

Number & Title: PC1: Respectful Community and Workplace Policy

Effective Date:
September 23, 2019

Approval Date:
August 21, 2019

Policy Type:
Internal Policy

Review Date:
This policy shall be reviewed every two years.

Responsible Body:
Executive Committee

Designated Executives and Staff Members:
Human Resources Manager and President

Authority:
AMS Code of Procedure Section II, article 11(1)
“Council may create external and internal policies as well as combined policies.”
WorkSafeBC: OHS Regulations 4.1, 4.24 - 4.31 and OHS Policies D3-115-2, D3-116-1, and D3-117-2, and R-4.27.1 - 4.31.1.

Purpose and Goals:
The purpose of this policy is to set clear expectations for the provision and maintenance of a workplace and student environment that ensures that all individuals are treated with respect and dignity and are able to work and function in an environment free from Bullying and Harassment, Discrimination, and Violence.

The goal of this policy is to promote an environment that is free from Bullying and Harassment, Discrimination, and Violence and to address inappropriate behaviour at the earliest stage.

Zero Tolerance:
The AMS prohibits and will not tolerate Discrimination, Bullying and Harassment, and/or Violence, and will make every reasonable effort to ensure that the people who work for the AMS and to whom the AMS provides services, as well as those who join AMS clubs, are not subjected to Discrimination, Bullying and Harassment, or Violence. Persons who engage in Discrimination, Bullying and Harassment, or Violence are in violation of this policy and will be subject to corrective action, as set out below.

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. This policy also applies to

contractors, which are included as AMS Staff, but the application of this policy does not impact their contractor status.

Situations covered by this policy include all work-related activities as well as interactions with third parties such as suppliers, service and delivery personnel, members, and the public at large.

Exclusions:

There are no exclusions for this policy.

Definitions:

1. **“Bullying and Harassment”**: any inappropriate conduct or comment by a person towards another person that the first person knew or reasonably ought to have known would cause the second person to be humiliated, intimidated, or unsafe;
 - a. with respect to AMS Staff, Bullying and Harassment excludes any reasonable action taken by a manager relating to management and/or direction, or the place of employment;
 - b. with respect to AMS Members, Bullying and Harassment excludes any reasonable action taken by a person in good faith with respect to the provision of AMS services or the performance of AMS functions.
2. **“Discrimination”**: making a distinction, whether intentional or not, based on grounds enumerated in human rights legislation, which has the effect of imposing burdens, obligations, or disadvantages on an individual or group not imposed on others;
3. **“Violence”**: the threatened, attempted or actual exercise of physical force by a person against another that causes or could reasonable cause physical injury, including making a statement or engaging in behaviour that causes a person to believe that they are at risk of physical injury;
4. **“AMS Member”**: as defined by AMS Bylaw 2, Section 1(a), but limited to Active Members who are not also considered as an AMS Staff;
5. **“AMS Staff”**: any individual who is an employee, volunteer, appointee, or contractor of the AMS;
6. **“Complainant”**: the individual who is filing a complaint;
7. **“Respondent”**: the individual against whom a complaint is filed.

Specific Examples of Discrimination and Bullying and Harassment

Examples of personal Bullying and Harassment that are not based on a ground protected by human rights legislation, but which would still be prohibited under this policy are:

- Insults or verbal aggression, such as yelling, swearing, name-calling, and intentional humiliation.
- Multiple or destructive “pranks” or “practical jokes” directed towards an individual, or targeted group of individuals, including harmful hazing or initiation practices.
- Vandalizing or otherwise damaging or defiling personal belongings, work area or work product.
- Isolating or ignoring, or unwarranted exclusion from organized team building activities.

- Spreading malicious rumours (regardless whether they are believed to be true).
- Cyber-Bullying

Although Bullying and Harassment typically refer to a series of incidents, a single serious incident may constitute Bullying and Harassment. It may take place in different ways, including one-to-one, in a group, or through electronic means (e.g., e-mail or social media).

Sexual harassment is the most common form of Discrimination based on a ground enumerated in human rights legislation; it is a form of Discrimination based on sex, sexual orientation, or gender identity or expression. Examples of sexual harassment include:

- Making or threatening reprisals after a negative response to sexual advances.
- Making unwelcome sexual advances, propositions, flirtations, leering, or repeated unwelcome requests for or efforts to make social contact, including asking questions about sexual conduct or sexual orientation or spreading rumours about such information.
- Making comments about an individual's body, sexual prowess, sexual orientation, gender identity or expression, or sexual deficiencies or using sexually degrading or vulgar words to describe an individual or making derogatory sexual comments
- Displaying or distributing sexually suggestive or gender-based objects, pictures, posters, cartoons, letters, or e-mails.

Sexual Violence is also addressed by and prohibited under AMS's stand-alone Internal Sexual Violence Policy (Policy I-17).

Examples of Bullying and Harassment on the basis of other enumerated grounds of Discrimination include:

- Offensive jokes related to race or nationality.
- Racial slurs or commentary.
- Display of literature or materials (including electronic documents such as email, texts and social media posts) or rhetoric that promotes the supremacy of one race or ethnic group or belittle a race or ethnic group.
- Mimicking a person's accent, speech or mannerisms
- Hate speech or discriminatory rhetoric.

If you are not sure whether conduct is offensive, it probably is. Questions about whether specific conduct falls within the scope of this policy may be directed to the AMS Human Resources Manager or the Ombudsperson.

