC shall adhere to the policy and procedures outlined in this document. The membership of the AJC may appear in one of two forms, depending on the type of group discipline case. It shall be at the discretion of the AMS Secretary to determine which Alternate Judicial Committee is required and notify the Judicial Committee Chair.
  - A. If a case is brought forward involving a Queen's Club which allegedly violated the Code of Conduct or AMS Policy, the composition of the AJC shall consist of:
    - i. The Judicial Committee Chair (Chair);
    - ii. Five (5) members of the Judicial Committee, one of which shall be the Vice-Chair of the Judicial Committee; and
    - iii. One (1) representative of the Clubs Office, which shall either be the Director of Clubs or the Assistant Director of Clubs as designated by the Director of Clubs.
  - B. If a case is brought forward involving a Faculty Society committee or group, the composition of the AJC shall consist of:
    - i. The Judicial Committee Chair (Chair);
    - ii. Three (3) members of the Judicial Committee, one of which shall be the Vice-Chair of the Judicial Committee;
    - iii. The President of the Faculty Society that oversees the committee or group; and
    - iv. Two (2) Faculty Society Executives chosen by the AMS Secretary on a case-by-case basis, with consideration given to limiting conflicts of interest.
3. A quorum of five (5) must be maintained at all times on the AJC.

#### 4. MODIFICATIONS

- A. For an AJC (Faculty), the President of the Faculty overseeing the committee or group reserves the right to appoint members from alternate Faculty Societies in their place, if they determine in consultation with the AMS Secretary and Judicial Committee Chair that this would be necessary in order to form an unbiased panel.
- B. In the event that the Judicial Committee Chair and Vice-Chair are not available, the Judicial Committee Chair shall delegate a member of the regular Judicial Committee to perform this role.

### **Part 5 – SCOPE AND SANCTIONS**

#### **Section 5.1: GENERAL**

1. The Non-Academic Misconduct (NAM) category of the AMS Judicial System deals with alleged category 1 violations of the Code of Conduct, where that case is delegated to the AMS by the NAM Intake Office of the University.
2. In the event that a case brought forward to the AMS NAM system is also being heard, or could potentially be heard, in a criminal court, the Judicial Affairs Manager and Secretary of Internal Affairs shall consult with Director of the Student Conduct Office.

#### **Section 5.2: SCOPE**

1. The JAO has authority over any NAM case referred to it by the NAM intake office.

#### **Section 5.3: SANCTIONS**

1. The AMS Judicial Committee may impose such sanctions in proportion to the seriousness of the offence and in line with the Student Code of Conduct. Without limiting the generality of the foregoing, the following sanctions may be imposed by the AMS Judicial Committee against individuals found responsible for offences:
  - A. restitution;
  - B. suspension of privileges including, but not limited to, banishment from all AMS run pubs, licensed events, AMS-organized events, and club or Society activities;
  - C. community service orders not to exceed twenty (20) hours, to be chosen by the respondent from a list of organizations compiled annually by the Judicial Affairs Office and the Judicial Committee, though the respondent may submit a proposal to the Judicial Affairs Office for service at an alternate organization;
  - D. a fine not to exceed one thousand dollars (\$200), payable to the Queen's Alma Mater Society;
  - E. a bond not to exceed one thousand dollars (\$200), to be held in trust by the Queen's Alma Mater Society, for a period not exceeding twelve (12) months from the date of the decision when the sanction is imposed;

- F. an order that letter(s) of apology be submitted to any aggrieved party (parties), should the aggrieved party wish to receive it;
  - G. educational sanctions including, but not limited to, essays, posters, presentations, other creative projects, and/or reflective papers to be completed as part of restorative sanctions.
2. With matters proceeding under GNAM, the Alternate Judicial Committee may impose such sanctions in proportion to the seriousness of the offence committed. Without limiting the generality of the foregoing, the following sanctions may be imposed by the Judicial Committee against groups, or against Named Parties within groups, found responsible for offences:
- A. sanctions as outlined in Section 5.3.1;
  - B. probationary periods, where the club, group, or organization is subject to audits, weekly reports to their superior office or supervisor (e.g. Clubs Office, Faculty Society President), and any other appropriate checks as the AJC deems appropriate;
  - C. suspension of group privileges, including but not limited to the removal or denial of space allocation and/or the revocation or denial of club grants;
  - D. recommendation to the Alumni and Sponsorship Office that alumni donations shall be cut off (where applicable);
  - E. recommendation to the AMS Vice-President (Operations) to review the group's student fee (where applicable);
  - F. recommendation to AMS Assembly for de-ratification of the group;
  - G. suspension of individual privileges, including but not limited to the inability to re-apply for a hired or volunteer position within the Society or the relevant Faculty, or Society / Faculty club, committee, service, organization, or other group, for a specified period of time;
  - H. removal of the Chairs / executive of a Faculty Society committee / group.

No sanction shall be imposed on a Faculty Society committee or group that shall serve to eliminate or otherwise result in the disbanding of the committee or group without the unanimous consent of AMS Assembly.

3. The Judicial Committee or Alternate Judicial Committee may impose such deadlines as it finds reasonable for any sanctions it levies. Should a respondent fail to complete their assigned sanctions by the deadline, this shall be deemed to be a separate offence (pursuant to Section 5.2.1.F of AMS Judicial Policies and Procedures) subject to the filing of a new NAM or GNAM case with subsequent sanctions.

