



POLICY 2.04

COUNCIL GOVERNANCE

Discipline

POLICY INTENT

The intent of this policy is to provide a clear discipline process to deal with misconduct on the part of an AUSU Councillor and to define the possible outcomes of that process.

POLICY

Misconduct

- 2.04.01 Councillors may be guilty of misconduct if:
- a. they fail to adhere to AUSU Bylaws or written policy;
 - b. their conduct is detrimental to AUSU, its Council, or its members as determined by Council in its sole discretion; or
 - c. for any other reason that Council in its sole and absolute discretion considers to be reasonable, having regard to the purpose of AUSU.

Discipline Process

- 2.04.02 Any disciplinary action must go through due process. Unless otherwise stated elsewhere in AUSU Bylaws or policies, due process is as follows:
- a. a complaint must be made by a single AUSU Councillor, Executive Councillor, Staff Member, or AUSU Member without consultation with other AUSU Councillors, Executive Councillors, or Staff Members or AUSU Members; once the complaint is made, the complainant and respondent can no longer be involved in any communications of the complaint until contacted for further information;
 - b. a complaint can be made to the Executive Director or President, who will bring the matter to the Executive Committee unless the complaint involves the Executive Director and/or the President in which the complaint will go directly to the other Members of the Executive Committee; if the complaint involves all Members of the Executive Committee, it will go to a Councillor who the complainant determines is uninvolved; if it is determined that the Councillor receiving the complaint has involvement or prior knowledge, they will pass the complaint to another Councillor; the Councillor would bring the complaint to five (5) other uninvolved Councillors (after determining they are not involved) to form an ad-hoc complaints committee;
 - c. the complaint must be in writing, citing the word “complaint”, to differentiate from an inquiry or concern, and include all available details of the event(s) and/or conduct that the complainant is aware of and copies of any correspondence or other materials that are relevant to the complaint that the complainant has access to; if the word “complaint” is not cited, then clarity shall be obtained by the recipient of the concern;

- if there is more than one instance of misconduct (e.g., breach of more than one policy or bylaw clause), each shall be submitted to the Complaints Committee;
- d. the Executive Committee plus two (2) uninvolved Councillors, without bias and conflict of interest, totalling six (6) AUSU Members, forming the ad-hoc complaints committee, will determine if there are reasonable grounds to continue with the discipline process with a 100% majority; the complainant and respondent must agree to the all the members reviewing the complaint; if they determine there is not reasonable grounds to continue the complaint, this information will be delivered to the remaining members of Council; if in the event that the complainant and respondent cannot agree to who is reviewing the complaint, it goes to a neutral external third party for review;
 - e. if any Member(s) of the Executive Committee or Council have prior knowledge of the details of the complaint, they cannot be involved in the determination process and a combination of six (6) uninvolved Executive Councillors and Councillors without prior knowledge of the complaint will review it, unless identified in another policy; in the event that six (6) uninvolved Executive Councillors and Councillors cannot be determined, the next number of uninvolved Executive Councillors and Councillors will be four (4) for the grounds to continue determination; this will be the minimum number; this group of four (4) or six (6) will be the Complaints Committee for the complaint; if there are not a minimum of four (4) uninvolved Executive Councillors and Councillors, the complaint will automatically go external for review;
 - f. if the complaint is against the President, the President's role in the disciplinary process shall be assumed first by an uninvolved appointed member of the Executive Committee, or second by a Council member;
 - g. the Complaints Committee must notify the respondent in writing within twenty-one (21) days of receiving the complaint that a complaint has been brought forward;
 - h. in determining if there are reasonable grounds to continue with the investigation process, the complainant and respondent will meet with the Complaints Committee separately in-camera or via email at the preference of each individually;
 - i. after this discussion, the Complaints Committee must agree with a 100% majority to continue or discontinue the process. If this decision cannot be made at 100% majority, it will automatically go for external review; the Complaints Committee will have the discretion to mandate both the complainant and respondent for a civil resolution discussion with an agreed upon individual or an external individual for conflict resolution/moderation, depending on the nature of the complaint; a Councillor cannot be forced to do the conflict resolution/moderation; if either the complainant or the respondent refuse, they may be subject to discipline without a complaint being filed;
 - j. the Complaints Committee must notify the complainant and the respondent within two (2) business days of the decision whether or not to proceed with the investigation process;
 - k. if an investigation is warranted, the Complaints Committee will either request an HR investigation from an external Human Resources group, which will be agreed on by the Council by motion, or depending on the nature of the complaint have the option, with the agreement of the complainant and respondent, to investigate the complaint themselves; if either the complainant or the respondent disagree, the complaint goes for external review; if the complainant and respondent agree to have the Complaints Committee investigate the complaint, the final decision at 100% majority will be binding and not open for appeal; this process will be completed within twenty-one (21) calendar days;

