

NON-ACADEMIC MISCONDUCT POLICY AND PROCEDURES

ALMA MATER SOCIETY OF QUEEN'S UNIVERSITY

Responsibility	Secretary of Internal Affairs
Approved by	Assembly
Date initially approved	April, 2021
Date last revised	April, 2021

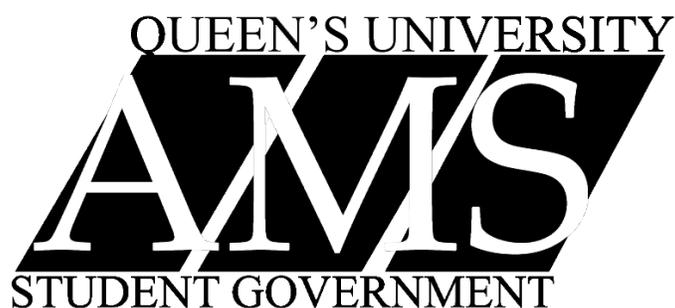


Table of Contents

Preamble 3

Part 1 – DEFINITIONS 3

Part 2 – PRINCIPLES 5

Part 3 – SCOPE 6

Part 4 -- APPOINTMENT, TERM AND REMOVAL FROM THE JAO AND JCOMM 6

Part 5 – JUDICIAL AFFAIRS OFFICE OPERATIONS 9

Section 5.1: GENERAL 9

Section 5.2 CASE MANAGEMENT AND PROCEDURES..... 11

Part 6 – JUDICIAL COMMITTEE OPERATIONS 14

Section 6.1: GENERAL 14

Section 6.2: HEARING PROCEEDINGS 15

Part 7 – SANCTIONS 20

Part 8: APPEALS 21

Appendix A: RIGHTS OF PARTIES 23

PREAMBLE

The Alma Mater Society of Queen's University (the abbreviation of which is "AMS"), is the unincorporated association whose membership consists of Society members.

Society Policy governs the operations and activities of the AMS and consists of the AMS Constitution and all Policy Documents over which AMS Assembly exercises ultimate authority.

Such policy includes the establishment of a Judicial Affairs System organized and authorized to resolve minor matters of non-academic misconduct. The contents of the policy contained herein set out the specific structures, roles, responsibilities and procedures in place to meet its obligations on behalf of Queen's University.

In all of its undertakings, the AMS Judicial Committee and the AMS Judicial Affairs Office seek, where appropriate and to the extent possible, to resolve non-academic misconduct matters in a restorative and educational manner that supports student learning, growth and personal development.

Part 1 – DEFINITIONS

1. **Agency Agreement:** A formal written agreement between an Authorized Agent and the University that sets out the authority, terms and conditions for the administration, on behalf of the University, of non-academic misconduct cases referred to it by the NAM Intake Office.
2. **AMS Judicial System:** The combined judicial system of the AMS, incorporating both the AMS NAM and [Policy Infringement Protocol \(PIP\)](#) systems for both individuals and groups.
3. **Authorized Agents:** means an entity or organization authorized by formal written agreement with the University to administer, on behalf of the University, the non-academic misconduct cases referred to it by the NAM Intake Office.
4. **Case Manager:** Every NAM Unit receiving a referral from NAMIO will assign that case to a Case Manager. Responsibilities include, but are not limited to, investigating alleged violations of the Code, meeting with respondents, complainants, and witnesses, and presenting matters to JCOMM where applicable.
5. **Extraordinary Circumstance(s):** A significant event or series of events that are unforeseen and that adversely impact the day-to-day operation of the AMS Judicial System, including:
 - A. The JAM's ability to run the office as outlined in this policy,

- B. The JCOMM's ability to make decisions in the manner outlined in this policy.
6. **Judicial Affairs Office (JAO):** Consists of the Judicial Affairs Manager (JAM), Judicial Clerk, and Judicial Deputies who share in the responsibility to administer non-academic misconduct cases in accordance with the Agency Agreement. The Judicial Clerk is precluded from assignment as a Case Manager.
 7. **Judicial Affairs Manager (JAM):** The head of the JAO. The Manager oversees a team comprised of Judicial Affairs Deputies and a Judicial Clerk. The Manager reports to the Secretary of Internal Affairs for administrative support, yet has full operational independence concerning case management and outcomes.
 8. **Judicial Committee (JCOMM, the Committee):** A committee established to support the AMS judicial processes by reviewing informal resolutions and conducting hearings where a formal resolution is pursued by the JAO.
 9. **Judicial Committee Chair:** An appointed Chair that oversees the team of Committee members. The Chair leads hearings and Committee deliberations. The Chair does not have a vote in NAM matters except for when there is a tie between Committee members.
 10. **NAM Intake Office (NAMIO):** The University Office that receives and refers reports of Student non-academic misconduct in accordance with the criteria set out in the Student Code of Conduct.
 11. **NAM Appeal Panel:** The University's final internal appeal body for non-academic misconduct cases.
 12. **NAM Unit:** Each of the Student Conduct Office, Athletics & Recreation, Residences, and any Authorized Agent of the University, involved in the administration of the Student Code of Conduct.
 13. **Sanctions:** the tasks, duties, or other requirements that must be completed by a Respondent who has accepted responsibility or has been found responsible for non-academic misconduct. Sanction decisions will consider:
 - A. the impact or harm of the misconduct on:
 - i. the complainant (if any),
 - ii. the University community, and
 - iii. the University.
 - B. the presence of mitigating or aggravating factors, including a Respondent's record of non-academic misconduct, which will be made available to the Case Manager only after responsibility for misconduct has been determined.