## **Part 6 – RULES OF PROCEDURE FOR CASES (NAM/GNAM)**

### **Section 6.1: GENERAL**

1. The AMS Judicial Committee may make, by unanimous approval of its members, Rules:
  - A. for regulating the procedures of the Judicial Committee; or
  - B. defining the official duties of each of the members of the Committee.Any rules made pursuant to this subsection shall be ratified by Assembly and shall subsequently be published.
2. Procedure governing the functioning of the AMS Judicial Committee is such that:
  - A. the committee shall be secluded when making its decisions;
  - B. quorum shall consist of three (3) members, at least one (1) of whom shall be the Chair or the Vice-Chair; or for GNAM, five (5) members, at least one (1) of whom shall be the Chair or Vice-Chair;
  - C. majority opinion will decide a question while an even division of opinion fails to do so;
  - D. in the event of an even division of opinion, the matter:
    - i. may be adjourned for consideration by the Judicial Committee members present at the proceedings, at the acting Chair's discretion; or
    - ii. in the event of a period of deliberation with no foreseeable resolution, the acting Chair may break a tie.

### **Section 6.2: INVESTIGATION**

1. INITIATION OF INVESTIGATION
  - A. All NAM proceedings heard before Judicial Committee are assigned to the AMS by the NAM Intake Office, through the AMS Judicial Affairs Manager.
2. MEETINGS WITH PARTIES
  - A. The Judicial Affairs Office shall make all reasonable efforts to conduct individual meetings with all parties to a proceeding, while also recognizing the importance of dealing with matters in an expeditious manner in fairness to all concerned parties.
  - B. Where possible, the Judicial Affairs Office shall entertain requests from parties to meet with a preferred gender.
  - C. Prior to meeting with the Judicial Affairs Office, respondents must sign "Form 1" or "Form 1.1" for GNAM (Acknowledgement of Rights and Understanding of the Judicial Process) acknowledging that they are satisfactorily informed of their rights and about the AMS Judicial System process.
    - i. The Judicial Affairs Office and the Office of the AMS Secretariat shall provide the necessary personnel and resources to ensure that respondents can become as informed as they desire prior to signing Form 1.

- ii. If Form 1 is not signed, the Judicial Affairs Office has the right to refuse a meeting with the respondent, and once the settlement deadline is reached, the case may proceed to a non-settlement hearing before the Judicial Committee.
3. DISPOSITION WITHOUT A HEARING
- A. Any proceedings may be disposed of by:
    - i. agreement of the parties to the proceedings; or
    - ii. a decision of the Committee given without a hearing where the parties have waived their right to a full hearing.

### **Section 6.3: SETTLEMENTS**

- 1. The Judicial Affairs Office will attempt an out-of-committee settlement if:
  - A. the facts and/or issues at hand are not disputed;
  - B. both the respondent and prosecuting party agree to a proposed settlement; and
  - C. the respondent agrees to waive their rights to a full Committee hearing.
- 2. Upon agreement of an out-of-committee settlement, the Judicial Affairs Office shall have the respondent sign "Form 3" or "Form 3.1" in GNAM cases (Minutes of Settlement to Out-of-Committee Proceedings) of the Judicial Committee Rules of Procedure. Such form shall include:
  - A. an admission of responsibility to the violations included therein;
  - B. a waiver to a full hearing before the Judicial Committee for said violations;
  - C. an agreement on the part of the respondent to abide by specified sanctions and conditions which, without limiting the Judicial Affairs Manager's ultimate discretion, may include any of those sanctions listed in Section 5.3; and
  - D. an agreed upon account of the facts of the incident which the Judicial Affairs Office will present to the Judicial Committee (which may be attached).

Parts (A) and (C) of Form 3 or form 3.1 in GNAM cases shall be separate and distinct, and must both be signed by the implicated party and the Judicial Affairs Manager or Deputy.

### **Section 6.4: PRE-HEARING**

- 1. INITIATION OF PROCEEDINGS
  - A. Proceedings before the AMS Judicial Committee may be initiated by the Judicial Affairs Manager through the filing of "Form 4" (Notice of Intent to Initiate a Proceeding before the AMS Judicial Committee).
    - i. Form 4, or equivalent written notice, must be filed within 40 business days of the receipt of the complaint by the Judicial Affairs Office.
    - ii. Form 4 or Form 4.1 shall include:
      - a. the name(s) of the person(s) making the complaint;

- b. a reference to the relevant section(s) of the Queen’s Code of Conduct, or other relevant document under which the alleged violation falls;
  - c. the name(s) of the person(s), club, committee, or group who allegedly committed the violation;
  - d. if applicable, the name(s) of any person(s) who, acting with the scope of their position with the group or organization, were directly involved in the alleged violation (i.e. Named Parties);
  - e. the time and date upon which the alleged violation was committed; and
  - f. a brief description of the circumstances surrounding the alleged violation.
- B. The Judicial Clerk shall take the information on Form 4 or Form 4.1 and transfer it to “Form 5” or “Form 5.1” in GNAM cases (Notice to a Party of Proceedings Before the AMS Judicial Committee), which shall be issued to the respondent(s) within 10 business days of the receipt of Form 4 or its equivalent by the Judicial Clerk and GNAM respondent(s), including Designated Representative(s) and Named Parties, within three (3) business days of the receipt of Form 4.1 or its equivalent by the Judicial Clerk.
- i. Form 5 will include the date, time, and location of the hearing. If the hearing date, time, or location is not known at the time of issue, the Form 5 will be reissued when the missing information becomes known.
- C. The time limits, described above, may be waived over the summer and winter breaks, reading week(s), and at the discretion of the Judicial Committee Chair or Vice-Chair. Outside of these times, and where circumstances warrant, these time limits may be waived as per (below).