Responsibility:

It is everyone's responsibility to create and maintain a workplace and student environment that is free from Bullying and Harassment, Discrimination and Violence by treating others with dignity and respect. All individuals are accountable for their own behaviour and must know and comply with this policy.

All AMS Members and AMS Staff are expected to:

- refrain from engaging in Discrimination, Bullying and Harassing behaviours, and Violence;
- report all instances of Discrimination, Bullying and Harassment, and Violence whether they are the target or a witness of such an incident;
- refrain from making false, vexatious or unsubstantiated allegations about Discrimination, Bullying and Harassment or Violence;
- comply with AMS policies and procedures; and
- attend training sessions as required to better understand their rights and obligations under this policy.

Retaliation Prohibited

The AMS prohibits retaliation, which includes threats of retaliation, against any individual for reporting a concern or filing a complaint in good faith under this policy or cooperating in an investigation. Retaliatory behaviour may include, but is not limited to:

- Unwarranted criticism of a person, including bad mouthing (i.e. defaming) them or their job performance.
- Ostracizing the person, including refusing to speak to or work with the person.
- Failing to extend to a person an opportunity available to others, including the unjustified reassignment of a person to different duties or a different position.
- Seeking to persuade the Complainant to withdraw a complaint.

Retaliatory behaviour does not include good faith job performance assessments, normal work-related comments and direction, or discipline for just cause. Nor does it include good faith provision of AMS Services or the performance of AMS functions.

Any AMS Staff who believes that they have been subjected to retaliation should immediately report the matter to their immediate supervisor or the AMS Human Resources Manager. Any AMS Member who believes that they have been subjected to retaliation should immediately report the matter to the Ombudsperson. All complaints of retaliation will be investigated in accordance with the investigation process.

Responding to Violence

Any AMS Staff or AMS Member who witnesses or experiences any Violence should first take all necessary and reasonable steps to ensure their own safety and the safety of others.

In the event of emergency, local emergency personnel should be contacted immediately by calling 9-1-1.

Once safe, the AMS Staff and/or AMS Member should immediately report the incident to their immediate supervisor, the AMS Human Resources Manager, or the Ombudsperson.

All incidents of Violence must be reported and documented, whether any individual is injured or not. All incidents requiring reporting under the Workers Compensation Act and/or Occupational Health and Safety Regulations will be reported to WorkSafeBC.

Incidents of sexual violence will be addressed under AMS's standalone Internal Policy on Sexual Violence (Policy I-17).

Responding to Discrimination or Bullying and Harassment

The AMS encourages people within the scope of this policy to address any conduct that they consider to be inappropriate or unwelcome in an informal manner by advising the individual of the concern and asking them to stop the offending behaviour. A person approached in this manner should immediately stop the offending conduct or comments.

If that approach is not successful or appropriate and a person feels that they have been the victim of Bullying and Harassment or Discrimination, or if a person witnesses conduct that they believe is Bullying, Harassment or Discrimination, the person shall report this as follows:

- If the Respondent is an AMS Staff, the report should be to the Human Resources Manager. If it is not appropriate to approach the Human Resources Manager, the AMS Staff may report to the Managing Director.
- If the Respondent is an AMS Member, the report should be to the Ombudsperson Office.

Complainants are encouraged to use the attached Respectful Community and Workplace Complaint Form to record details of their complaint.

Investigation Process

Where an informal process does not resolve the conduct, or the nature of the conduct is unlikely to be resolved by an informal process, an AMS Staff or AMS Member should pursue a formal complaint. AMS responds to all complaints with an investigation.

AMS Staff should submit their complaint(s) and initiate an investigation by reporting to the Human Resources Manager. If the Human Resources Manager is in a conflict of interest, the AMS Staff in questions can report to the Ombudsperson.

AMS Members should submit their complaint(s) and initiate an investigation by reporting to the Ombudsperson. If the Ombudsperson is in a conflict of interest, the AMS Member in question can report to the Human Resources Manager.

AMS will assign an appropriate neutral party to conduct an investigation into the merits of the complaint.

Investigations will generally be conducted within 30 days after receiving the complaint. The complexity of a complaint or other circumstances may result in an investigation taking longer.

While the AMS will tailor the nature of the investigative process to the particular circumstances of each case, the investigation will usually include:

- interviewing the Complainant and the Respondent;
- interviewing any witnesses to the conduct;
- gathering and reviewing relevant documents, telephone, voice, data, text messages and any other record including written statements, notes, emails, pictures and other electronic records;
- making findings of fact and conclusions;
- communicating the findings and conclusions to the parties involved, as appropriate;
- determining the appropriate follow up action.

All persons, including the Complainant and Respondent, are expected to fully cooperate with the investigation process. This may include providing information in an interview, submitting a written statement, and/or disclosing emails or documents.

The process for investigating complaints may range from a relatively informal process where a few words are all that is needed to resolve the matter to a more formal process involving extensive submissions, fact-finding and the use of outside counsel. The AMS will make the decision as to the appropriate resources to allocate to each complaint and as to the process for the investigation.

Additional Resources

All parties may consult with the AMS Ombudsperson office as a resource throughout this process. AMS Members, or those with concerns relating to an AMS Member or to an AMS-sanctioned program, event or activity, may also consult with the AMS Ombudsperson for information, advice, support and referrals relating to matters of Discrimination, Bullying and Harassment, or Violence.

Confidentiality

A Complainant has the right to ask that their reporting of a complaint be kept confidential.