- l. if a complaint stems from an occurrence at a Council meeting, the complaint will go to external review;
- m. specifics of the alleged misconduct will be confidential and must be provided in writing to the respondent including details of the investigation and findings.
- n. if external, the Human Resources person/group will return the findings of the investigations with recommendation(s) of discipline (if the alleged misconduct is found true) in the range from verbal warning, written warning, request for apology, removal from executive committee, removal from AUSU committee, suspension, and/or termination; if the Complaints Committee investigates the complaint, they will determine the results at 100% majority; if 100% majority cannot be reached, the committee will decide to dismiss the complaint or have a neutral third party review it; in both instances, the Complaints Committee will be responsible for carrying out the discipline as a group; if there is a previous guilty verdict, the complaints committee may automatically terminate the Councillor on a second verdict of any kind;
- o. complaints that are minor in nature that requiring little to no investigation (lack of meeting attendance, etc.), or complaints that show guilt beyond a reasonable doubt with little investigation would be addressed by the Complaints Committee;
- p. if the complainant or respondent violates any aspect of this policy, they may be subject to discipline without a complaint being filed.

Penalties

- 2.04.03 Where misconduct is found to have occurred, as evidenced by the passing of a motion of discipline, a subsequent motion of Council will be held to determine the penalty to be imposed.
- 2.04.04 One or more of the following penalties shall be imposed by Council:
 - a. verbal warning;
 - b. written warning;
 - c. request for apology;
 - d. removal from the Executive Committee;
 - e. removal from an AUSU Committee;
 - f. suspension; and/or
 - g. and/or removal from Council.
- 2.04.05 A simple majority may pass a penalty motion, except in the case of removal from Council, which requires 2/3 majority vote to pass.
- 2.04.06 If subsequent motions of discipline are passed, an automatic motion of removal from council against that Councillor shall be brought forward by the President.

Disclosure

- 2.04.07 The results of a motion to discipline a Councillor will be included in the public meeting minutes.
- 2.04.08 If a Councillor has been removed from council, they become a member no longer in good standing if agreed upon by Council, and would therefore no longer eligible to be elected to or serve on AUSU Council as per AUSU bylaw.

2.04.09 A record of any disciplinary proceedings of this nature will be formally maintained by AUSU.

2.04.10 The Complaints Committee may choose to consult with the AUSU legal counsel or HR partner in matters of discipline.

Committee Activity Disciplinary Action

2.04.11 If any Councillor or Member-at-Large is not fulfilling their obligations as a Member of an AUSU committee, a request to discipline that Councillor or Member-at-Large as a Committee Member may be brought forward as per the procedure above.

RELATED REFERENCES, POLICIES, PROCEDURES AND FORMS

This Policy References

AUSU Bylaws

This Policy is Referenced by

Policy 2.10 Executive Director

Policy 2.12 Respect in the Workplace

Policy 2.13 Code of Ethics

Policy 2.14 Councillor Responsibility and Honoraria

Policy 2.15 Executive Accountability and Compensation

POLICY RESPONSIBILITY

Council

POLICY HISTORY

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