## 2. CASE BRIEFING

- A. For all cases, the Judicial Affairs Office shall submit a brief description of the incident including a list of proposed or agreed-upon sanctions and the rationale for those sanctions. This briefing shall be submitted at the same time as Form 4 or Form 4.1. The submission of such a briefing shall not preclude the Judicial Affairs Office from giving additional testimony at a hearing before the Judicial Committee.
- B. In the cases of a non-settlement hearing, the respondent shall have the opportunity to submit their own briefing to the Judicial Committee Chair. Such briefing shall be submitted at least three (3) days before the hearing. The respondent shall be reminded of this right when they are provided with Form 5. The submission of such a briefing shall not preclude the respondent from giving additional testimony at their Judicial Committee hearing.
- C. The Judicial Committee Chair shall peruse briefings to determine if any issues require outside consultation before the hearing. The Chair may opt to distribute the briefing to other members of the Committee in advance of the hearing.

D. Details of briefings shall be confidential; however, the Chair shall have the discretion to discuss the briefing with authorized / relevant individuals for the purposes of securing necessary advice or counsel. Members of the Committee shall not discuss briefings before the hearing. Any concerns of Committee members about potential issues relating to a case shall be discussed exclusively with the Chair.

### 3. NOTICE

A. Form 5 or form 5.1 shall be sent to:

- i. the Judicial Committee Chair;
- ii. the Judicial Affairs Office, including Manager and Case Officer(s); and
- iii. all parties to the proceeding. Form 5 shall be served no later than 10 business days after receipt of Form 4 by the Judicial Clerk, and at least 10 business days prior to a non-settlement hearing. A hearing may be held sooner upon agreement by all the parties to the proceedings. Form 5.1 shall be served no later than 15 business days after receipt of Form 4.1 by the Judicial Clerk, and at least 10 business days prior to a non-settlement hearing. A hearing may be held sooner upon agreement by all the parties to the proceedings.
- iv. Settlement hearings may be heard as soon as the Committee sees fit, as all parties have agreed to the terms of the settlement, thus making the respondent's presence unnecessary. However, as all parties have a right to attend a hearing even in the event of a settlement, the Judicial Committee Chair shall take reasonable steps to enable parties to attend if they so choose.
- v. However, if a GNAM case will be heard before the settlement date, the Designated Representative(s) and Named Parties shall be officially notified.

B. All parties to a proceeding shall be given a package which shall include:

- i. a copy of the previously filed Form 5 or Form 5.1;
- ii. a warning that if the party notified does not attend the hearing, the Committee may proceed in that party's absence;
- iii. a copy of the Judicial Committee Rules of Procedure, or a link to where this policy may be accessed online;
- iv. a list of the possible sanctions which may be imposed by the Committee, though this list shall serve only as a guideline for the parties involved and shall not serve to restrict the Judicial Affairs Office or Judicial Committee in proposing or assigning sanctions;
- v. a statement of the time and location of the hearing; and
- vi. a notice that the respondent may obtain counsel to represent them. This shall be accompanied by the phone number of Queen's Legal Aid.



- C. All notices given pursuant to Section 6.4.3 shall be sufficiently given:
  - i. if delivered personally by the Judicial Clerk;
  - ii. if sent by registered mail to the school address of the appropriate person as listed in the records of the University Registrar, Clubs Office, Faculty Society, or other relevant body, in which case notice shall be deemed to have been given on the third business day following the date of such mailing;
  - iii. if sent by electronic mail to the Queen's or AMS, Club, or Faculty Society email address of the appropriate person, in which case notice shall be deemed to have been received on the day on which it was sent; or
  - iv. if sent by facsimile to the offices of the respondent or the respondent's counsel (where this has been previously agreed upon), in which case notice shall be deemed to have been received on the day of the fax transmission, provided that a written copy is sent afterwards by mail.

#### 4. DELAYS

- A. A party to a proceeding may formally request that proceedings before the Judicial Committee be delayed by submitting a signed "Form 6" (Agreement to Delay Proceedings) to the Judicial Clerk, who will then deliver it to the Judicial Committee Chair. The approval of such a request will be subject to the discretion of the Judicial Committee Chair.
  - i. Form 6 may be acquired on request to the Judicial Affairs Manager or Office of the AMS Secretariat.
- B. In the event that extenuating circumstances preclude the submission of a signed Form 6, it is the responsibility of the party to inform the Committee of their absence, at which point the Chair will determine how to proceed.
- C. Where notice of a hearing has been given to a party to any proceedings in accordance with the rules outlined in Section 7.4.3, and the party does not attend the hearing without reasonable cause being provided, the Committee may proceed in that party's absence.

### Section 6.5: TYPES OF HEARING

#### 1. OPEN AND CLOSED HEARINGS

- A. Hearings shall be closed to the public except where:
  - i. a party to the proceeding has requested that it be open to the public, in which case the Chair will consider the nature of the matters to be discussed and determine whether the hearing will be open or not, giving special consideration to the respondent's right to an open hearing; or
  - ii. the Chair, on consultation with both the AMS Secretary of Internal Affairs and Judicial Affairs Manager, determines the case to be in the public interest such that an open hearing is warranted.

- B. In the event of an open hearing, notice shall be sent to the Queen's Journal by the Judicial Clerk, in the form of a press release detailing the name of the respondent and the date, time, and location of the respondent's hearing.
- C. In the event of a closed hearing, no press release shall be sent. The Committee shall not release the details of any settlement hearing to the press or public, except:
  - i. with explicit written authorization of the parties to the proceedings; or
  - ii. in cases deemed by the Judicial Committee Chair, on consultation with the Judicial Affairs Manager, to have significant public interest to the Queen's or Kingston communities, or where knowledge of the proceedings is deemed to be beneficial to the student population, in which case a notice of the redacted proceedings and any sanctions shall be forwarded to the Queen's Journal.

