

## Association for Jewish Studies – Office on Sexual Misconduct

### Procedures for addressing complaints of violations of the AJS Sexual Misconduct Policy

Updated May 1, 2021

#### **I. Purpose:**

The AJS is committed to a set of core values that guide interactions with and between members (see definition below). These core values include a commitment to treat members, conference registrants, observers, exhibitors, recruiters and staff in an ethical fashion, to respect and honor the diverse perspectives we bring, and to act in good faith.<sup>1</sup>

Sexual misconduct is antithetical to the AJS's core values and expected standards of professional behavior and will not be tolerated. This document sets out the procedures to be followed to address complaints of violations of the AJS *Policy on Sexual Misconduct*. AJS members and conference participants who violate the AJS *Policy on Sexual Misconduct* may jeopardize their membership, conference participation, or both.<sup>2</sup>

As a learned society, the AJS reserves to itself the right to determine:

- a) eligibility for Association membership
- b) eligibility to hold office in the Association
- c) eligibility to participate in Association proceedings and conferences,
- d) eligibility to be published in Association platforms.

Where appropriate, the AJS Executive Committee or President in consultation with the AJS Office on Sexual Misconduct (OSM), may decide to suspend or revoke these privileges for violations of the AJS Sexual Misconduct policy, or restore them at a later date.

#### **II. Definitions:**

**1. Sexual misconduct** incorporates a range of behaviors including sexual assault, sexual harassment, intimate partner violence, stalking, voyeurism, and any other conduct of a sexual nature that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing a person. Much sexual misconduct includes nonconsensual sexual contact, but this is not a necessary component. For example, threatening speech that is sufficiently severe or pervasive to constitute sexual harassment will constitute sexual misconduct.<sup>3</sup>

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<sup>1</sup> AJS Statement of Core Values, 2018

<sup>2</sup> AJS Sexual Misconduct Policy 2017

<sup>3</sup> AJS Sexual Misconduct Policy 2017

**2. Sexual harassment** includes unwelcome sexual advances, requests for sexual favors, and other verbal comment or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with an individual's professional work or academic performance, including situations in which (i) the request or conduct involves any implied or expressed promise of professional reward for complying; or (ii) the request or conduct involves any implied or expressed threat of reprisal or denial of opportunity for refusing to comply; or (iii) the request or conduct results in what reasonably may be perceived as a hostile or intimidating environment. Such examples are illustrative, not exhaustive. Sexual harassment can occur in a first interaction and in an ongoing relationship; it may be found in a single episode, as well as in persistent behavior. All members of our community are protected from sexual harassment, and sexual harassment is prohibited regardless of the gender identity or sexual orientation of the harasser or the harassed.<sup>4</sup>

### **3. Sexual Consent**

Under the AJS's policies, sexual activity requires affirmative consent, which is defined as positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter. Consent cannot be inferred from the absence of a "no;" a clear "yes," verbal or otherwise, is necessary. Consent to some sexual acts does not constitute consent to others, nor does past consent to a given act constitute present or future consent. Consent must be ongoing throughout a sexual encounter and can be revoked at any time.

Consent cannot be obtained by threat, coercion, or force. Agreement under such circumstances does not constitute consent. Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated due to alcohol, drugs, or some other condition. A person is mentally or physically incapacitated when that person lacks the ability to make or act on considered decisions to engage in sexual activity. Engaging in sexual activity with a person whom you know—or reasonably should know—to be incapacitated constitutes sexual misconduct.

**4. Members**, in the context of this document, refers to dues-paying members of the AJS. **Affiliates** refers to non-dues paying persons affiliated with AJS programs and activities such as non-member conference participants, observers, recruiters, exhibitors. The procedures outlined in this document apply to members and affiliates. Complaints may be brought by members and affiliates against members and affiliates (but see IV.2 below). Note that the penalties available for addressing misconduct by dues-paying members (e.g., temporary or permanent revocation of membership, the privileges associated with membership, or eligibility for positions of leadership) differ from those available for addressing misconduct by affiliates.