The AMS will not disclose the name of the Complainant to any person except where disclosure is necessary for the purposes of investigating the complaint or taking responsive measures in relation thereto or where disclosure is required by law.

In almost all complaints, the AMS will have to disclose to the Respondent and potential witnesses enough information about the complaint to allow them to give meaningful evidence. This often involves or results in identification of the Complainant.

As part of the complaint resolution process under this policy, the following persons, their staff and assistants will also usually have access to information arising from the complaint:

- The person to whom the Complainant reports the conduct;
- The investigator;
- The person or people who determine the appropriate corrective action; and

- Legal counsel or outside third parties who are called upon to assist with the complaint resolution process.

All reports, records and decisions produced through the investigation process are treated as containing confidential and personal information and are subject to the AMS' policies relating to the use and non-disclosure of such information.

Any unauthorized breach of confidentiality will be treated seriously and may result in discipline up to and including immediate termination of employment or similar sanction.

Corrective Action

Depending on the circumstances, the AMS may do one or more of the following where Discrimination, Bullying and Harassment, or Violence is substantiated.

Where the Respondent is an AMS Staff, the appropriate supervisor may:

- Make a note of the incident on the individual's record;
- Provide the person with a verbal warning;
- Provide the person with a written warning;
- Require that the person attend training;
- Require that the person attend counselling;
- Transfer the person, either laterally or through demotion;
- Suspend the person with or without pay;
- Terminate the employee's employment or the volunteer's or appointee's services;
- Contact the police; and/or
- Seek a remedy through a civil claim or other court action.

Where the Respondent is an AMS Member, the AMS Operations Committee may:

- Make a note of the incident on the individual's record;
- Provide the Respondent with a verbal warning;
- Provide the Respondent with a written warning;
- Ban the Respondent from AMS property;
- Ban the Respondent from an AMS Club or AMS Clubs;
- Contact the police; and/or
- Seek a remedy through a civil claim or other court action.

Respondent as Member of AMS Council

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 UBC Senate, that also holds a seat on AMS Council, AMS Council will be responsible for adjudicating cases and determining the appropriate corrective action.

Review of Decision

Where corrective action results in an AMS Member being suspended or expelled, that AMS Member may apply for a review of decision to the AMS as follows:

- a. Requests for a review of decision must be submitted to the Ombudsperson, and shall include:

- i. any pertinent evidence;
 - ii. a brief statement explaining any change in circumstances and grounds for appeal.
- b. The Ombudsperson will forward requests for a review to the previous adjudicating body, along with the original files.
- c. The Operations Committee will review the request and reach a decision, which will be delivered to the individual requesting for review and the Respondent to the review in a brief statement outlining the reason for the decision.

AMS Rights

This policy may be changed or amended by AMS from time to time.
Nothing in this policy replaces any other legal rights a person may have.

Consultations:

The following groups have been consulted during the development of this policy:
AMS Policy Advisor, SASC Manager, AMS Human Resources Manager, AMS Legal Counsel, AMS Council, AMS Executive Committee, Panhellenic Council, Interfraternity Council, Constituencies, Student Resource Groups.

History:

N/A

Related Policies:

I-17: AMS Sexual Violence Policy

Appendix/Appendices:

There are no appendices for this policy

ATTACHMENT #5 – AMS RESPECTFUL COMMUNITY AND WORKPLACE REPORT FORM

This form should be used to report a complaint under the AMS Respectful Community and Workplace Policy. This form should be completed as soon as possible after an incident of Bullying and Harassment or Discrimination has occurred. If you intend to submit a formal report and **the Respondent (individual you are reporting) is an AMS Staff**, please submit this form to the Human Resources Manager (praneetsandhu@ams.ubc.ca). If you intend to submit a formal report and **the Respondent (individual you are reporting) is an AMS Member**, please submit this form to the AMS Ombudsperson (ombudsperson@ams.ubc.ca).

SASC can also assist you with completing this form. SASC can be contacted at:

| Sexual Assault Support Centre | |
|-------------------------------|-----------------|
| Phone: | 604-827-5180 |
| Email: | sasc@ams.ubc.ca |
| Website: | amssasc.ca |

Privacy Notification: This form will be treated in accordance with the AMS Respectful Community and Workplace Policy and the AMS Privacy Policy. The AMS will not disclose information on this form to any individual except where disclosure is necessary for the purposes of investigating the complaint or taking responsive measures in relation thereto or as otherwise permitted by the Respectful Community and Workplace Policy. Note that in almost all complaints, the AMS will have to disclose to the party being accused of Bullying and Harassment or Discrimination, and potential witnesses enough information about the complaint to allow them to give meaningful evidence. This may involve or result in the disclosure of information in this form. If you have any questions about the collection or disclosure of this information, please contact the AMS Human Resources Manager (praneetsandhu@ams.ubc.ca) or the AMS Ombudsperson (ombudsperson@ams.ubc.ca).

| SECTION A: YOUR INFORMATION | |
|---|---|
| First name: | Last name: |
| Contact information: | |
| SECTION B: INFORMATION ABOUT THE INDIVIDUAL YOU ARE REPORTING | |
| First name: | Last name: |
| Are they (select all that apply): | |
| AMS Member (i.e. UBC Student) | If known, what organization or group(s) is this person affiliated with? |

| | | |
|--|---|--|
| | AMS Staff (i.e. works for in AMS) | If known, what is their job, title, or department? |
| | Background Unknown | |
| Additional Information | | |
| How do you know the individual? | | |
| Do you have any contact information for them (i.e. email address, phone number, etc.)? | | |
| SECTION C: INCIDENT INFORMATION | | |
| Date of incident(s): | | |
| Name(s) and contact information of any witnesses: | | |
| Was the Incident (select all that apply): | | |
| | Bullying and Harassment | |
| | Discrimination | |
| | Other (please describe the incident here): | |
| Please describe the incident below (you do not need to provide full details for the purpose of submitting this Report): | | |
| <i>The investigator may contact you if they require more information.</i> | | |