## 2. SETTLEMENT HEARINGS

- A. Where the Judicial Affairs Office has reached a settlement with the respondent, the representative(s) of the Judicial Affairs Office will present the case before a closed hearing of the Judicial Committee. The respondent, including Designated Representative(s) and Named Parties (if any), may make a statement to the Committee, but the regular proceedings as outlined in Section 7.6.4(below) shall be condensed seeing as an agreement has already been reached.
- B. Evidence and/or testimony to be presented by the Judicial Affairs Office shall include:
  - i. Form 3 or Form 3.1 (properly signed);
  - ii. a statement of the agreed-upon facts;
  - iii. an evaluation of the party's or parties' attitudes during the investigatory and settlement negotiation processes;
  - iv. a summation of the reasons behind the proposed settlement; and
  - v. any other document or thing that the representative(s) of the Judicial Affairs Office deems relevant to the settlement agreement or to the matter before the Committee.
- C. In settlement hearings, the Committee shall retain the authority to:
  - i. reject the proposed settlement and call for a full, non-settlement hearing before the Committee, if the Committee thinks the case warrants substantially greater sanctions upon the respondent(s) and/or if the Committee believes the facts of the case are not self-evident enough to justify an out-of-committee settlement. This authority should only be exercised if the Judicial Committee feels that a miscarriage of justice has occurred during the investigation or there was a significant error in procedure;
  - ii. reject the proposed settlement and call for the Judicial Affairs Office to try to reach a more appropriate settlement if the Committee thinks the case warrants substantially greater sanctions upon the respondents.

This authority should only be exercised if the Judicial Committee feels that a miscarriage of justice has occurred during the investigation or there was a significant error in procedure;

- iii. reduce any proposed settlement without resort to a full Committee hearing; and
  - iv. set a deadline for the completion of the sanctions as it sees fit.
- D. The representative(s) of the Judicial Affairs Office shall still be required to answer any questions posed by Committee members.
- E. All of the Rules of Procedure in place for non-settlement hearings shall continue to apply to settlement hearings, except as explicitly stated otherwise.
3. NON-SETTLEMENT HEARINGS
- A. Where the Judicial Affairs Office has been unable to reach a settlement agreement with a respondent, the matter will proceed to a non-settlement hearing before the Committee, as outlined in these Rules of Procedure.

## **Section 6.6: HEARING**

1. In all hearings, the function of the Committee shall be to act as a final check on the powers and authorities of the Judicial Affairs Office.
2. The Committee may make such rulings at a hearing as it considers reasonable and necessary in the circumstances to maintain order and expedite the hearing of the matter while remaining in keeping with principles of fairness and natural justice.
3. The Committee conducts hearings in a non-legalistic manner. To this end, the Committee may find it appropriate to limit submissions made by parties and/or limit the examination of witnesses at a hearing in order to deal with the manner in an expeditious manner. The Committee will exercise their discretion in fairness to all concerned parties.
4. HEARING PROCESS
  - A. At the prescribed time for the hearing, the following procedure shall be followed:
    - i. introduction of the Committee members and a preamble by the Chair outlining the right of the Committee to exist and to consider and act on matters such as are before the Committee. The Chair shall also issue a statement that the Committee shall not entertain any questions related to its authority or legitimacy;
    - ii. explanation of the reason(s) for the hearing and reading of the applicable charge(s) or complaint(s) by the Chair of the hearing;
    - iii. opportunity for the respondent to admit or deny the allegation(s) in whole or in part;
    - iv. opening statement by a representative of the AMS Judicial Affairs Office (including, but without limiting, a summary of the facts and what is intended to be proven);
    - v. opening statement by the respondent (including, but without limiting, the basis of the defence);

- vi. presentation of the Judicial Affairs Office’s case, including calling witnesses (who may then be cross-examined by the respondent) and entering evidence;
  - vii. presentation of the respondent’s case, including calling witnesses (who may then be cross-examined by the Judicial Affairs Office) and entering evidence;
  - viii. closing submissions of the Judicial Affairs Office; and
  - ix. closing submissions of the respondent.
- B. In the event of a settlement hearing, the process outlined herein shall be condensed as per Section 6.5.2 to account for the fact that an agreement has already been reached. The Committee shall retain the right to question the Judicial Affairs Office or any other parties or witnesses in attendance, as outlined in Section 6.6.4.C (below).
- C. Members of the Committee are permitted to question any of the parties to or witnesses at the hearing during the proceedings in order to clarify any point, submission, or fact put before the Committee, or to acquire additional information as is necessary and appropriate to reach a decision. Such questions shall normally come between the steps outlined in Section 7.6.4.A (above), but need not necessarily do so; the Committee retains the right to interrupt speakers at a hearing, though shall take care not to inhibit the course of justice in doing so.
5. ADMISSIBILITY OF EVIDENCE
- A. The Committee may admit as evidence at a hearing, whether or not it may be admissible evidence in a civil or criminal court:
- i. any oral testimony; and
  - ii. any document, film or digital recording, or other object which is relevant to the subject matter of the proceedings.
- The Committee may act duly on such evidence, but may exclude anything unduly repetitious.
- B. Where the Committee is satisfied as to the authenticity of a copy of a document or other piece of evidence, such a copy or copies may be admitted as evidence at a hearing.
- C. Where a party to the proceedings intends to make detailed submissions or refer to lengthy documents, a copy of the submissions or documents, as the case may be, shall be delivered to the Judicial Clerk at least three (3) business days prior to the hearing, and shall then be delivered to the Committee by the Judicial Clerk at least two (2) business days prior to the hearing.
6. WITNESSES AND SUMMONSES
- A. Each witness called by a party to the proceedings shall be subject to cross-examination by the other party (parties) to the proceeding.
- i. Such cross-examination shall normally come immediately after testimony is given by the witness in question, though this order may be altered with permission by the Committee Chair.

