



**AMS Annual General Meeting
October 29th, 2020**

Proposed Bylaws Changes: Removal of Student Court

Summary of Proposed Changes

The AMS is excited to be proposing the following package of Bylaw changes for consideration at the 2020 Annual General Meeting. The amendments included in this package are mostly operational, and are intended to modernize AMS Bylaws and ensure our systems are working efficiently and fairly for our members and staff.

Why are these changes being made?

The elimination of the AMS Student Court serves multiple purposes in streamlining the Society's Bylaws. First, the Student Court has been a defunct body for nearly a decade that no longer functions nor serves a purpose. Although the body previously held jurisdiction over reviews of referendum questions and violations of the Society's Code, Bylaws, and Constitution, the decisions of the Court were still subject to the approval of the AMS Council. This historically has led to situations where the AMS Council, composed of elected representatives from all faculties and schools, rejected rulings of the Court. As a result, the Court was redundant and served more as a barrier, since it required logistical resources and demanded that students hold a strong working knowledge of AMS governance policies and structures.

Currently, the elected AMS Council remains the highest governance body that reviews referendum questions and violations of the Society's Constitution, Code, and Bylaws. The intention of these changes is to update AMS Bylaws to reflect this.

All of the proposed changes in this package have already been brought to the membership in referendums in 2018, 2019, and 2020. In 2019 and 2020, changes to Student Court were included as part of a larger omnibus package.

On all occasions, the package received a significantly higher number of YES votes to NO votes, but failed to pass due to not hitting a quorum of approximately 4700 YES votes. Here are the results from all relevant referendums:

2018 General Election and Referendum	2019 General Election and Referendum
YES: 2887 (66.6%) NO: 1446 (33.4%)	YES: 4369 (76.6%) NO: 1335 (23.4%)
2020 General Election and Referendum	2020 Special Election and Referendum
YES: 3549 (87.2%) NO: 520 (12.8%)	YES: 1677 (60.8%) NO: 1083 (39.2%)

This package will be brought forward for adoption as an omnibus package at the Annual General Meeting. This means that the following proposed changes will be voted on all at once.

You can find a summary of the changes below. Relevant sections are **highlighted**. Proposed deletions are indicated with a ~~striketrough~~, and proposed additions with ***bolded italics***.

Bylaw 1	Removal of Student Court Definition
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~~Court shall mean the student court of the Society~~

Bylaw (2)(2)(b)	Removal of mention of Student Court from Expulsion procedures.
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2. Expulsion From the Society

A Member ceases to be a member of the Society upon:

- (a) falling to meet the requirements as set out in Bylaw 2(1); or
- ~~(b) on the ruling of the Court pursuant to Bylaw 21; or~~

Bylaw 4(3)	Removal of mention of Student Court from Referendum Procedures.
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3. Subject to Bylaw 4(5), a referendum shall be put to the members not less than ten (10) days and not more than thirty (30) days after the passing of a Resolution of Council calling for the referendum or the submission to the Vice-President Academic and University Affairs of a

petition referred to in Bylaw 4(1)(b) *and conforming to the rules in Bylaw 4(2)*, or not less than ten (10) and not more than thirty (30) days after the Court supplies Council with a suitable text for the question if the referendum is referred to the Court in accordance with Bylaw 4(2):

Bylaw 21

Removing Student Court from AMS Bylaws

BYLAW 21: STUDENT COURT

(a) The Court shall, subject to the University Act, the Societies Act, and the Constitution and Bylaws, exercise disciplinary powers over the Society's organizations and members.

(b) Notwithstanding this Bylaw, the Court shall have no authority to fetter the discretion of Council with regard to handling or disbursing the funds of the Society.

(c) For greater certainty, the Court shall have jurisdiction:

i) over individuals:

(1) for any alleged violation of the Society's Constitution, Bylaws or Code, and

(2) for any alleged violation of any rule, resolution or regulation passed by Council or the Society, and

(3) for any behaviour deemed unbecoming to a Member of the Society.

ii) over the Society's organizations:

(1) for any alleged violation of the Society's Constitution, Bylaws or Code, and

(2) for any alleged violation of any rule, resolution or regulation passed by Council or the Society, and

(3) for alleged failure to maintain a proper standard of conduct at any event sponsored or organized by that organization or by the Society or any other organization, and

(4) for the violation of the constitution or bylaws of any subsidiary organization of the Society.