AMS prohibits retaliation for filing a Report. If you are intimidated, threatened, or harassed as a result of completing this Report please immediately contact the entity to whom you submitted the Report – i.e. either the AMS Ombudsperson or AMS Human Resources Manager. In addition:

- For health and support, please contact AMS SASC.
- If there is any concern about your safety, please contact the police.

By signing below, I understand that:

- a) I am submitting a formal complaint to the AMS Ombudsperson or AMS Human Resources Manager, under the AMS Respectful Community and Workplace Policy.
- b) This report will be used for the purpose of potentially investigating the alleged incident of Bullying and Harassment and/or Discrimination.
- c) If the AMS begins an investigation, information used in this report may be used to as part of the investigation.
- d) The information provided by me in this form is true to the best of my knowledge and belief.

Your signature: _____

Date: _____

ATTACHMENT #6 – AMS DEPUTY OMBUDSPERSON JOB DESCRIPTION

Job Description

Position title: Deputy Ombudsperson

Reports to: Ombudsperson

Supervises: None

Employee status: Term, Appointed

Length of term: August 1, 2019 – April 30, 2020

Hours per week: 10

Compensation: Tier 2

Position Purpose

The Deputy Ombudsperson provides mediation and/or negotiation services to members in conflict with the AMS or between each other. The Deputy Ombudsperson also provides facilitation, peer and emotional support to members of the AMS. In addition, they are responsible for performing investigations on a case-by-case basis. They also are to report to an appropriate authority any reasonable complaint with the AMS or its subsidiary organizations, while maintaining the standards of the Ombuds Office. The Deputy Ombudsperson reports to the Ombudsperson and works with them on any cases that they are assigned to.

Duties and Responsibilities

- Provide facilitation, peer and emotional support to members of the AMS.
- Provide mediation and/or negotiation services to members in conflict with the AMS.
- Assist members write appeals to the AMS regarding their complaints by providing members with feedback as required.
- Receive, investigate, and resolve complaints from students about AMS-related issues.
- Report to an appropriate authority any reasonable complaint with the AMS or its subsidiary organizations.
- Develop a working relationship with the UBC Ombudsperson, AMS Advocate, UBC Equity and Inclusion Office, and other AMS services.
- Gather student feedback during the year and keep statistics on the Ombuds Office.
- Understand various AMS policies, rules, procedures, and guidelines.
- Developing and maintain record-keeping mechanisms.
- Liaise with relevant internal and external groups as required.
- Uphold the standards of the Ombuds Office.
- Work with the AMS mission statement and values to operate a successful department.
- Maintain five (5) weekly office hours.
- Other duties as required.

Qualifications and Experience

- Must be a currently registered student at UBC Vancouver.
- May not hold any other position (elected or appointed) within the AMS.
- Excellent facilitation and conflict resolution skills.
- Strong sense of the meanings and implications of confidentiality, impartiality, and procedural fairness.
- Strong communication, listening, interview, and interpersonal skills.
- Ability to be both assertive and understanding.
- Strong sense of professionalism and commitment to thoroughness.

ATTACHMENT #7 – SEXUAL VIOLENCE PREVENTION AND RESPECTFUL ENVIRONMENT POLICY WORKING GROUP FINAL REPORT

Sexual Violence Prevention and Respectful Environment Policy Working Group

Final Report on Policies

Introduction

This report is intended to support the approval of the AMS Internal Policy on Sexual Violence (“Sexual Violence Policy”) and the AMS Respectful Community and Workplace Policy (“Respectful Community Policy”) as proposed by the Sexual Violence Prevention and Respectful Environment Policy (“SVPREP”) Working Group.

In this report, the SVPREP Working Group will provide background on the body itself and history behind it. Furthermore, this report will deliver information and context to the Sexual Violence Policy and the Respectful Community Policy along with the changes they went through each draft. In addition, this report will go over the consultation process that was undertaken by the SVPREP Working Group on the two policies as well as contextualizing the policies in the UBC community. Finally, this report will list out recommendations that the SVPREP Working Group identified as important for the AMS to implement in order to smoothly implement the two policies.

Background

In December 2017, the AMS created the SVPREP Working Group with the task of creating the AMS’s standalone sexual violence policy and rewriting the Respectful Environment Policy. The composition of the SVPREP Working Group consists of two AMS Executives, the SASC Manager, the Human Resources Manager, the Policy Advisor, a Constituency executive, and an AMS Councillor. At the time of its creation, the SVPREP Working Group was chaired by the Vice-President Academic and University Affairs, however due to multiple permanent staff vacancies, the working group was only able to focus on the framework of the two policies.

In September 2018, the Executive appointed the Vice-President Administration as the chair of the SVPREP Working Group due to the relevancy of their position to the nature of the policies. By then, the vacancies on the working group were filled and much progress was made. Through a combination of a change in chairs and filled vacancies, the SVPREP Working Group was able to create working drafts of the two policies and performed multiple rounds of consultation.