- ii. The Committee may reasonably limit the examination and cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly the facts in relation to which the witness has given evidence.
  - B. The Committee may require the attendance of any member of the AMS, including a party to the proceedings, by summons, or may request the presence of any member of the public:
    - i. to give evidence or affirmation at a hearing; and
    - ii. to produce in evidence at a hearing documents and/or other things specified by the Committee, relevant to the subject matter of the proceedings and admissible at the hearing.
  - C. A party to a proceeding may request that the Committee summon a witness to comply with Section 6.6.6.B. Such a request shall be made by written notice or electronic mail to the Chair at least five (5) business days prior to the hearing.
  - D. A summons issued under Section 6.6.6.B shall:
    - i. be called "Form 7" or "Form 7.1" (Summons to a Witness Before the AMS Judicial Committee);
    - ii. contain the witness's name;
    - iii. state the time, date, and location of the hearing;
    - iv. mention any documents or other evidence to be produced at the hearing by the witness;
    - v. be authorized by the Committee Chair (or Acting Chair, as the case may be);
    - vi. be served to the witness by the Judicial Clerk, either via written notice or electronically to a valid Queen's, AMS, or Faculty Society email, at least three (3) days prior to the hearing; and
    - vii. require the witness to sign a confidentiality agreement.
  - E. Any member of the AMS who has been issued a summons pursuant to these Rules and who, without reasonable cause, subsequently fails to attend and give evidence at the hearing, or to produce the documents and items specified, may be found liable for contempt and subject to a fine at the Committee's discretion.
- 7. REFERRAL TO APPROPRIATE BODY
  - A. The Committee may, at its own discretion, refuse to hear a matter if it becomes aware that a more appropriate body exists to hear the case.
  - B. Appropriate bodies shall include, but are not limited to, the University Student Appeal Board (USAB) and the Student Conduct Office.
- 8. DELIBERATION, RETIREMENT, AND ADJOURNMENT
  - A. Once the parties have made their submissions, and the Committee has asked questions (if applicable), the Committee will:
    - i. retire to deliberate; or
    - ii. adjourn to deliberate and renders its decision at a later date.

- B. In the event that the Committee retires, they may come out of retirement to ask additional questions of the parties. To ensure fairness and transparency, all parties must be present for these questions. In the event that new information is presented, the other party (parties) will be given a chance to respond to these new points.
  - C. The Committee shall retain the right to adjourn a hearing and set a date to reconvene. Every effort shall be made to reconvene the case as soon as possible and in fairness to all parties to the proceeding.
9. DECISION
- A. The Committee shall give its decision and order, if any, of any proceedings in writing and shall include reasons supporting the decision.
    - i. If the Committee gives oral judgment on the date of the hearing, the decision shall be deemed to be effective or released on the date of the hearing. A written decision shall be distributed within 72 hours of the oral decision to the relevant parties, pursuant to Section 6.6.9, Parts B and C (below). This may be waived at the discretion of the Committee Chair.
    - ii. If the Committee reserves judgement and produces written reasons, the decision shall be considered released when the copies, signed and typed, are distributed pursuant to Section 6.6.9, Parts B and C (below).
  - B. The decision and order, if any, of the proceedings, together with the reasons thereafter, shall be signed by the Chair or Vice-Chair of the Committee and distributed by the Judicial Clerk to:
    - i. each of the parties to the proceedings;
    - ii. the AMS Secretary of Internal Affairs; and
    - iii. the Queen's Journal, in the case of an open hearing.
      - a. In some closed hearings, a redacted form of the proceedings and sanctions may still be provided, as per Section 6.5.1, Part C.
  - C. A decision of the Committee shall be deemed to be distributed:
    - i. if delivered personally by the Judicial Clerk;
    - ii. if sent by registered mail to the school address of the appropriate person as listed in the records of the University Registrar, in which case the decision shall be deemed to have been distributed on the third business day following the date of such mailing;
    - iii. if sent by electronic mail to the Queen's or AMS email address of the appropriate person, in which case the decision shall be deemed to have been distributed on the day on which it was sent; or
    - iv. if sent by facsimile to the offices of the respondent or the respondent's counsel (where this has been previously agreed upon), in which case the decision shall be deemed to have been received on the day of the fax transmission, provided that a written copy is sent afterwards by mail.
  - D. All Judicial Committee decisions requiring the completion of community service will be accompanied by the distribution of a "Form 8" (Community Service Verification Form) by the Judicial Clerk within 72 hours of the decision.

Community service hours will not be deemed completed unless a copy of Form 8 is completed in its entirety and submitted by the prescribed date.

- E. If the respondent is required to complete one or more letters of apology, the Judicial Clerk will distribute a "Form 13" or "Form 13.1" (Letter of Apology Guidelines) within 72 hours of the Judicial Committee decision.