14. **Student:** Anyone who is registered, full-time or part-time, in a course or program of study, including a non-degree diploma or certificate (whether for credit or not), offered by or through the University, or anyone who was so registered when the reported misconduct was said to have occurred. It also means a person registered at another university on a letter of permission from Queen's and a person on exchange at Queen's or abroad.
15. **Student Code of Conduct:** "[The Code](#)" outlines the kinds of activities and behaviours that constitute non-academic Student misconduct and associated sanctions. Upon registering in a course or program of study offered by or through Queen's University and while a Student remains registered in any course or program of study at Queen's, every Student enters a contractual relationship with the University by which they:
 - A. acknowledge the right of the University to set standards of conduct;
 - B. accept and agree to be subject to the University's policies, rules and procedures, including this Code of Conduct; and,
 - C. accept the right of the University and/or its Authorized Agent(s) to impose sanctions for conduct found to have violated those standards, policies, rules or procedures.
16. **University:** Queen's University at Kingston.

Part 2 – PRINCIPLES

The AMS Non-Academic Misconduct (NAM) System is guided by the following five pillars:

1. **Restorative Justice:** Emphasizes the importance of elevating the role of victims and community members through active involvement in the misconduct process, holding Students directly accountable to the people and communities harmed by their conduct, restoring the emotional and material losses of victims, and providing a range of opportunities for dialogue, negotiation, and problem solving, whenever possible. The goal is to achieve a greater sense of community safety and social harmony for all involved and requires the willing joint participation of students and those impacted.
2. **Peer-administered:** Upholds the non-adversarial and restorative nature of the NAM system and recognizes the inherent value of peers supporting student development and learning to become positive community members and citizens.
3. **Complaint-driven:** The JAO responds to cases referred to its office by, where appropriate, meeting with those impacted and/or harmed by the actions in order to fulsomely understand the complaint.

4. **Non-Adversarial:** The AMS Judicial System strives to approach NAM cases in a collaborative way with all participants in order to arrive at resolutions that balance the interests of those involved.
5. **Adherence to the Principles of Procedural Fairness:** Respondents have the right to:
 - a. be advised, in writing, of the allegations;
 - b. have a case heard and decided by an unbiased decision-maker;
 - c. formal written notice of any adjudication date;
 - d. an advisor, including the assistance of a Support Person or Advisor;
 - e. present evidence and arguments in response to an allegation of non-academic misconduct;
 - f. be provided with written reasons for the decision(s) made in their case.

These pillars are responsible for upholding the integrity and effective functioning of the system. All five components must be present for the system to repair harms done to the community, individuals, and the University.

While the system is not based on decisions made in preceding cases, the AMS recognizes the importance of addressing repeat violations of the sections herein. The NAM system is also predicated on the notion that students are well 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 3 – SCOPE

The JAO and JCOMM have authority over any NAM case referred to it by NAMIO in accordance with the Agency Agreement between the University and the AMS.

Part 4 – APPOINTMENT, TERM AND REMOVAL FROM THE JAO AND JCOMM

1. Appointment:

- A. The AMS shall strive to ensure that the appointment of student leaders within the Judicial Affairs system represent and uphold the best interests of the Student Body, including consideration for diversity amongst identities, membership to faculty societies, and experiences within the University community.
- B. Where possible, in the selection of the JAM, Judicial Deputies, JCOMM Chair, and JCOMM Committee Members there shall be a presumption in favour of those applicants who have previously served in the AMS JAO and/or on JCOMM.