In April 2019, the Executive appointed the President as the chair of the SVPREP Working Group due to the Vice-President Administration returning as the President. Since then, the SVPREP Working Group has worked on the finalization of the policies to present to AMS Council for approval.

Sexual Violence Policy

The Sexual Violence Policy is designed to affirm the AMS’s zero tolerance for Sexual Violence¹ and to provide procedures for the disclosure, reporting, investigations, and decision-making of cases of Sexual Violence. The policy is split into two main sections: (1) procedures if the respondent is an AMS

¹ As defined in the Sexual Violence Policy.

Member²; and (2) procedures if the respondent is an AMS Staff³. The two main sections are then divided into four subsections: (1) reporting; (2) investigations; (3) decisions and outcomes; and (4) review of decision⁴.

The first draft of the Sexual Violence Policy focused on creating the framework and structure of the policy. This draft had five subsections: (1) disclosure; (2) reporting; (3) investigations; (4) decisions and outcomes; and (5) appeals. It also focused on determining which bodies/positions would be responsible for receiving reports, handling investigations, adjudicating cases, and determining appeals.

The second draft of the Sexual Violence Policy made changes centered on clarifying jurisdiction and the policy's procedure, creating procedures for at-risk behavior, and developing accommodations. In this draft, the Sexual Violence Policy expanded on its jurisdiction by allowing non-AMS Members⁵ to submit a report since the AMS has jurisdiction if the Respondent is an AMS Member or AMS Staff. In addition, the second draft saw the inclusion of a summary guide of the Sexual Violence Policy and two flowcharts (for each main section) as a response to the request for further clarity from the consultation period. The second draft had created procedures for at-risk behavior by allowing for corrective action when a party involved in the investigation begins to display at-risk behavior. Finally, the second draft added the requirement for the AMS to provide referrals and accommodations to the Complainant and Respondent during and after an investigation.

The third draft of the Sexual Violence Policy saw changes relating to the procedures regarding AMS Council, the standards of confidentiality, the inclusion of the Deputy Ombudsperson, the semantics of 'Appeals', and stylistic changes. In this draft, the Sexual Violence Policy expanded on the procedures if the Respondent were to be a member of AMS Council. This was done to provide a more concrete process if a case as described were to arise, despite the rarity. In addition, the third draft clarified the expectations of confidentiality, especially regarding redacting personal and identifying information in the Investigation report. Furthermore, the third draft included the Deputy Ombudsperson in the process of delivering the notice of prohibition of entry. Finally, the SVPREP Working Group changed the name of the 'Appeals' process to 'Review of Decision' to accurately reflect what the process is.

Respectful Community and Workplace Policy

The Respectful Community Policy is designed to set clear expectations for the provision and maintenance of workplace and student environment free from Bullying and Harassment⁶, Discrimination⁷, and Violence⁸. The policy also lays out procedures for the reporting, investigations, and decision-making of cases of Bullying and Harassment, Discrimination, and Violence. This policy is a rewritten version of the AMS Respectful Environment Policy and is meant to replace it.

The first draft of the Respectful Community Policy focused on rewriting the AMS Respectful Environment Policy by scrapping the original framework of the latter policy and creating a new framework. This draft

² As defined in the Sexual Violence Policy.

³ As defined in the Sexual Violence Policy.

⁴ This subsection does not apply to the section if the respondent is an AMS Staff.

⁵ As defined in the Sexual Violence Policy.

⁶ As defined in the Respectful Community Policy.

⁷ As defined in the Respectful Community Policy.

⁸ As defined in the Respectful Community Policy.

developed a framework that described examples of behavior that is not tolerated, how to respond to inappropriate behavior, reporting, investigations, and decision-making of cases. In this first draft, the SVPREP Working Group added the term “Violence” as a behavior that is not tolerated since it was not previously prohibited by the AMS Respectful Environment Policy.

The second draft of the Respectful Community Policy made changes on clarifying the expectations of confidentiality, combining the terms “Bullying” and “Harassment”, and changing the title to ‘Bullying and Harassment, Discrimination, and Violence Policy’. In order for all parties, including the AMS, to best understand the expectations of confidentiality, the SVPREP Working Group created a section dedicated to explaining confidentiality and the realistic expectations of it. In addition, the second draft saw the combination of “Bullying” and “Harassment” into “Bullying and Harassment” due to the two individual terms colloquially being used interchangeably. Finally, the Respectful Environment Policy changed its title to ‘Bullying and Harassment, Discrimination, and Violence Policy’ to tackle the issue of people interpreting the purpose of the policy as a sustainability policy.

The third draft of the Respectful Community Policy made changes on the semantics of ‘Appeals’, the title to ‘Respectful Community and Workplace Policy’, and stylistic changes. Much like the Sexual Violence Policy, the Respectful Community Policy looked to clarify the process of ‘Appeals’ to ‘Review of Decision’. In addition, since the policy is focused on creating a respectful community and workplace, the policy was renamed to ‘Respectful Community and Workplace Policy’.

Consultation Process

The SVPREP Working Group undertook a comprehensive consultation process on both the Sexual Violence Policy and the Respectful Community Policy. The working group reached out to multiple stakeholders for feedback, opened a 24/7 online anonymous survey, and hosted a townhall. Each draft of the two policies went through a consultation period and the feedback was used to inform changes to the next draft.

