

**CODE CHANGES 2020:
UPDATES RESULTING
FROM BYLAW AMENDMENTS**

TO: Council
FROM: Governance Committee
November 2020

Amendments to Code consequent on the passing of the Bylaw amendments in October (the abolition of Student Court etc.).

Additions are indicated by ***bold italics***. Deletions are indicated by striking through (~~this~~).

SECTION I: GENERAL

Article 1. Authority and Interpretation of the Code

...

4. In this Code, unless the context otherwise requires:

~~“Honorary Members” shall be another term for what are referred to in the Bylaws as
“Associate Members”;~~

SECTION XIV: RIGHTS & OBLIGATIONS OF MEMBERSHIP

Article 2. Associate and Honorary Members

1. ***In accordance with Bylaw 2(b)(ii), Council may designate persons who are in good standing with the Society as Associate Members or Honorary Members by means of a Two-thirds (2/3) Resolution.***

1. Associate ***Members and Honorary*** Members shall have the right to:

- (a) attend and be heard, but not to vote, at all General Meetings of the Society;
- (b) use the facilities of the AMS Student Nest as if they were Active Members; and
- (c) voice their views and concerns about the Society to Council.

2. Associate ***Members and Honorary*** Members who are not also Active Members shall neither be nominated for nor hold:

- (a) any voting position on Council;
- (b) a voting position on any Society Committee;
- (c) the position of Chair on any of the Society’s Committees; or

- (d) any position on an executive committee of any Subsidiary Organization, except where provided for by the constitution or bylaws of that organization.

SECTION II: COUNCIL, COUNCIL MEMBERS, AND OTHERS

Article 10. Ombudsperson and Advocacy Office

- 8. Pursuant to Bylaw 9(1)(d), the **The** Ombudsperson shall refer Active Members seeking assistance with complaints or questions regarding the University either to the University Ombudsperson or to the Advocacy Office.

Commented [A1]: This bylaw section (empowering the Ombudsperson to represent students to the University) has been repealed.

SECTION IX A ELECTORAL PROCEDURES

Article 4. Referendum Regulations

- 4. Referendum questions shall adhere to a standard format and conform to the following rules:
 - (a) The question shall be phrased in such a way that it can be answered 'yes' or 'no'.
 - (b) Nothing illegal may be proposed by the question.
 - (c) In cases where the proposed question would break a contract, the intent to break the contract must be specifically stated and the penalty for breaking the contract must be included as part of the question.

Commented [A2]: Redundant now: the new Bylaws include these provisions.

[And remove all references to Student Court, including all of Section XV.]

SECTION XV: STUDENT COURT

Article 1. General Provisions

- 1. Any Member of the Society may make an application in writing to the Clerk of the Court requesting:
 - (a) a hearing, pursuant to Bylaw 21(1)(e); or
 - (b) an interpretation of the Constitution, Bylaws or Code of the Society, pursuant to Bylaw 21(2)(i).
- 2. No application for a hearing pursuant to Bylaw 21(1)(e) may be submitted to the Clerk of the Court more than six months after the event to which it refers.

3. ~~Judges shall receive the following orientation and materials before hearing their first case:~~

~~(a) an overview of the Society's Code, Bylaws, and Constitution provided by the Archivist & Clerk of Council;~~

~~(b) a guide to the general workings of the Society, provided by an appropriate Society staff member.~~

~~(c) copies of the Constitution, Bylaws, and Code, along with an index of past Court cases.~~

4. Guiding Principles

~~(a) The Court shall not make rulings of a political nature, or stray into the area of policy making. To this end, the Court shall interpret the Code, Bylaws, and Constitution of the Society without addition to or omission of any language set out within them.~~

~~(a) The Court shall take into consideration the available case law from previous Court rulings.~~

~~(b) The Court shall seek out information and informed opinion from Society officials when relevant to cases before it.~~

Article 2. Officers

1. ~~The following shall be the Officers of Student Court:~~

~~(a) five (5) judges and two (2) alternate judges, one of whom shall be appointed by Council to be the Chief Justice; and~~

~~(b) the Clerk of the Court, who shall be an Administrative Officer and who shall not have a vote in making the Court's decisions.~~

2. ~~Officers of Student Court, with the exception of the Clerk, must be Active Members of the Society. The Clerk may but need not be an Active Member. Officers shall be appointed by a Resolution of Council, upon the recommendation of the Human Resources Committee. Notwithstanding this provision, Council may appoint Officers of Student Court by a Two-thirds (2/3) Resolution without a recommendation from the Human Resources Committee.~~

3. ~~To ensure the independence of the Court, Officers shall not hold any other appointed or elected position within the Society and must not have held any such position during the six (6) months prior to appointment. However, this provision shall not be interpreted so~~

as to prohibit incumbent Officers from applying for additional terms as Officers of the Court in the same or other capacities.

4. Any Officer of the Court may ask the Archivist & Clerk of Council or the Ombudsperson to offer advice on procedural matters, investigatory procedures, and operations.