- C. The JCOMM Chair shall appoint a Vice-Chair who shall also serve as Vice-Chair of the Alternate JCOMM.
- D. All appointments shall be subject to ratification by the AMS Assembly.
- E. Members of the JAO will receive training by the Director, Student Conduct Office prior to being deemed qualified to accept referrals from NAMIO. Such training shall include, but is not limited to, procedural fairness, relevant policies and case management, procedures, confidentiality, access to information and privacy, records management, and case management software training.

2. Special Appointments:

- A. From time to time there arises a requirement to make special appointments to the JCOMM to ensure there is appropriate representation on the Committee when making a decision involving member of a Queen's Club, a Committee member or Group of a Faculty Society. In such cases, special appointments shall be made as follows:
 - i. where the respondent is a Queen's Club, one representative of the AMS Clubs Office shall be appointed to the JCOMM.
 - ii. where the respondent is a Faculty Society Committee or Group, the President of the respective Faculty Society and one to two Faculty Society Executive members shall be appointed to the JCOMM.
 - iii. the terms of appointment in the cases immediately above shall only be for the purpose of adjudicating the matter that gave rise to the need for a special appointment.

3. Length of Term

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

4. Leaves of Absence

- A. In the event of a leave of absence of a member of the JCOMM, the remainder of the Committee shall continue as normal pending the outcome of the matter.
- B. In the event of a leave of absence of the JCOMM 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 JAM the duties of the Manager may be temporarily filled by a combination of the AMS SIA 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 JAO as appropriate. If the Deputy returns to work in the JAO at the conclusion of the matter, the Manager may choose whether 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.

- D. 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.

5. Removal

- A. The JAM 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.
- C. A member of JCOMM may be removed from office by a two-thirds (2/3) majority vote of all voting members of the Assembly.
- i. proper notice of an Assembly vote to remove a member must be included in a public agenda prior to the meeting.
 - ii. The Assembly shall consider whether the AMS JCOMM member in question:
 - has breached AMS Constitution and Policies; or
 - should be removed for unsatisfactory performance.
 - iii. 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), that member is subject to removal from the Committee at the discretion of the Chair.
 - iv. 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:
 - the Chair of the Committee
 - the Vice-Chair of the Committee
 - the Secretary of Internal Affairs
 - v. 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.
 - at this time, the Vice-Chair, as the new Chair of JCOMM, shall appoint a new Vice-Chair.
 - as this would result in a vacancy in the Committee, the new Chair and Vice-Chair shall appoint a new member to the Committee as outlined in Section 5.2.1.D.
 - vi. If there is no JCOMM available to adjudicate a matter, the matter shall be referred to the Director, Student Conduct Office for adjudication.

6. Extraordinary Circumstances:

- A. In the event that the University, AMS, or community at large faces extraordinary circumstances, which greatly impact or have the potential to deter from the general

operation of the office:

- i. The JAM will seek advice on how to best proceed from the JCOMM Chair, AMS SIA, NAMIO, and the director of the Student Conduct Office.
- ii. The JAM shall enact all decisions on how the office proceeds, ensuring that the Agency Agreement and pillars of the NAM system are upheld in the best interests of the AMS and the Non-Academic Misconduct System at large.