The SVPREP Working Group reached out to all Constituencies, Student Resource Groups, AMS Clubs, and AMS Staff for feedback. The Chair of the SVPREP Working Group consulted with stakeholders to discuss the two policies and changes, and received comments. This would range from meeting with community partners in-person to communicating over email.

As part of the active consultation process, the SVPREP Working Group opened a 24/7 online anonymous survey where members of the AMS community could send their thoughts on the most up-to-date drafts of the Respectful Community Policy and Sexual Violence Policy. This survey was kept open throughout the development of the policies and was frequently checked for comments.

Finally, the AMS hosted a public townhall in the AMS NEST where members of the AMS community could attend to discuss the policies. This townhall was promoted through AMS mediums and the Chair of the SVPREP Working Group hosted the townhall.

On the first draft of the two policies, we received many useful comments that lead to many changes within the policies, particularly the Sexual Violence Policy. We had multiple comments about clarity, in other words, having a way to better understand the processes in a more digestible format. In addition, some feedback that came up was around at-risk behavior and how to address it. We had also received comments about post-investigation actions, such as providing accommodations and support service

referrals. Finally, we frequently received questions about the AMS's jurisdiction as well as what would happen if a non-AMS Member was involved.

On the second draft of the two policies, we again received great feedback that led to changes, with another emphasis on the Sexual Violence Policy. We had comments about expanding confidentiality, asking to specify how the investigation report would be kept confidential. We had also received feedback on the process of Council's cases and the need to be a bit more specific with the framework. Finally, we received strong asks to change the Reporting structure by allowing two positions able to receive the Reports to continue the theme of providing choice.

Contextualization

The Sexual Violence Policy is meant to fill a gap in the wider UBC community where AMS Members and Staff are not able to go through a trauma-informed process that will affect the standing of AMS Members and Staff in the AMS. Currently, if a member of the UBC community wishes to take action against another member regarding Sexual Misconduct⁹, they would have to be referred to the UBC Independent Investigations Office ("IIO"). However, since the AMS is an independent society from UBC and therefore the jurisdictions are separate. For example, if UBC suspended an individual from accessing the UBC Vancouver campus for a period of time, that potentially could not affect that individual's standing in the AMS Clubs that they are a member of. Therefore, the AMS's Sexual Violence Policy is intended to fill that gap and provide a trauma-informed process.

Recommendations

RECOMMENDATION #1: Create the Deputy Ombudsperson position.

In order to avoid the Ombudsperson violating impartiality, the SVPREP Working Group recommends that the Human Resources Committee re-establish the Deputy Ombudsperson. In the context of the Sexual Violence Policy, the Deputy Ombudsperson would be responsible for handing the notice and prohibition of entry/expulsion so that the Ombudsperson would be able to maintain confidentiality by not being responsible.

RECOMMENDATION #2: Require that the members of the Operations Committee, Ombudsperson, Deputy Ombudsperson, Human Resources Manager, President, and Managing Director receive procedural fairness training.

Procedural fairness is a required quality the AMS must keep in order to provide its complainants and respondents with a fair and bias-free process, and to avoid legal liability. The SVPREP Working Group recommends that the AMS President and Governance Committee develop a procedural fairness training/orientation for all the key bodies and positions involved in the Sexual Violence Policy and the Respectful Community Policy.

⁹ As defined by UBC's Sexual Assault and Other Sexual Misconduct Policy (Policy 131).
https://universitycounsel.ubc.ca/files/2017/05/policy131_final.pdf

RECOMMENDATION #3: Require that the members of the Operations Committee, Ombudsperson, Deputy Ombudsperson, Human Resources Manager, President, and Managing Director receive sexual violence and trauma-informed approaches training.

An understanding of the nature of sexual violence is a key quality necessary for the AMS to provide a trauma-informed process surrounding investigations and decision-making. The SVPREP Working Group recommends that the Governance Committee require a sexual violence and trauma-informed approaches training/orientation with the SASC, with an emphasis on working with historically marginalized communities, for all the key bodies and positions involved in the Sexual Violence Policy and the Respectful Community Policy. We understand that the AMS already does this AMS Executives, AMS Staff, and AMS Councillors, but it is not uncommon for AMS Councillors to not attend the sexual violence training/orientation.

RECOMMENDATION #4: Communicate to all stakeholders the existence of these two policies and how to follow their procedures along with various support services.

In order for members of the AMS community to acknowledge the existence of the two policies along with various support services being offered by the AMS, it is critical for the AMS to take on a comprehensive communication strategy. This effort should be focused on ensuring that stakeholders are aware of how to access services at the AMS, especially historically marginalized communities that have continued to be disproportionately affected by sexual violence. This will include the Vice-President, Administration communicating to all AMS Clubs and Constituencies, the AMS Communications Department advertising, and the Vice-President, Academic informing UBC about these two policies. The SVPREP Working Group recommends that the AMS President coordinates an effective communication initiative across various departments to stakeholders about the existence of these two policies and their support services.

RECOMMENDATION #5: Review the Ombudsperson position and explore the option of increasing the qualifications necessary for the role.

The SVPREP Working Group conducted a brief review of the current Ombudsperson position and concluded that the role would need to undergo a comprehensive review to explore the option of increasing the qualifications necessary for the role. The SVPREP Working Group recommends that the Human Resources Committee review the Ombudsperson position and study the feasibility of increasing the qualifications and compensation for the role.

RECOMMENDATION #6: Implement data tracking of number of disclosures, reports, investigations, and concluded cases.