Article 3. — The Clerk of the Court

1. Pursuant to Bylaw 21(3) and 21(5)(a), the Clerk of the Court shall:

(a) submit applications received by them in accordance with Article 1 above to the Court within seven (7) days of receipt;

(b) present, for information, a copy of such applications to Council within seven (7) days of receipt, or at Council's next meeting, whichever is later;

(c) publish in a campus publication a notice of hearing no less than three (3) business days prior to the sitting of the Student Court in any matter;

(d) submit the records of the Court to the Society's Archivist & Clerk of Council for safekeeping; and

(e) have such other duties as are assigned by Council from time to time.

Article 4. — Rules of Procedure

1. The following text outlines the rules of procedure which shall govern the operation and form of the Student Court of the Society.

(a) The Court shall publish a notice of hearing in a campus publication or through the Society's other communications channels at least three (3) business days prior to the hearing of any matter, except where the Chief Justice deems the matter in issue to be one that requires early hearing, whereupon the Court may sit as soon as the notice is published.

(b) The Court shall, subject to these Rules, assemble at the time and place set by the Chief Justice no less than five (5) business days prior to the hearing.

(c) The Court may, at its discretion, and upon written application by any party to a hearing, consider a rehearing if that party can satisfy the Court that the Court failed to consider a matter relevant to the hearing. The decision of the Court on an application to reconsider shall be final.

- (d) ~~The decision of the Court shall be the decision of the majority of the judges who have heard the case in its entirety.~~
- (e) ~~(i) At the conclusion of a hearing, the Court may render its decision orally or reserve its decision for a period not to exceed fourteen (14) days.~~
- ~~(ii) The Court shall in any case submit a written decision and reasons therefor to Council not later than the first meeting of Council after fourteen (14) days have passed since the conclusion of a hearing.~~
- ~~(iii) The Court shall publish its decision to the student body at large, provided however that the judgement of the Court has been received by a Resolution of Council prior to publication. Notwithstanding this provision, in disciplinary cases the Court shall not to publish its decision unless Council by Resolution orders it to be published.~~
- ~~(iv) The Court shall make its reasons for decision available through the Clerk of the Court to any member in good standing.~~
- (f) ~~The hearings of the Court shall be open to any member in good standing except in disciplinary cases, where an accused may, by petition to be received by the Clerk of the Court at least one (1) day prior to the hearing, request that the proceedings be closed to the public, in which case the Court may, at its discretion, make such an order. All said petitions shall be in writing, setting forth in full the reasons for the request.~~
- (g) ~~Any notice required to be published by the Constitution, Bylaws, Code of Procedure, or these Rules in the *Ubysey* or other campus publication may be made public by any other method which the Chief Justice shall provide for in the event that the *Ubysey* or other campus publications are not publishing or fail to publish at the material times.~~
- (h) ~~Any objection based on procedural grounds and presented to the Court during any particular proceeding may only result in an adjournment of one (1) week during which time the matter may be righted. In no case will the jurisdiction of the Court be ousted upon procedural grounds alone.~~

Article 5. — Disciplinary Cases

1. ~~Upon the direction of Council pursuant to Bylaw 21(3) or upon application in writing to the Clerk of the Court pursuant to Bylaw 21(3), the Clerk of the Court shall:~~
- ~~(a) issue to the accused notification of the charge; and~~
- ~~(b) inform the Chief Justice of the charge and under their direction set a date, time and place for a trial.~~

2. ~~If an accused cannot appear before the Court on the date set for trial, they shall submit the reasons in writing to the Clerk of the Court no later than two (2) days before the trial date. Failure to appear before the Court without having submitted sufficient reasons in writing may be deemed contempt of Court.~~
3. ~~On an initial finding of contempt under paragraph 2 above, the Court shall not treat the accused as being in violation of Bylaw 21(1)(c)(i), and shall not proceed with the trial, but instead shall take such action as it deems appropriate to ensure the appearance of the accused at a later date. Where an accused fails to appear before Court after repeated attempts by the Court to elicit appearance, the Court shall have the discretion to treat said failure as a breach of Bylaw 21(1)(c)(i), and make a ruling accordingly.~~
4. ~~Procedures for the handling of disciplinary cases shall be set out by the Court. Such procedures may be amended by a Two thirds (2/3) Resolution of Council.~~

Article 6. Reference Cases

1. ~~Upon the direction of Council pursuant to Bylaw 21(2)(i) or upon the request of the Governance Committee to initiate Student Court proceedings in a case of interpretation of the Constitution, Bylaws or Code, the Clerk shall:
 - (a) ~~notify the Chief Justice; and~~
 - (b) ~~under the direction of the Chief Justice, set a date, time and place for hearing the matter and comply with Article 4(1)(a) above.~~~~
2. ~~Parties interested in making submissions to the hearing shall either:
 - (a) ~~notify the Clerk of the Court in writing of their intention to appear before the hearing commences; or~~
 - (b) ~~provide a written submission to the Clerk of Court no less than one (1) business day before the hearing commences.~~~~
3. ~~Should a party choose to appear before the Court to provide a submission, said party shall have no more than ten (10) minutes to make their submission.~~
4. ~~Further procedures related to the handling of reference cases shall be set out in the procedures of the Court.~~