Part 5 – JUDICIAL AFFAIRS OFFICE OPERATIONS

Section 5.1: GENERAL

1. The Judicial Affairs Office (JAO) shall manage NAM cases referred to it by NAMIO
2. Should the AMS Judicial Affairs Manager (JAM) recognize or suspect that a case involves any form of sexual violence, harassment & discrimination as those terms are defined in their respective University policies the JAM must cease Case Management and immediately consult with NAMIO.
3. Within the defined terms of the Agency Agreement, the JAO shall have operational independence for dealing with all NAM matters assigned to it. They are independent of the AMS Executive, the AMS Board of Directors, and the Office of the Secretariat (SIA). 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 Code.
4. The Secretariat shall aid in administrative tasks to help fulfill the mandate of the Office when needed.
5. The JAO shall follow all obligations as the Authorized Agent of the University to deal with NAM matters, as outlined in the Agency Agreement and as directed to the JAO by NAMIO and Director, Student Conduct Office.
6. The JAM shall use their discretion to assign Judicial Affairs Deputies to cases. As case managers, Judicial Affairs Deputies will investigate alleged violations, arrange settlements, and present cases to the Judicial Committee if applicable.
 - A. Holding ultimate responsibility regarding case management, the JAM oversees Judicial Affairs Deputies' work and has final authority regarding case assignment and office logistics.
7. Concerns regarding conflict of interest and/or commitment will be addressed as follows:
 - A. Concerns regarding a Judicial Deputy's potential to present a conflict(s) of interest, and/or real or perceived bias which has the potential to impact the proceedings, investigation or outcome of a case should be directed to the JAM.
 - i. the Manager shall first discuss the matter with both the concerned party and the Deputy in question and shall decide whether a reasonable conflict of interest 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);
- iii. 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. If the JAM 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 SIA and Vice-President (University Affairs).
 - C. Should a conflict of interest be present amongst the Manager, Chair and AMS SIA, the matter shall be referred to the Director of Student Conduct.
8. Among other responsibilities, the Judicial Clerk, overseen by the JAM, shall ensure that all sanctions are carried out reasonably within the determined timeline. Should these conditions not be met, the Judicial Clerk shall inform the JAM, who will consult with the NAMIO for advice on how to proceed.
 9. The JAO and JCOMM shall take care in all matters to inform parties accurately, fairly, and in an unbiased manner of appropriate policy, procedures, and applicable rights. Parties involved shall also receive information about any available tools and University resources to ensure their rights are adequately protected and their needs addressed.
 10. All volunteers and employees of the AMS working with and in the JAO, as well as members of JCOMM are required to consistently uphold the five pillars of NAM within all components of their work, decision making and interactions.
 11. The AMS Judicial System shall maintain confidentiality of NAM matters in accordance with the terms of the current Agency Agreement between the AMS and the University, and all members shall sign a confidentiality agreement upon assuming their positions.
 - A. Notwithstanding the generality of the aforementioned clause, the AMS JAO shall endeavour to hold private meetings when conducting investigations.
 - B. Representatives of the AMS Judicial System and any other individual(s) involved in the case shall neither disclose nor discuss ongoing investigations with anyone other than those who have a legitimate need to know or where required by University policy or other regulation or law.
 - C. An agreement to confidentiality shall not preclude 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.
 12. Notwithstanding the need for confidentiality, it may be necessary for representatives of the JAO or the JCOMM to discuss details of a specific case with certain individuals, including but not limited to
 - A. Legal counsel,
 - B. The AMS Vice-President (University Affairs),
 - C. The AMS SIA,
 - D. The NAMIO,
 - E. The Student Conduct Office, and

- F. The University Ombudsperson.
13. 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 suggests that harms will be committed against an individual(s) 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.
 - D. In the scenarios described in Parts A and B, the JAO, JCOMM or other members of the AMS Judicial System shall seek advice from the director of the Student Conduct Office.
14. As a result of the delegation of authority over NAM cases 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 (FIPPA)*. 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.

Section 5.2: CASE MANAGEMENT AND PROCEDURES

1. INITIATION OF INVESTIGATION

- A. Upon receipt of a case from NAMIO, the JAM will review the case and determine if it should be case managed by a Judicial Deputy or remain at the JAM level having regard to the complexity of the case, the number of students involved, and the capacity of the Judicial Deputies. The decision on Case Management assignment by the JAM is final and not appealable. However, due consideration will be given to a party's request to have the matter reassigned due to a perception of bias.

2. PARTICIPANTS IN NAM CASES

- A. **Parties:** The parties to the proceedings shall include the Complainant, which may be an individual, or the University as represented by an Administrator or the assigned Case Manager, and the Respondent, who is the person allegedly in violation of the Code.
- B. **Respondent:** An individual or group of individuals alleged to have violated the Student Code of Conduct. Respondents alleged to have violated the Code shall be informed in the first notice regarding the case that they have a right to bring a Support Person or Advisor to any meetings with the JAO Case Manager and to any hearing.

- i. **Support Persons:** A Support Person may be anyone of the student's choosing as long as that person has had no involvement in the incident, i.e., as a witness or co-respondent. The Support Person's role is to provide moral support and assistance to the student in understanding processes and procedures. The Support Person may attend any meetings that occur as part of the process, such as the initial meeting, investigation interviews, resolution discussions, and hearings. When a Support Person accompanies a student, they generally do not have a speaking role and are not there to advocate or speak on behalf of the student. Parents, mentors, and friends are some examples of Support Persons for students.
 - ii. **Advisors:** An Advisor is a more formal type of support to a student, such as a Legal Counsel or other similar representative. Students who are facing serious incidents of non-academic misconduct are encouraged to consider obtaining legal advice from a lawyer or other legal advisor of their choosing. Even where a student has retained the assistance of an Advisor, Case Managers and other University Administrators retain the right to address the student directly; moreover, the student's Advisor is ordinarily not permitted to answer questions on the student's behalf.
 - iii. **Queen's Legal Aid:** A pro-bono legal service available to residents of Kingston, Napanee and surrounding areas, and to Queen's University students. This organization is one of several law clinics funded and supported by the Queen's University Faculty of Law.
- C. **Designated Representative(s):** In cases involving student groups, designated Representatives, including legal counsel, may represent the respondent group in hearings and interactions with the JAO.
 - D. **Case Manager:** Every NAM Unit receiving a referral from NAMIO will assign that case to a case manager. Responsibilities include, but are not limited to, investigating alleged violations to the Code, meeting with respondents, complainants, and witnesses, and presenting matters to JCOMM (if applicable).
 - E. **Witness:** Any person whom the Case Manager, JCOMM, or any party to the proceedings calls upon during an investigation or hearing for additional testimony.