Currently, the AMS does not track the number of disclosures¹⁰, reports, investigations, and concluded cases. In order for the AMS to understand where improvements can be made to its structure to support members of the AMS community, it would be important for the AMS to begin tracking cases. Through

¹⁰ The exception here is the SASC since it does track number of disclosures and repeated visits, but other AMS departments (most notably the Ombuds Office) do not track any metrics.

this effort, the AMS will coordinate and work with on campus departments on data collection surrounding the above factors. The SVPREP Working Group recommends that the Governance and Human Resources Committees mandate the Ombudsperson and Human Resources Department begin tracking the number of disclosures, reports, investigations, and concluded cases.

Recommendation #7: Perform a review of both policies and the implementation process a year after their effective date.

If AMS Council is to implement Recommendation #6, it would be critical for the AMS to review the data and the realities of the policies. This would allow the AMS to fix any gaps within the policies and make improvements to its structure based on the data reported from the offices. This would also allow the AMS to review the policies and their effects on barriers for historically marginalized communities to be able to access services at the AMS.

Conclusion

The SVPREP Working Group hopes that this report has been able to provide background to the body and its work, especially regarding the Sexual Violence Policy and the Respectful Community Policy. We encourage AMS Council to approve the presented drafts of both policies and take its recommendations into deep consideration as part of the implementation process.

ATTACHMENT #8 – AMS INTERNAL INVESTIGATIONS GUIDELINES

AMS INTERNAL INVESTIGATION GUIDELINES

Definitions

In these Guidelines, the following terms are used:

Complainant: the individual making the complaint;

Respondent: the individual about whom the complaint is made; **Misconduct:**
a breach of a policy or other requirement.

Scope of These Guidelines

These guidelines have been created to standardize the response to and investigation of complaints under AMS policies. These Guidelines are non-binding and may be added to, amended or otherwise varied given the context.

Questions or concerns about investigations should be raised with the AMS who may retain outside legal counsel to assist.

Principles of an Investigation Role

of the Investigator

The investigator should first determine the scope of their role: fact-finder; decision-maker; or both.

A fact-finder will hear evidence and review documents. The fact-finder will then make a determination about which facts are true. This often involves making determinations of credibility.

A decision-maker decides whether, based upon facts that have been established, the Respondent has engaged in Misconduct.

Inquisitorial Model

Fact-finding investigations usually follow an inquisitorial model.

Under the inquisitorial model, the investigator actively collects evidence. An example of an inquisitorial investigation would be a police investigation where the police actively gather information to determine whether a crime has been committed. In conducting an investigation following the inquisitorial model, the Investigator would:

- Interview the Complainant, and maybe take a written statement from the Complainant;
- Interview the Respondent, and maybe take a written statement from the Respondent;
- Interview any witnesses, and maybe take written statements from those witnesses;
- Review documents, including text messages, social media posts, video, medical evidence, etc.

The investigator may need to repeat the above steps more than once; for example, interview the Complainant, then interview the Respondent, and then (likely because the Respondent has raised new evidence) interview the Complainant again.

Procedural Fairness

Procedural fairness, as the name suggests, means ensuring that the investigation is fair to all parties.

Some basic rights to ensure a fair investigation are:

- The Respondent should know the details of the complaint against them so that they can provide full answer and defence to that complaint. This means giving the Respondent the opportunity to know the details of the complaint before interviewing the Respondent (ie. the investigator should not try to surprise the Respondent or any party to the investigation with new evidence to which that party must respond forthwith).
- All parties should have a chance to fully participate in the process; the investigator should ensure that no party has been denied a reasonable opportunity to present their evidence.
- The investigator should be unbiased. The investigator should not make a decision until all the evidence has been collected and considered.
- The parties have the right to be represented by legal counsel. If the parties want a representative other than legal counsel, that should be considered on a case-by-case basis.

If an investigator believes they cannot fairly conduct an investigation (e.g. they have a relationship with one of the parties or are otherwise involved in the complaint in a way that might give rise to a reasonable apprehension of bias), the investigator should recuse themselves.

Confidentiality

An investigator should ensure that all parties to an investigation respect confidentiality. AMS recommends the first thing an investigator tell the parties after introducing themselves is that the parties must keep the facts of the complaint and the investigation confidential.

The investigator must, of course, also maintain confidentiality.

AMS policy is to not disclose the name of the Complainant, Respondent, or other parties except where sharing that information is necessary for the purposes of investigating or taking responsive measures in relation thereto or where disclosure is required by law. In almost all complaints, an investigator will have to disclose to the Respondent and potential witnesses enough information about the complaint to allow them to give meaningful evidence in full answer and defence. This often involves or results in the identification of the Complainant and/or Respondent.

All reports, records, and decisions produced through the Investigation process are treated as confidential and personal information and are subject to AMS policies relating to the use and nondisclosure of such information and the *Personal Information Protection Act*.

Timeliness

Investigators should strive to complete investigations in a timely manner without sacrificing procedural fairness.

If an investigator finds they need additional time to complete the investigation, the investigator should advise the parties of the extra time needed and the reasons why that additional time is needed.

Many AMS policies contain specific timelines for the completion of investigations. Investigators should review the policy under which the complaint is brought at the outset of the investigation so that they are aware of any time limits.

Trauma-Informed Practice

Investigators receive complaints on issues ranging from sexual violence to harassment and bullying. The AMS is committed to providing trauma-informed processes within its structures. Investigators must take steps to understand the issues behind a complaint and the trauma that the Complainant and Respondent may experience. This may involve participating in workshops and trainings, which the AMS highly recommends.