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<sup>4</sup> AJS Sexual Misconduct Policy 2017

**5. Complainant** refers to a person who brings a formal or informal complaint of sexual misconduct to the AJS Office on Sexual Misconduct. A single complaint may involve more than one complainant and/or respondent but singular forms are used throughout these procedures for convenience.

**6. Respondent** refers to a person against whom a complaint of sexual misconduct has been made (whether or not that person is notified of the complaint).

**7. OSM** refers to the AJS Office on Sexual Misconduct. Collectively, the various components of the OSM (i) offer information about AJS sexual misconduct policies and procedures, (ii) provide resolution of informal complaints, and (iii) hear formal complaints of sexual misconduct about which it reaches conclusions and makes recommendations regarding penalties to the AJS Executive Committee. The OSM consists of a chair, a secretary, and two distinct units. The first unit consists of up to 6 Ombuds and the second unit consists of up to 12 core members available for hearing formal complaints (i.e., a chair, secretary, and up to 18 members). The composition of the OSM is defined more fully below.

**8. Ombuds** refers to a unit of up to 6 individuals under the umbrella of the AJS Office on Sexual Misconduct with knowledge of the AJS Sexual Misconduct policy and trained in the OSM's procedures for addressing complaints of alleged violations of this policy. Ombuds are appointed for a minimum of two years with an expectation of renewal. The AJS OSM Ombuds most closely resemble "organizational ombudsmen" as defined by the International Ombudsman Association. The primary duties of an organizational ombudsman are (1) to help individuals and groups in an organization understand and make use of the options available to them within the organization's procedures to resolve conflicts, problematic issues, or concerns, and (2) to bring systemic concerns to the attention of the organization for resolution. They operate in a manner to preserve the confidentiality of those seeking services, maintain a neutral/impartial position with respect to the concerns raised, work at an informal level of the organizational system, and are independent of the formal organizational structures. They listen and understand complaints while remaining neutral with regard to the facts, help individuals evaluate their options, facilitate informal resolution processes, refer individuals to appropriate resolution resources, explain formal resolution process, refer issues to formal resolution channels, identify new issues and opportunities for systemic change, and in general, report to the chair and secretary who are responsible for maintaining a central repository for complaints.

**9. Core Members** refers to a unit of up to 12 individuals within the AJS Office on Sexual Misconduct with knowledge of the AJS Sexual Misconduct policy and trained in the OSM's procedures for addressing complaints of violations of this policy. Core members are appointed for a minimum of two years with an expectation of renewal. The core members are trained and stand ready to be empaneled for formal complaints. Each panel will consist of the OSM chair and 4 core members. The secretary will be present at all panel meetings as a nonvoting member.

### **III. Relation to other forms of misconduct**

Sexual harassment or misconduct may occur alongside other forms of discrimination based on grounds such as race, ethnicity, sexual orientation, actual or perceived gender, gender identity, ability, socio-economic status, age, or religion. The AJS Office on Sexual Misconduct will consider the complex and cumulative forms that discriminatory behavior may take in complaints brought to it.

### **IV. Authority of the AJS Office on Sexual Misconduct (OSM)**

The AJS Office on Sexual Misconduct provides an accessible, representative, and trained body to answer informal inquiries and to address formal complaints of sexual misconduct fairly and expeditiously.

1. Any member or affiliate of the AJS who has experienced sexual misconduct can bring a complaint to the OSM if the following conditions have been met: (i) both the complainant and the respondent are members or affiliates of the AJS (see definition above); AND (ii) the misconduct occurred at or in connection with an AJS-sponsored event, program, or activity (such as the annual conference; mentoring programs; webinars; professional training programs; AJS publications; etc.) OR (iii) in the event that the misconduct occurred elsewhere, the misconduct is reasonably likely to impair the complainant's ability to participate in an AJS-sponsored event, program or activity.