3. MEETINGS WITH PARTIES

- A. The JAO Case Managers shall make all reasonable efforts to conduct individual meetings with all parties to a proceeding, while also recognizing the importance of dealing with matters expeditiously in fairness to all concerned parties. To that end, Case Managers will make three (3) attempts to meet with a party to the proceeding and witnesses to a proceeding. Case Managers may request the director of the Student Conduct Office's assistance in contacting the involved

students. If one or more of the parties fails to respond to the allegations, the Case Manager may proceed with the investigation and disposition of the case without the participation of that party.

- B. Prior to an investigative interview or informal resolution settlement discussion with the respondent, the Case Manager shall review "Form 1" to ensure that the respondent is apprised of their rights and the processes and procedures inherent to the AMS Judicial System. At the conclusion of this review, the Case Manager shall request that the respondent sign Form 1 or communicate in physical or electronic writing to acknowledge that they are satisfactorily informed of their rights and the AMS Judicial System process.
 - i. the JAO and the Office of the AMS SIA 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 Case Manager shall record the efforts undertaken to review the rights, processes, and procedures with the respondent and shall record in the case history that the respondent declined to sign the form.
 - iii. the Case Manager will then proceed to investigate and resolve the case in accordance with the processes and procedures below.

4. DISPOSITION OF NAM CASES

A. In the AMS Judicial System, there are three ways that a NAM Case may be resolved:

- i. **Informal Resolution by Settlement:**

- a. The Case Manager will attempt an informal resolution by settlement if:
 - a. The facts and/or issues at hand are not disputed,
 - b. The Respondent and Case Manager agree to the violation(s) to be recorded in the NAM Record, and
 - c. The Respondent agrees to complete the proposed sanction(s).
- b. where a respondent and Case Manager agree on the responsibility for a violation(s) and the proposed sanction(s) the agreement shall be recorded in physical or electronic writing on Form 3. Such form shall include:
 - a. an admission of responsibility to the violations included therein,
 - b. a waiver to a hearing before the JCOMM for said violations,
 - c. an agreement on the part of the respondent to complete specified sanctions and comply with specified conditions which, without limiting the JAM's ultimate discretion, may

include any of those sanctions listed in Section 6; and an agreed upon account of the facts.

- c. Prior to confirming the settlement, if the:
 - a. case manager is the JAM – the proposed settlement shall be reviewed by the Chair of JCOMM or their designate. Any recommendation to vary the proposed settlement must be agreed to by the Respondent. If no agreement can be reached, the matter will be referred to JCOMM for a hearing; or
 - b. case manager is a Judicial Deputy – the proposed settlement shall be reviewed by the JAM. Any recommendation to vary the proposed settlement must be agreed to by the Respondent. If no agreement can be reached, the matter will be referred to the JCOMM for a formal resolution, or non-settlement, hearing.
- ii. **Formal Resolution by Hearing:** where a respondent and Case Manager cannot agree on the responsibility for a violation(s) and any proposed sanction(s), and there is sufficient information that on a balance of probabilities a violation(s) of the Code has been committed, the Case Manager shall refer the matter to JCOMM for a hearing on responsibility or sanctions or both.
- iii. **End of Proceedings:** where a Case Manager has reviewed the matter and met with the parties, witnesses, and reviewed relevant evidence, and has determined that on a balance of probabilities no violation(s) have been committed, the Case Manager shall end the proceedings and inform the respondent and any other parties of the outcome using Form 10.

Part 6 – JUDICIAL COMMITTEE OPERATIONS

Section 6.1: GENERAL

1. The AMS Judicial Committee (the “Committee” or “JCOMM”) shall act as the adjudicative branch of the AMS Judicial System.
2. JCOMM presides over all matters processed by the JAO.
3. The Committee may exercise authority over all Non-Academic Misconduct matters referred to it by NAMIO, AMS SIA, and AMS Policy Infringement Protocols.
4. The Committee is authorized to rule on matters of Non-Academic Misconduct as a result of a valid Agency Agreement between the AMS and the University. Without restricting the generality of the foregoing, the AMS JCOMM may exercise jurisdiction regarding any matter referred to the AMS by NAMIO.