Being a trauma-informed investigator means taking necessary steps in an investigation while balancing the understanding of the effect the investigation has on both the Complainant and Respondent.

Receptive/Communicative

Communication between the investigator and parties involved is important.

The investigator is responsible for keeping the Complainant and Respondent informed on the procedures of an investigation and progress of an ongoing investigation.

Note-Taking and Record-Keeping

Documentation and notes are a necessity in an investigation to ensure transparency, procedural fairness, thoroughness, and to avoid legal liability.

Investigators are responsible for:

- Taking detailed notes of all interviews and interactions with involved parties.
- Maintenance and keeping of all evidence, such as records and documents, as well as the investigator's notes.

An investigation may lead to a legal proceeding and the notes may be subpoenaed. Investigators should also have in mind that if a third-party court were reviewing their notes, would the investigator be proud of those notes.

Investigators are subject to the AMS privacy policy which requires personal information to be kept securely. Investigations almost always involve collection of personal information and it is the investigator's responsibility to ensure their notes and other evidence is secure at all times.

Support

Investigators should maintain a list of on-campus resources and support organizations that they can provide to the involved parties as needed.

Process of an Investigation

On Receiving the Complaint

The suggested process on receipt of a complaint is:

1. Determine if the complaint is covered by one of the established investigation processes (e.g. AMS's internal Sexual Violence Policy). If it is, refer the Complainant to the appropriate individual or ensure that the Complainant is following the appropriate investigation process.
2. If the complaint is in writing, confirm that it contains sufficient particulars that if everything in the complaint were accurate, Misconduct would be established. If the complaint lacks sufficient details, explain to the Complainant what is lacking and ask for additional particulars.
3. When contacting the Complainant for the first time, the investigator should:
 - a. Introduce themselves;
 - b. Explain the investigation process and the investigator's role in that process.

- c. Remind the Complainant about confidentiality.
 - d. Remind the Complainant about AMS' prohibition on retaliation.
 - e. Set up an interview with the Complainant.
4. The investigator should interview the Complainant to get detailed information about the complaint. This would include collecting copies of the Complainant's documentary evidence.
 5. As required, provide the Complainant with a list of resources and supports available on-campus.

Proceeding with the Investigation

The suggested process after interviewing the Complainant to proceed with a complaint is:

1. Inform the Respondent as soon as possible about the complaint.
2. When contacting the Respondent for the first time, the investigator should:
 - a. Introduce themselves;
 - b. Explain the investigation process and the investigator's role in that process.
 - c. Remind the Respondent about confidentiality.
 - d. Remind the Respondent about AMS' prohibition on retaliation.
 - e. Set up an interview with the Respondent - the date of the interview should be far enough in the future to allow the Respondent time to consider the complaint and prepare their response to same.
3. AMS also recommends on or shortly after the initial contact with the Respondent:
 - a. Providing the Respondent with the written complaint or a summary of same.
 - b. Identifying for the Respondent the Misconduct that is alleged in the complaint.
4. As required, provide the Respondent with a list of resources and supports available on-campus.
5. The investigator should then interview the Respondent to get detailed information about their response to the complaint. This would include collecting copies of the Respondent's documentary evidence.
6. The Respondent may choose to supplement any interview with a written response, which should be accepted.
7. If the Respondent elects not to respond or refuses to participate in the investigation, warn the Respondent that AMS cannot compel participation, but that a decision will be made without the Respondent's input if the Respondent refuses to participate.

Interviewing Witnesses

The suggested process for interviewing witnesses is:

1. When contacting a witness for the first time, the investigator should:
 - a. Introduce themselves;
 - b. Explain the investigation process and the investigator's role in that process.
 - c. Remind the witness about confidentiality.
 - d. Remind the witness about AMS' prohibition on retaliation.
 - e. Set up an interview with the witness.

2. AMS also recommends on or shortly after the initial contact with the witness providing the witness a summary of the issue on which the investigator needs the witnesses' evidence.

Reviewing the Findings and Facts

At the end of the evidence-gathering phase of the investigation, an investigator must analyze the evidence to make findings of facts. At times, this involves making findings of credibility.

The test to determine which of two conflicting stories is credible is the 'balance of probabilities'. That means that when all the evidence is considered (e.g. documents, witness statements, common sense, etc.), which of the two stories is more probably truthful. Credibility is not determined on the basis of which party presents a better appearance of sincerity or seems more believable.

Depending on the evidence, an investigator may accept some aspects of the claim as established and not accept others.

Procedural justice requires reasons which means that where an investigator makes a decision of credibility, the investigator must explain that decision and provide written reasons to substantiate their finding.

If there is a finding that Misconduct was not established on a balance of probabilities, it does not necessarily mean that the Complainant has lied about the allegations; it may only mean that there was insufficient evidence, on a balance of probabilities, to support the allegations.

Preparing an Investigation Report

After concluding the finding of facts phase, an investigator should prepare a written report that will be submitted to the decision-maker. The investigation report will summarize the relevant evidence provided by the Complainant, Respondent, and witnesses, and set out findings of fact along with an explanation on how those were reached. This investigation report should include sufficient information for the decision-makers to come to a decision on whether the facts support a finding of Misconduct.

In order to ensure confidentiality, AMS recommends that names are not used in a report. AMS recommend the use of initials or pseudonyms. AMS further recommends minimizing the personal information about individuals in the report to only that which is necessary for the findings of fact.