## **Section 6.7: POST-HEARING**

### **1. APPEALS ON MATTERS OF NAM**

- A. When Judicial Committee decisions are rendered, all parties shall be informed of all relevant appeal procedures.
- B. A decision of the Committee on a matter of NAM may be appealed to the University Student Appeal Board (USAB) by any of the parties to the proceeding, on application, by written notice within two (2) weeks of the distribution of the decision of the Committee.
  - i. The notice of intention to appeal shall conform to the procedures set out in the Queen's University Senate Policy on Student Appeals, Rights & Discipline, and shall be submitted to the University Ombudsman within the two-week period.
  - ii. This notice of intention to appeal will include the submission of a signed "Form 9" (Notice of Intent to Appeal) to the AMS Secretary within the two-week period.
- C. Where the Committee makes a decision which requires action by the Senate or Provost, the avenue of appeal of the decision should be clearly set out in the decision itself (as per the Senate Statement on Grievance, Discipline and Related Matters).

### **2. END OF PROCEEDINGS**

- A. To end proceedings once a Form 4 has been filed with the Judicial Committee, a "Form 12" (Formal Notice of End of Proceedings) must be submitted to the Judicial Committee Chair.
- B. Reasons for formally ending proceedings may include, but are not limited to, withdrawal of the complaint, the discovery of new evidence, or the completion of all sanctions.

### **3. RECORDS OF PROCEEDINGS**

- A. The Judicial Affairs Office shall maintain a record of any proceedings in which a hearing has been held, which shall include:
  - i. any application, complaint, incident report, reference, or other document, if any, by which the proceedings were commenced;
  - ii. forms signed by the respondent during the course of the case (e.g. Form 1);
  - iii. any interview notes or recordings;
  - iv. the notice of the hearing;
  - v. a copy of all documentary evidence filed with the Committee;
  - vi. the decision of the Committee and the reasons therefore;

- vii. if applicable, the decision of the Policy Infringement Protocol Appeals Board and the reasons therefore;
- viii. the completed sanctions (where applicable); and
- ix. any other document or thing which was sufficiently relevant to the case at hand.

In the event of an appeal to the Policy Infringement Protocol Appeals Board, these records shall also include any interim orders made by the Board.

- B. The record of the proceedings, as stated above, shall be filed by the Judicial Clerk in the Judicial Affairs Office. This record shall be kept on file for seven years after the date of the decision by the Judicial Committee, after which time the record shall be destroyed.

## **Part 7 – RIGHTS OF PARTIES**

### **Section 7.1: GENERAL**

1. The AMS Judicial System aims to ensure that all parties receive fair and impartial treatment.
2. As per the Judicial Committee Rules of Procedure (see Chapter VII, Article 2, Section 2, Part C) and the Alternate Judicial Committee Rules of Procedure (see Chapter VIII, Article 2, Section 2, Part C), before meeting with a representative of the Judicial Affairs Office, all respondents are required to sign a “Form 1” or “Form 1.1”, which outlines their rights within the system.
3. The following list of rights possessed by all parties (including respondents and complainants) and rights possessed by respondents alone shall not serve to limit the rights guaranteed to any party by the remainder of this Policy.

### **Section 7.2: RIGHTS OF ALL PARTIES**

1. Right to representation
  - A. Parties may bring any counsel or agent they choose, lawyer or otherwise, to hearing(s) and to meetings with the Judicial Affairs Office. Parties are also eligible for free consultation with Queen’s Legal Aid (613-533-2102) or to obtain advice from University Ombudsman (613-533-6495).
2. Right to a translator
3. Right to a full and fair hearing by the Judicial Committee (or AJC, EJC, or GDAB)
4. Right to be notified of a hearing before the Judicial Committee (or AJC, EJC, or GDAB)
5. Right to request that an open hearing be closed to the public, or that a closed hearing be opened
  - A. This request will be considered by the Chair of the Committee in question. In the event that there is agreement amongst the parties, the Chair will take this into account in making their decision.



6. Right to make a statement to the Judicial Committee (or AJC, EJC, or GDAB) in a closed hearing
7. Right to call and examine witnesses, and to present arguments and/or submissions, at a hearing
  - A. Parties may conduct cross-examination of witnesses as is reasonably required for a full and fair disclosure of the facts relevant to the matter before the Judicial Committee (or AJC, EJC, or GDAB)
8. Right to request that the Judicial Committee (or AJC, EJC, or GDAB) summon a witness.
  - A. This request will be considered pursuant to Chapter VII, Article 6, Section 6 (for individual cases) or Chapter VIII, Article 6, Section 6 (for group cases).
9. Right to appeal a decision made by the Judicial Committee
  - A. Parties must be informed of all the relevant appeal procedures upon receipt of a Judicial Committee (or AJC, EJC, or GDAB) decision.
10. Right to express concern over a member of the AMS Judicial System whose judgement may be biased due to a prior relationship with the respondent and/or complainant
  - A. If the respondent or complainant is a friend, classmate, neighbour, housemate, sibling, romantic partner, etc. of a member of the JAO or the Judicial Committee (or AJC, EJC, or GDAB), and the concern expressed is reasonable, the party may be removed from the disciplinary process.

### **Section 7.3: ADDITIONAL RIGHTS OF RESPONDENTS**

1. Right to end a meeting with the JAO at any time.
2. Right to refuse to be recorded by the JAO.
3. Right to the disclosure of evidence to be relied upon by the JAO or JCOMM relevant to the matter
  - A. Sensitive information such as the names of witnesses or other parties may be removed from the evidence. Care shall be taken to ensure that evidence will not be disclosed or withheld in a manner which would damage the integrity of the investigation or hearing.
4. Right to an open hearing before the Judicial Committee (or AJC, EJC, or GDAB)
  - A. In some cases, including but not limited to cases where an open hearing would have an undue and/or negative impact on the complainant or other parties to the proceedings, this right may be reasonably limited by the Judicial Committee Chair.
  - B. Given a respondent's right to an open hearing, the burden shall be placed on the party requesting a restriction on the openness of the hearing to show why the hearing (or parts thereof) should be closed to the general public and/or the media.
  - C. In the event that the Chair deems it reasonable and appropriate to place restrictions on the openness of the hearing, and yet the respondent has requested an open hearing, the Chair shall consider methods by which to maximize the openness of the hearing while still addressing those concerns of other parties which the Chair has deemed valid.

