

Number & Title:

I-X: *AMS Internal Policy on Sexual Violence*

Effective Date:

N/A

Approved Date:

N/A

Policy Type:

Internal Policy

Review Date:

This Policy shall be reviewed every two years.

Responsible Body:

Executive Committee

Authority:

AMS Bylaw 5, Section 1(f)

WorkSafeBC: OHS Regulations 4.24 - 4.31 and OHS Policies R4.27-1 to R4.31-1

Purpose and Goals:

This policy is designed to affirm AMS's zero tolerance for Sexual Violence and to provide procedures for investigations of Sexual Violence.

The AMS is responsible for maintaining a safe environment where its members can pursue educational, social, and personal matters without concerns of Sexual Violence. The AMS prohibits and will not tolerate Sexual Violence and is committed to educating and holding community members to these standards.

Applicability:

This policy is applicable to all AMS Active Members, as defined by AMS Bylaw 2, Section 1(a), 'Members', and AMS Staff, as defined below.

Exclusions:

There are no exclusions.

Definitions:

1. **“Sexual Violence”**: any unwanted sexual act or act targeting an individual’s sex, sexual identity, gender identity or expression, whether the act is physical, verbal, or psychological in nature, that is committed, threatened or attempted against an individual without that individual’s Consent. Sexual Violence includes, but is not limited, to the following:
 - a. an act which is a sexual offence or sexual assault under the Criminal Code of Canada;
 - b. sexual contact without the individual’s Consent;
 - c. sexual harassment or any unwelcome conduct or comment of a sexual nature, including threats of sexual assault;
 - d. stalking, or engaging in conduct that is unwanted and/or repeated that causes an individual to fear for their physical or psychological safety;
 - e. indecent exposure or exposing one’s body to another individual in a public place in a sexual context, for a sexual purpose, or coercing another individual to remove their clothing to expose their body, without their Consent;
 - f. viewing, photographing, or recording another individual in a location where there is an expectation of privacy and where the viewing, photographing, or recording is done for a sexual purpose; and
 - g. distribution of photographs or recordings of a sexual nature of a person to one or more individuals without the Consent of the person in the photographs or recordings.
2. **“Consent” or “Consenting”**: the informed, enthusiastic, conscious, ongoing, and voluntary agreement to an act or acts and to continue to engage in the act or acts, which is communicated through words or conduct. The following list includes some examples of Consent:
 - a. Consent is active, not passive – never assume an individual has provided Consent to an act or acts;
 - b. silence is not Consent;
 - c. Consent cannot be implied, and it can be revoked by any individual at any time during the act or acts in question;
 - d. Consenting to one kind of sexual activity does not mean that Consent is given for another sexual activity, and Consent only applies to each specific instance of sexual activity;
 - e. Consent cannot be obtained if an individual is incapable of Consenting. For example, an individual may be incapable of Consenting if they are intoxicated or unconscious; and

- f. Consent cannot be obtained if an individual is induced to engage in the activity by fraud, by someone exercising a position of trust, power, or authority, or through coercion or the threat of violence or any action the individual deems damaging to them.
3. **“Disclose” or “Disclosure”**: the sharing of an incident or incidents of Sexual Violence
4. **“Report” or “Reporting”**: a formal, written statement of an incident or incidents of Sexual Violence by the Complainant to the AMS Ombudsperson Office or AMS Human Resources Manager with the intention and Consent to begin an Investigation;
5. **“Investigation”**: an investigation carried out by the AMS on the basis of a Report, as set out by the appropriate procedures laid out in this policy;
6. **“Investigator”**: the individual responsible for the Investigation;
7. **“Complainant”**: the individual who alleges they were subjected to the incident or incidents of Sexual Violence;
8. **“Respondent”**: the individual called upon to respond to the alleged incident or incidents of Sexual Violence;
9. **“Appellant”**: the individual appealing the decision made by the authorized body;
10. **“AMS Club”**: a subsidiary organization constituted as an ‘AMS Club’ by the AMS Operations Committee;
11. **“AMS Staff”**: any individual who is an employee, volunteer, appointee, or contractor of the AMS;
12. **“AMS Member”**: as defined by AMS Bylaw 2, Section 1(a), but limited to Active Members who are not also considered an AMS Staff;
13. **“Premises”**: AMS owned or operated spaces including, but not limited to the AMS Student Nest, constituency spaces, and AMS-run events.

A. Principles

1. The AMS will not tolerate Sexual Violence.
2. The AMS is committed to providing comprehensive, trauma-informed, survivor-centered, and intersectional education and support on Sexual Violence and prevention.
3. The AMS recognizes and promotes intersectional education approach meaning that individual’s experiences will be affected by factors such as their access to power and privilege, their sex, sexual identity, gender identity or expression, racialization, age, family status, religion, faith, ability, disability, national or ethnic origin, indigeneity, immigration status, socio-economic status, class, language, and other personal characteristics.