(d) For any violation of Bylaw 21(1)(c)(i), the Court may:

- i) impose fines not in excess of ten dollars (\$10.00) per Member, and
- ii) suspend that individual from all Society privileges for any period less than one School Year.

(e) For any violation of Bylaw 21(1)(c)(ii), the Court may:

- i) subject to Bylaw 21(1)(b), order that restitution be made by payment out of the general funds of that organization of such amount as the Court shall see fit in all the circumstances, all such amounts to be applied towards remedying any loss or damage caused;
- ii) in extreme cases, order in addition the suspension of that organization from the Society; iii) declare that an action is void and of no effect, and that the organization must take the appropriate steps to remedy the situation;

2. The Court shall be constituted by and shall be governed by the following provisions.

(a) The Court shall consist of five (5) judges and two (2) alternate judges who are active members and are appointed by Council. Council shall also appoint a Chief Justice from the seven (7) judges.

(b) The Chief Justice and at least one alternate judge shall be members of the Law Constituency.

(c) The Chief Justice shall be entering or enrolled in third year Law at UBC Vancouver.

(d) When appointed by the Chief Justice to sit on a particular hearing, alternate judges shall have the full rank and authority of Judges.

(e) A quorum of the Court shall be five (5) judges.

(f) Council shall, in the Code, determine the rules of procedure to guide the conduct of all hearings before the Court. These rules shall be consistent with the principles of natural justice which shall likewise govern the conduct of all hearings.

(g) Each individual brought before the Court is entitled to be represented by an active member.

(h) In any proceeding in which an organization of the Society is proceeded against:

- i) Service upon the President or Chair of that organization of the charge or of any notice required by this Bylaw shall be deemed service upon the organization.

ii) The President and two (2) members in good standing of the organization proceeded against are to be appointed by resolution of the organization to represent the said organization in the proceedings.

iii) In addition to the representation provided by (ii) hereof, each organization of the Society proceed against shall be entitled to be represented by one additional active member.

(i) The Court shall be the final interpreter within the Society of the meaning of the Constitution, Bylaws and Code of the Society and shall deliver a written opinion upon any portions thereof at the request of Council or any active member of the Society. The Court shall, in the case of any ambiguity existing in the meaning of a Bylaw, interpret that Bylaw as written, and in no other way.

(j) No appeal shall be taken from an acquittal by the Court.

(k) No judgment of the Court pronounced under the jurisdiction of this Bylaw shall be acted upon or become binding until that judgment has been received by a Resolution of Council.

(l) Court shall, within one (1) calendar week of Council referring a referendum to Court in accordance with Bylaw 4(2), supply Council with a suitable text for that referendum question.

3. The Court may be summoned by Resolution of Council, or by any active member who may make an application in writing to the clerk of the Court, as provided in the rules of the procedure of the Court. It shall be a duty of Council to receive and inquire into the complaint of any Member or employee of the Society which is submitted according to the rules of procedure of the Court. Each person against whom, in the opinion of Council or its designated committee, there exists a prima facie case within the jurisdiction of the Court, shall be handed a formal charge, as provided in the Code no later than three (3) clear days before the date set for the hearing of the case.

4. For any violation pursuant to Bylaw 21(1)(c) brought to the Court, Council shall appoint a Prosecutor who shall be an active member. 5. A clerk of the Court shall be appointed by Council and the clerk's duties shall be:

(a) To publish a notice as provided in the rules of procedure of the Court before each sitting of the Court.

(b) To prepare a room suitable for a sitting of the Court for the time, day and place specified in the notice of charge duly received by the accused in that proceeding.

(c) To take possession of and be responsible for the production of all exhibits and other materials relevant to a proceeding.

(d) To record the judgment of the Court, the course of the proceedings and in particular, the points of evidence adduced by counsel and to keep the same in a secure place.

(e) To request of each witness and each accused called to give testimony and undertaking in the terms provided in the rules of procedure of the Court.

(f) To request of each witness and each accused a statement of his or her faculty and year.

(g) To publish by notice on the Society's website or other electronic notice board and in the Ubysey or other campus publication the decision of the Court.