5. Concerns regarding potential real or perceived bias on the part of a member of the JCOMM should be directed to the Chair. The Committee Chair may require such members 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.
6. The AMS Judicial Committee is subject to the requirements of Confidentiality as set out in Part 5, Subsections 11 through 14.

Section 6.2: HEARING PROCEDURES

1. INITIATION OF PROCEEDINGS

- A. Matters may be referred to the AMS JCOMM by the JAM through written notice to the Judicial Clerk. Such written notice shall be delivered electronically or physically and contain the:
 - i. Case number,
 - ii. Respondent(s) Name(s), Student Number(s), Email(s),
 - iii. Alleged violation(s) of the Code,
 - iv. A brief summary of the particulars of the incident, and
 - v. Reason for the referral:
 - a. no informal resolution by settlement could be reached,
 - b. informal resolution by settlement deemed not appropriate by Case Manager, or
 - c. respondent(s) requested hearing.
 - vi. Such written notice must be filed within 10 business days of the receipt of the complaint by the JAO or within 10 days following the last communication from the respondent, whichever is later.
- B. The Judicial Clerk shall forward the information to the Chair of the AMS JCOMM and will coordinate a hearing date between the members of JCOMM and the parties. A hearing must be scheduled within 20 calendar days of receipt of the hearing request submitted to the Judicial Clerk. The Judicial Clerk shall complete Form 4 – Notice of Hearing for distribution to the respondent(s), JAM, and Chair of the JCOMM. The Notice of Hearing shall include:
 - i. a warning that if the party notified does not attend the hearing, the Committee may proceed in that party's absence,
 - ii. a copy of JCOMM Rules of Procedure, or a link to where this policy may be accessed online,
 - iii. 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 JAO or JCOMM in proposing or assigning sanctions,
 - iv. a statement of the time and location of the hearing, and

- v. 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. Notice: All notices given pursuant to Section 6.2.1.A shall be sufficiently given if:
- i. delivered personally by the Judicial Clerk,
 - ii. 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. 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,
 - iv. 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, or
 - v. notice of a hearing has been given to a party to any proceedings in accordance with the rules outlined in this section, and the party does not attend the hearing without reasonable cause being provided, the Committee may proceed in that party's absence.
- D. The time limits, described above, may be adjusted at the discretion of the Judicial Clerk, in consultation with the JCOMM Chair. Considerations may include but are not limited to, reading week(s), and examination periods.

2. CASE BRIEFING AND DISCLOSURE

- A. The JAM shall ensure that a Case Briefing is prepared. The Case Briefing shall include:
- i. A copy of the Incident Report,
 - ii. A copy of any investigation report,
 - iii. A timeline that includes:
 - a. date of the incident,
 - b. date case assigned to JAO,
 - c. dates of communication and meetings with the respondent, and
 - d. date that the hearing request was made.
 - iv. A list of witnesses anticipated to present evidence at the hearing, and
 - v. Suggested sanction(s) and rationale for those sanction(s)
- B. Distribution of the Case Briefing
- i. the Case Briefing shall be provided to the Judicial Clerk for furtherance to the Chair of JCOMM.
 - ii. a copy of the Case Briefing shall constitute disclosure and shall be

provided to the respondent a minimum of 5 business days prior to the scheduled date of the hearing. If upon reviewing the Case Briefing the respondent determines that they require additional time to prepare for the hearing, they may submit a written request to the Judicial Clerk, electronically or physically. Reasonable requests for rescheduling shall be accommodated.

- C. Respondent Witnesses: The respondent shall provide a list of witnesses that they intend to present evidence during the hearing. This list shall be provided to the Judicial Clerk a minimum of 2 days before the scheduled date of the hearing. It is the responsibility of the respondent to ensure that their witnesses are available and present for the hearing.
 - i. if witnesses are not available, they may submit a written statement of facts to the Judicial Clerk a minimum of 2 days before the scheduled hearing.
- D. Contents of the Case Briefing are 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.
- E. 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. CONDUCT OF HEARING

- A. NAM proceedings are private administrative proceedings between the University and the student involved. Hearings shall be closed to the public; however, subject to the approval JCOMM Chair, the respondent may have support person(s), advisor(s), and/or counsel in attendance.
- B. Hearings shall be conducted for the purpose of determining responsibility for a violation(s) and, if applicable, imposing sanction(s) on the responsible party(s).
- C. Responsibility shall be determined on a balance of probabilities, i.e., that it is more probable than not that the respondent(s) is responsible for the actions that give rise to a violation(s) of the Code.
- D. A partial hearing may be conducted where the respondent has accepted responsibility for the violation(s), but no agreement was reached between the Case Manager and the respondent regarding sanction(s).
 - A. Such a hearing shall accept the facts as presented in the Case Brief and shall only hear evidence regarding the rationale for the proposed sanction(s).
- E. The Committee shall conduct hearings in a non-adversarial 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 matter in an expeditious manner.
 - A. The Committee will exercise their discretion in fairness to all concerned

parties; however, where there is a conflict in the balance of fairness any benefit shall fall in favour of the respondent.