B. Limitations

1. For AMS Members:

- a. Pursuant to Bylaw 2(2), this policy does not revoke or impact membership in the Society;
 - b. This policy may not prevent an Active member of the Society from accessing the services of the AMS;
 - i. In the case of any disciplinary action, Active members retain the right to access services upon request and accommodations must be made to ensure this is feasible.
 - c. Notwithstanding anything contrary in this Policy, any discipline of Active members of the Society shall be done in accordance with AMS Code of Procedures and AMS Bylaws.
2. For AMS Staff:
 - a. Decisions and outcomes must be made in accordance with provisions of relevant collective agreements or terms and conditions of employment.

C. Authorization

1. The appropriate body that will be responsible for reviewing and adjudicating is dependent on whether the Respondent is AMS Staff or an AMS Member.
 - a. AMS Council will be responsible for reviewing and adjudicating cases where the Respondent's supervisor is AMS Council, the Respondent is a voting member of AMS Council, or the Respondent is a student member of the UBC Board of Governors and/or the UBC Senate, that also holds a seat on AMS Council.
2. The Complainant and Respondent may request to have their case dealt with through the procedures laid out in the Respectful Environment Policy.
3. The AMS prohibits retaliation, or threats of retaliation, against any individual for Disclosing or Reporting under this policy or cooperating in an Investigation or appeal.
4. The AMS reserves the right to seek legal counsel on any matters concerning this policy.

D. Procedures

1. **If the Respondent is an AMS Member:**
 - a. **Disclosure**
 - i. The choice to Disclose and the choice to provide a Report are separate decisions.
 1. an individual may choose to Disclose without providing a Report or beginning an Investigation;
 - ii. A Disclosure does not initiate an Investigation;
 - iii. Disclosures are to be treated as confidential and the privacy of the individual Disclosing will be respected;

- iv. The AMS Sexual Assault Support Centre provides free and confidential crisis and short-term emotional support to any individual of all genders.

b. Reporting

- i. AMS Members wanting to submit a Report must make them to the Ombuds Office;
 - 1. the Report must be made in writing, but the Ombuds Office has the discretion to defer this requirement at the Complainant's request;
 - a. the Report should include the relevant information to the incident.
 - 2. for an Investigation to be initiated, the Ombuds Office must have Consent of the Complainant and inform them about the disciplinary measures that can be taken;
 - 3. the AMS Sexual Assault Support Centre is available to provide the Complainant with assistance in preparing the Report.
- ii. After a Report has been submitted to the Ombuds Office:
 - 1. an Investigator shall be assigned from the Ombuds Office;
 - a. in the case where the Ombuds Office is in a real or apparent conflict of interest, the Human Resources Manager will be the Investigator;
 - i. in the case where the Human Resources Manager is in a real or apparent conflict of interest, the AMS Operations Committee will assign an Investigator.
 - 2. the Investigator will inform the Complainant about the Investigation process and resources available to them;
 - 3. the Investigator will contact the Respondent to inform them that a Report has been submitted and provide them with information regarding the Investigation process and resources available to them.

c. Investigations

- i. The Investigator is required to perform their responsibilities in a manner that is neutral and impartial;
- ii. The Investigator may carry out the Investigation in any manner they deem appropriate, within the limits of provisions in this policy, in the circumstances. They may include, but not limited to, the following:

1. meeting with or requesting further information from the Complainant;
 2. meeting with or requesting further information from the Respondent;
 3. meeting with or requesting further information from any other individuals who may have information relevant to the Investigation; and
 4. obtaining any other evidence that may be relevant to the Investigation.
- iii. Investigations will be completed within 45 days of the Ombuds Office's receipt of the Report from the Complainant;
1. if the Investigator does not believe they can complete the Investigation within the 45-day timeline, the Investigator will inform the Complainant and the Respondent about the revised timeline of the Investigation.
- iv. The Complainant and Respondent may provide a submission to the Investigator at any point during the Investigation.
- v. Upon completion of the Investigation, the Investigator shall prepare an Investigation report with a summary and findings of the Investigation along with a recommended course of action, to be submitted to the AMS Operations Committee.
1. The Investigation report prepared by the Investigator must ensure the confidentiality and privacy of all individuals involved in the Investigation, to the greatest extent reasonably possible.
- vi. Both the Complainant(s) and the Respondent(s) shall receive a copy of the Investigation report seven (7) days prior to the meeting of the AMS Operations Committee in which the Investigation report will be presented.

d. Decisions and Outcomes

- i. The AMS Operations Committee will review the Investigation report from the Investigator *in camera* and render a decision on whether on the balance of probabilities Sexual Violence has occurred.
- ii. In the case of real or apparent conflicts of interest, members of the AMS Operations Committee shall recuse themselves from the adjudication process completely.
- iii. If, upon review of the evidence and findings of the Investigation report, the AMS Operations Committee concludes that on the balance of

probabilities that Sexual Violence has occurred, they may impose disciplinary actions on the Respondent as laid out in the Report.