- D. The ultimate decision on the matter shall be at the discretion of the Chair, who shall consider the interests of all parties and rule in the manner considered most fair and just.
  - i. In making their decision, the Chair may consult with the other members of the Committee, as well as with the AMS Secretary of Internal Affairs, Judicial Affairs Manager, AMS Vice-President (University Affairs), legal counsel, or other appropriate persons.
- 5. Right to choose to waive the right to an open hearing
  - A. Respondents may opt to reach a settlement with the JAO instead and the Judicial Committee hearing will be closed.

#### **Section 7.4: ADDITIONAL RIGHTS OF WITNESSES**

- 1. Right against self-incrimination.
  - A. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except:
    - i. in a proceeding for perjury or for the giving of contradictory evidence; or
    - ii. in a proceeding for a violation of the Student Code of Conduct which occurs during the giving of testimony, including but not limited to offences listed under Section V, Part A: Abuse of Process.

### **Part 8 – CONFLICTS OF COMMITMENT**

#### **Section 8.1: GENERAL**

- 1. The AMS Judicial System is committed to the principle of natural justice, and as such strives to reduce or eliminate concerns regarding real or perceived bias wherever possible.
- 2. The AMS recognizes that relationships may exist between students in many forms, from romantic partnerships to friendships, and from colleagues at work to fellow students in class. As such, and recognizing that members of the AMS Judicial System are expected to conduct themselves professionally and without bias (or to recognize biases where they may arise), members of the AMS Judicial System are expected to self-identify where a relationship is sufficiently close to result in a potential conflict and to recuse themselves by notifying their supervisor (i.e. Judicial Affairs Manager or Judicial Committee Chair, as the case may be).
- 3. In cases where parties to a proceeding have concerns that such real or perceived biases have not been sufficiently self-identified, as per their rights under Chapter IX, Article 2, Section 9, the party should bring the matter to the attention of the Judicial Affairs Manager or Judicial Committee Chair (as appropriate).

The Manager or Chair (as the case may be) shall discuss the matter with both the concerned party and the AMS Judicial System member in question, and shall then make a decision as to whether a conflict exists and, if so, how best to address such a conflict (including, but not limited to, removal of the member in question from responsibilities related to the case in question).

- A. In determining whether a conflict may exist, the Manager or Chair (as the case may be) will consider whether a party to the proceeding is a friend, classmate, co-worker, neighbour, housemate, sibling or other familial relation, or romantic partner of the AMS Judicial System member in question, as well as any other ground which could reasonably lead to concerns regarding real or perceived bias.
- B. The Judicial Affairs Manager or Judicial Committee Chair (as the case may be) will also be sure consider both biases in favour of or against any parties to the proceedings, as either could be equally detrimental to a fair and just proceeding.

## **Section 8.2: OPERATIONAL RESPONSIBILITIES**

### **1. CONFLICT IN THE JUDICIAL AFFAIRS OFFICE**

- A. Concerns regarding potential conflicts of interest, or real or perceived bias, of a Judicial Affairs Deputy should be directed to the Judicial Affairs Manager.
  - i. The Manager shall first discuss the matter with both the concerned party and the Deputy in question, and shall make a decision as to whether a conflict exists.
  - ii. If a conflict or potential bias does exist, the Manager may require the Deputy to recuse themselves from the case, and may then pass the case to another Deputy or handle the case personally (as deemed appropriate); alternatively, the Manager may handle the matter in some other way if deemed appropriate after discussions with the Deputy in question and the concerned party (for example, increased oversight on the case in question).
- B. In the event that the Judicial Affairs Manager has a conflict of interest on a case, the case will be delegated to one of the Judicial Affairs Deputies to be determined on consultation with the AMS Secretary and Vice-President (University Affairs).

### **2. CONFLICT IN JUDICIAL COMMITTEE (OR AJC, EJC, OR GNAD)**

- A. Concerns regarding potential real or perceived bias on the Judicial Committee should be directed to the Judicial Committee Chair. The Judicial Committee Chair may require such members as may be conflicted to recuse themselves, or may handle the matter in some other way if deemed appropriate after discussions with the member in question and the concerned party.
- B. Concerns regarding potential bias on the Alternate Judicial Committee should be directed to the AJC Chair. As AJC members are chosen by the Secretary with consideration given to limiting conflicts of interest, appropriate measures may include a selection by the Secretary of one or more new members to replace the conflicted member(s). The Secretary shall make the final ruling on the matter.

- C. Concerns regarding potential bias on the Extraordinary Judicial Committee should be directed to the EJC Chair. As EJC members are chosen by the Secretary with the express purpose of creating a committee free of conflict in a particular matter, the Secretary may appoint one or more new members to replace the conflicted member(s).

In the event that the respondent or complainant retain concerns in a reasonable apprehension of bias in one or more of the appointed members, such appointments may be appealed to the AMS Assembly, which shall act as the final ruling body on the matter.