F. ORDER OF PROCEEDING

- A.** At the prescribed time for the hearing, the following procedure shall generally be followed:
- i. introduction of the Committee members and a preamble by the Chair outlining the authority of the Committee to consider and act on matters before the Committee.
 - ii. the Chair shall also issue a statement that the Committee shall not entertain any questions related to its authority,
 - iii. explanation of the reason(s) for the hearing and reading of the applicable charge(s) or complaint(s) by the Chair of the hearing,
 - iv. opportunity for the respondent to admit or deny the allegation(s) in whole or in part,
 - v. opening statement (case brief) by a representative of the AMS JAO (including, but without limiting, a summary of the facts and what is intended to be proven),
 - vi. opening statement by the respondent, including, but without limiting, the basis of the defence,
 - vii. presentation of the JAO's case, including calling witnesses (who may then be questioned by the respondent) and entering of evidence,
 - viii. presentation of the respondent's case, including calling witnesses (who may then be questioned by the JAO) and entering evidence,
 - ix. closing submissions of the JAO and,
 - x. closing submissions of the respondent.
- B.** Questioning of witnesses shall be done in a respectful, orderly, and non-adversarial manner. The JCOMM Chair shall have the authority to reasonably limit the questioning of witnesses where it is satisfied that there has been sufficient information given to fully and fairly establish the facts in relation to which the witness has given evidence.
- C.** In the event of a partial hearing regarding sanction(s), the process outlined herein shall be condensed to account for the fact that an agreement on responsibility has already been reached.
- i. the Committee shall retain the right to question the parties and to receive and consider evidence relevant to the determination of appropriate sanction(s).
- D.** Members of the Committee are permitted to question any of the parties or witnesses at the hearing during the proceedings 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 steps outlined in Section 6.2.3.F.A (above), but 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.

G. RULES OF EVIDENCE

- A.** The Committee may admit any relevant evidence including:
 - i. any oral testimony from relevant witnesses; and
 - ii. any document, film, or digital recording, or other object which is relevant to the subject matter of the proceedings.
- B.** The Committee may act duly on such evidence but may exclude anything unduly repetitious.
- C.** 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.
- D.** Where a party to the proceedings intends to make detailed submissions or refer to lengthy documents, a copy of the submissions or documents 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.

H. 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. In this case, the matter shall be referred to NAMIO for review and coordination of further referral.

I. 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 render its decision later.
- B.** If the Committee retires, they may come out of retirement to ask additional questions of the parties.
 - i. to ensure fairness and transparency, all parties must be present for these questions.
 - ii. if new information is presented, the other party (parties) will be given a chance to respond.
- 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 in fairness to all parties to the proceeding.

J. DECISION

- A.** The Committee shall give its decision and order, if any, of any proceedings in physical or electronic 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 physical or electronic written decision shall be distributed within 72 hours of the oral decision to the relevant parties, pursuant to Parts B and C (below).
 - 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 Parts B and C (below).
 - iii. all decisions must include information regarding rights and method for submission of a request to appeal including the specified timelines for such and the specified addressee for submission.
- B.** The decision and order, if any, of the proceedings, together with the reasons, shall be signed by the Chair or Vice-Chair of the Committee and distributed by the Judicial Clerk to:
- i. the Respondent(s) to the proceedings,
 - ii. the JAM and
 - iii. the AMS SIA.
- C.** A decision of the Committee shall be deemed fit for distribution if in accordance with Section 6.2.3.J.A
- D.** All Committee decisions requiring the completion of sanction(s) shall be accompanied by the relevant Sanction Instruction Guidelines and Forms.

K. APPEALS

- A.** When Committee decisions are rendered, all parties shall be informed of the deadline to submit an appeal, the location of the Notice of Appeal form, and the address to which the Notice of Appeal must be submitted.