1. if the AMS Operations Committee decides that the Respondent is to be banned from the Premises, the Investigator is responsible for providing a notice and letter of prohibition of entry to the Respondent;
 2. if the AMS Operations Committee decides that the Respondent is to be banned from AMS Clubs, the Investigator is responsible for providing a notice and letter of expulsion from AMS Clubs to the Respondent;
 - a. if the Respondent is a member of any AMS Club during their expulsion, the Respondent will not be provided with a refund of their AMS Club membership fees.
- iv. The Investigator is responsible for informing both the Complainant and Respondent about the decision in writing.
1. if the Respondent has been prohibited from entering the Premises, the Investigator is responsible for providing notice to the AMS Building Operations, including the Respondent's appearance, name, and prohibition of entry;
 2. if the Respondent has been expelled from AMS Clubs, the Investigator is responsible for providing a notice that will go to the AMS Building Operations about the Respondent's appearance, name, and their expulsion from AMS Clubs.
- v. Files will be maintained by the Human Resources Department.

e. Appeals

- i. Requests for an appeal must be submitted to the Ombuds Office, and shall include:
 1. any pertinent evidence;
 2. a brief statement explaining any change in circumstances and grounds for appeal.
- ii. The Ombuds Office will forward requests for an appeal to the AMS Operations Committee, along with the original files from the case.
- iii. The AMS Operations Committee will review the appeal request and reach a decision, which will be delivered to the Appellant and Respondent in a brief statement outlining the reason for the decision.

2. If the Respondent is an AMS Staff:

a. Disclosure

- i. The choice to Disclose and the choice to provide a Report are separate decisions.
 - 1. an individual may choose to Disclose without providing a Report or beginning an Investigation;
- ii. A Disclosure does not initiate an Investigation;
- iii. Disclosures are to be treated as confidential and respect the privacy of the individual Disclosing;
- iv. The AMS Sexual Assault Support Centre provides free and confidential crisis and short-term emotional support to any individual of all genders;

b. Reporting

- i. AMS Staff wanting to submit a Report must make them to the Human Resources Manager;
 - 1. the Report must be made in writing and should include the relevant information to the incident;
 - 2. for an Investigation to be initiated, the Human Resources Manager must have the Consent of the Complainant and inform them about the disciplinary measures that can be taken;
 - 3. the AMS Sexual Assault Support Centre is available to provide the Complainant with assistance in preparing the Report.
- ii. After a Report has been submitted to the Human Resources Manager:
 - 1. the Human Resources Manager shall be the Investigator;
 - a. in the case where the Human Resources Manager is in a real or apparent conflict of interest, the Ombuds Office will be the Investigator;
 - i. in the case where the Ombuds Office is in a real or apparent conflict of interest, the Managing Director will assign an Investigator.
 - 2. the Investigator will provide the Complainant with a pre-Investigation letter containing information regarding the Investigation process and resources available to them;
 - 3. the Investigator will contact the Respondent to inform them that a Report has been submitted and provide them with a pre-Investigation letter containing information regarding the Investigation process and resources available to them.

c. Investigations

- i. The Investigator is required to perform their responsibilities in a manner that is neutral and impartial;
- ii. The Investigator may carry out the Investigation in any manner they deem appropriate, within the limits of provisions in this policy, in the circumstances. They may include, but not limited to, the following:
 - 1. meeting with or requesting further information from the Complainant;
 - 2. meeting with or requesting further information from the Respondent;
 - 3. meeting with or requesting further information from any other individuals who may have information relevant to the Investigation; and
 - 4. obtaining any other evidence that may be relevant to the Investigation.
- iii. Investigations will be completed within 45 days of the Human Resources Manager's receipt of the Report from the Complainant;
 - 1. if the Investigator does not believe they can complete the Investigation within the 45-day timeline, the Investigator will inform the Complainant and the Respondent about the revised timeline of the Investigation.
- iv. The Complainant and Respondent may provide submissions to the Investigator at any point during the Investigation.
- v. Upon completion of the Investigation, the Investigator shall prepare and Investigation report with a summary and findings of the Investigation, along with a recommended course of action, to be submitted to the Managing Director.
 - 1. The investigation Report prepared by the Investigator must ensure the confidentiality and privacy of all individuals involved in the Investigation, to the greatest extent reasonably possible.
- vi. Both the Complainant(s) and Respondent(s) shall receive a copy of the Investigation report seven (7) days prior to the Investigation report being presented to the Managing Director.

d. Decisions and Outcomes

- i. The Managing Director will review the Investigation report and render a decision on whether on the balance of probabilities Sexual Violence has occurred.

1. if the Managing Director is in a real or apparent conflict of interest, the AMS President shall review and adjudicate the Investigation.
- ii. If, upon review of the evidence and findings of the Investigation report, the Managing Director or AMS Report concludes that Sexual Violence has occurred, they may impose disciplinary actions on the Respondent, up to and including termination of the Respondent's employment.
- iii. The Investigator is responsible for informing both the Complainant and Respondent about the decision in writing.
- iv. Files will be maintained by the Human Resources Department.

Consultations:

The groups/individuals consulted on this Policy have been:

AMS Policy Advisor, SASC Manager, AMS Human Resources Manager, AMS Legal Counsel

History:

N/A

Related Policies:

I-X: Respectful Environment Policy

Appendix/Appendices:

N/A