- D. Concerns regarding potential bias on the Group Discipline Appeals Board should be directed to the GDAB Chair, who may require a member of GDAB to recuse themselves. Members of the Group Discipline Appeals Board who are able to self-identify a potential conflict are expected to recuse themselves and identify the reasons for such a conflict; as per Chapter VIII, Article 7, Section 2, Part D (iv) of this policy, the members of GDAB shall have no significant relationship to the group involved in the incident, have no involvement in the decision being appealed, and shall be free from any other actual or perceived bias or conflict. Concerns regarding potential conflict in those members directly named in policy (including the AMS President, Undergraduate Student Trustee, Student Senate Caucus Chair, and University Rector) should also be directed to the Assembly, which may choose to replace such member for the case in question. Any appointments to GDAB made by AMS Assembly (whether as a result of vacancy caused through unavailability or conflict) may be appealed back to the AMS Assembly for re-consideration, where the Assembly shall consult the Judicial Committee Chair, AMS Secretary, Vice-President (University Affairs), and/or legal counsel, as necessary, to determine an appropriate course of action.

- 3. Where any member of the AMS Judicial System is placed under investigation for a matter of NAM or PIP, that member shall, at the discretion of their supervisor, be required to take a leave of absence until such time as the matter is concluded. At such time as the matter is concluded, a determination may be made by the appropriate individuals or bodies as to the continuation of the member's role within the AMS Judicial System.

#### 4. LEAVES OF ABSENCE

- A. In the event of a leave of absence of a member of the Judicial Committee, the remainder of the Committee shall continue as normal pending the outcome of the matter. The Committee shall have recourse to the Extraordinary Judicial Committee in the event of the leave of multiple members, or in the event of a hearing before the Judicial Committee of the member in question.
- B. In the event of a leave of absence of the Judicial Committee Chair, the Vice-Chair shall assume the duties of the Chair pending the outcome of the matter.
- C. In the event of a leave of absence of the Judicial Affairs Manager, the duties of the Manager may be temporarily filled by a combination of the Secretary of Internal Affairs for governance and oversight work, the Judicial Clerk for internal administration, and one or more Judicial Affairs Deputy (Deputies) for casework.

D. In the event of a leave of absence of a Judicial Affairs Deputy, the Manager will re-assign that Deputy's active cases to the remaining members of the Judicial Affairs Office as appropriate.

In the event that the Deputy returns to work in the Judicial Affairs Office at the conclusion of the matter, the Manager may choose whether or not to return any of the Deputy's former cases to them, with consideration given to the length of the absence and the progress of the cases in the Deputy's absence.

E. In the event of a leave of absence of the Judicial Clerk, the Manager shall assume the duties of the Clerk pending the outcome of the matter.

## **Part 9 – CONFIDENTIALITY**

### **Section 9.1: GENERAL**

1. The AMS Judicial System shall endeavour to the best of its ability to keep specific details of investigations confidential, and all members (including members appointed on a temporary basis, such as to the Extraordinary or Alternate Judicial Committees) shall sign a confidentiality agreement upon assuming their positions.
2. Notwithstanding the generality of the aforementioned clause, the AMS Judicial Affairs Office shall endeavour to hold private meetings when conducting investigations.
3. To ensure transparency, electronic recordings of all meetings will be made whenever possible; however, the contents of these meetings, whether recorded electronically or in writing, will not be released to the general public unless used at an open hearing.
  - A. If a respondent declines to have an electronic recording made, the respondent shall sign a "Form 2" (Acknowledgement of Refusal of Recording) signaling their refusal. This form shall be called "Form 2.1" in matters of GNAM or GPIIP.
4. Representatives of the AMS Judicial System and any other individual(s) involved in the case shall neither disclose nor discuss ongoing investigations with members of the general public.
  - A. This shall not be interpreted in a manner which precludes parties to the proceeding from acquiring legal counsel or other agents or representatives, or from seeking advice as appropriate from sources outside the AMS Judicial System.
5. In all settlement hearings, any personal or identifying information shall be kept confidential and their contents kept private from the general public and the media.
6. Members of the Judicial Committee, including summer, Extraordinary, and Alternate Judicial Committees, shall not disclose or discuss the contents and details of their deliberations with any members of the general public or the media.

## Section 9.2: LIMITATIONS

1. Notwithstanding the need for confidentiality, it may be necessary for representatives of the Judicial Affairs Office or the Judicial Committee (or the Group Discipline Appeals Board, in cases of GNAM) to discuss details of a specific case with certain individuals, including but not limited to legal counsel, the AMS Vice-President (University Affairs), the AMS Secretary of Internal Affairs, the Student Conduct Office and the University Ombudsman.
2. In certain scenarios, the AMS Judicial System may be compelled to disclose information. Such scenarios may include, but are not limited to:
  - A. the acquisition of information which leads to an understanding that harm will take place to an individual or group in the future;
  - B. the acquisition of information pertaining to the abuse of a minor (less than 18 years of age); and
  - C. the requirement to disclose information as a result of a legal proceeding, such as in response to a request or demand for information from the courts.

In the scenarios described in Parts A and B, above, the Judicial Affairs Office, Judicial Committee (or EJC, AJC, or GDAB), or other member of the AMS Judicial System would be compelled to contact the proper authorities.

3. As a result of the delegation of authority over NAM cases from the Queen’s University Board of Trustees, and as per the terms of the NAM Agency Agreement between the AMS and the University, certain AMS NAM-related information may be subject to access requests under the *Freedom of Information and Protection of Privacy Act*. Such requests, or any access requests pursuant to any other legal proceeding that could result in the disclosure of NAM-related files, records, or documents in the possession of the AMS, shall be referred to the University’s Chief Privacy Officer.

Contact person	Secretary of Internal Affairs
Date of next review	May 2020
Related policies, procedures and guidelines	AMS Constitution; Queen’s Student Code of Conduct
Policies superseded by this policy	Judicial Policy and Procedures