Part 7 – SANCTIONS

1. The AMS JCOMM may impose sanctions in proportion to the seriousness of the offence and in line with the Code. Without limiting the generality of the foregoing, the following sanctions may be imposed by JCOMM 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 hours not to exceed twenty (20) hours. A list of service organizations is compiled annually by the JAO and JCOMM, though the respondent may submit a proposal to the JAO for service at an alternate organization,
 - D. A fine not to exceed two hundred dollars (\$200), payable to the Queen’s AMS,

- E. A bond not to exceed two hundred dollars (\$200), to be held in trust by the Queen's AMS, for a period not exceeding twelve (12) months from the date of the decision when the sanction is imposed,
 - F. A formal written apology, submitted to the Judicial Clerk or another JAO representative electronically or physically.
 - i. should the letter be addressed to a member of the community external to the JAO matter, the document shall be sent to a JAO representative prior to being delivered to the intended addressee.
 - 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.
 - H. This list is not exhaustive. Sanctions other than those appearing on this list may be imposed at the discretion of the JAO and JCOMM.
2. In matters involving a group as the respondent, the following additional sanctions may be considered:
 - A. 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 acting JCOMM deems appropriate,
 - B. 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,
 - C. recommendation to the Alumni and Sponsorship Office that alumni donations shall be cut off (where applicable),
 - D. recommendation to the AMS Vice-President (Operations) to review the group's student fee (where applicable),
 - E. recommendation to AMS Assembly for de-ratification of the group,
 - F. 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 another group, for a specified period,
 - G. removal of the Chairs / executive of a Faculty Society committee / group.
 3. No sanction shall be imposed on a Faculty Society committee or group that serves to eliminate or otherwise results in the disbanding of the committee or group without the unanimous consent of AMS Assembly.
 4. JCOMM may impose such sanctions at its discretion but will consider the circumstances of the respondent. Failure on the part of a respondent to complete sanctions as prescribed could result in further proceedings and additional outcomes (i.e., sanctions) under the Code.

PART 8 - APPEALS

1. A decision of the Committee on a matter of NAM may be appealed to the NAM Appeal Panel by the respondent to the proceeding, on application, by electronically or physically written notice within ten (10) business days of the date of distribution of the decision of the Committee.

- A. the notice of intention to appeal shall conform to the procedures set out in the Queen's University [Rules of Procedure for the NAM Appeal Panel](#).
- B. Only decisions arising from a Formal Hearing are subject to appeal.

RIGHTS OF PARTIES

GENERAL

1. The AMS Judicial System aims to ensure that all parties receive fair and impartial treatment.
2. Prior to or at the beginning of the first meeting with a representative of the JAO, all Respondents shall be informed of their rights in accordance with this section and will be requested to sign a "Form 1" or provide confirmation in physical or electronic writing (i.e., email) to acknowledge receipt and understanding of this information.

RIGHTS OF ALL PARTIES

1. Right to the assistance of a Support Person or Advisor (including legal counsel).
 - A. Parties are advised to contact Queen's Legal Aid to determine their eligibility for consultation or guidance.
 - B. Parties may be accompanied by a support person at any meeting or hearing pertaining to a NAM matter. A support person provides emotional and moral support to a party but may not represent or speak on behalf of the respondent.
 - C. Parties may be accompanied by an advisor, (including legal counsel) who may provide a more formal type of advice and support to a respondent.
 - i. even where a student has retained the assistance of an advisor, the advisor is not permitted to speak directly on the student's behalf.
2. Right to be notified of a hearing before JCOMM.
3. Right to make a statement to JCOMM in a hearing.
4. Right to call and examine witnesses, and to present arguments and/or submissions, at a non-settlement hearing.
 - A. Parties may question witnesses as is reasonably required for a full and fair disclosure of the facts relevant to the matter before JCOMM.
5. Right to appeal a non-settlement decision made by JCOMM.
 - A. Parties must be informed of all the relevant appeal procedures upon receipt of a Committee decision.
6. Right to express concern in physical or electronic writing to the JAM, JCOMM Chair, or the AMS SIA regarding a member of the AMS Judicial System whose judgement may be biased.

ADDITIONAL RIGHTS OF RESPONDENTS

1. Right to end a meeting with the JAO at any time.
2. Right to the disclosure of evidence relevant to the matter and to be used by JAO or

JCOMM.

- A. Sensitive information such as the names of witnesses or other parties may be redacted 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, or unfairly prejudice the respondent(s).
- 3. Right to a full and fair hearing before the Committee.

ADDITIONAL RIGHTS OF WITNESSES

- 1. Right against self-incrimination.
 - A. Testimony given by a witness in any proceeding cannot be used to incriminate them in any other proceeding, except:
 - i. in a proceeding for perjury or for the giving of contradictory evidence; or
 - ii. in a proceeding for a violation of the Code which occurs during the giving of testimony, including but not limited to offences listed under the Code, Section VI, Part A: Abuse of Process.

Contact person	Secretary of Internal Affairs
Date of next review	May 2022
Related policies, procedures and guidelines	AMS Constitution; Queen’s Student Code of Conduct; Policy Infringement Protocol
Policies superseded by this policy	Judicial Policy and Procedures