2. An Ombud may refer a complaint to the OSM for formal resolution: (i) on behalf of a person who is not a current or former member or affiliate of the AJS as long as the respondent is a current member or affiliate and the misconduct occurred at or in connection with an AJS-sponsored event, program, or activity; and/or (ii) when there is evidence of a violation of the AJS sexual misconduct policy and the intervention of an Ombud is needed to ensure that the matter reaches the OSM.

Filing a complaint with the AJS OSM is not a prerequisite or a replacement for filing a complaint with a relevant educational institution, or state or federal agency and does not preclude filing a state or federal discrimination complaint. The AJS encourages persons who have experienced sexual misconduct to contact agencies that provide support services for victims of sexual assault and harassment, as well as law enforcement, where appropriate.

### **V. Composition, Selection, and Training of OSM Members (chair, core members and Ombuds)**

The OSM will consist of

- a chair;
- a secretary;

- up to 6 Ombuds who receive complaints, provide information about the organization's policies and procedures consistent with the role and functions of an "organizational ombudsman" as described in section II.8), assist with the resolution of informal complaints, and refer complaints for formal resolution;
- up to 12 core members who serve on panels hearing formal complaints.

All members of the OSM will be drawn from the AJS membership.

The secretary will work with the AJS Executive Director to organize the OSM's activities and correspondence (correspondence will be coordinated with and copied to the Executive Director as needed for enforcement purposes and preserving confidentiality to the extent possible); act as a liaison with the complainant, the respondent, and others involved in the complaint; and work with the OSM chair and if necessary, the AJS President, to resolve informal complaints. In the case of a formal complaint, the secretary will be present for the proceedings and may ask clarifying questions and participate in deliberations but not vote. After any formal hearing the secretary will work with the OSM chair to produce a written report with the panel's finding and recommendations and submit the report to the AJS Executive Committee.

The AJS President will appoint the chair and secretary of the OSM after consultation with current members of the Office on Sexual Misconduct, the AJS Executive Director, and the AJS Executive Committee. On a schedule that allows time for appropriate training, the chair of the OSM and the AJS President will call for nominations (including self-nominations) of AJS members to serve on the OSM as either Ombuds or core members. All names will be submitted with appropriate supporting materials. The OSM chair and the AJS President will select up to 12 core members and up to 6 Ombuds, with due attention to diversity. Members are appointed to the OSM for a minimum of two years with the possibility of annual renewal. The OSM chair and secretary are appointed to an initial three-year term that may be renewed for additional terms of three years or less.

All OSM members must participate in training, and returning OSM members must receive refresher training offered by the AJS. Training topics include: the AJS sexual misconduct policy; the impact of sexual misconduct on equal employment, educational and professional opportunity; AJS procedures for addressing complaints of sexual misconduct including informal resolution and formal procedures; responses to retaliation, and other relevant topics.

## **VI. Reporting and Complaint Procedures:**

The AJS Office on Sexual Misconduct consists of **reporting members** (members who can be contacted to report an incident) and **core members** (members who serve on hearing panels). The **reporting members** are the Ombuds (who answer inquiries, provide information about the AJS's sexual misconduct policy and procedures, and handle informal complaints), the OSM chair, and the OSM secretary. **Core members** of the committee do not receive reports of incidents, but are trained and available to serve on formal complaint hearings if needed. The AJS President and Executive Director also receive formal training in sexual misconduct policies, procedures, and confidentiality protocols and can receive an initial report of an incident.

AJS members and affiliates may contact a reporting member in order to (A) seek information (including whether certain behaviors constitute a violation of the AJS sexual misconduct policy and how to report a complaint); (B) seek resolution of an informal complaint; or (C) bring a formal complaint regarding conduct which may violate the AJS Sexual Misconduct policy. In some cases, a complainant may (D) seek an immediate interim remedy.

### A. Informational Role

Once contacted, the Ombud, OSM chair, or secretary will:

- Listen respectfully to all complaints;
- Where appropriate, suggest contacts for information about matters that fall outside the purview of AJS;
- Provide basic information about resolution options within AJS;
- With the agreement of the complainant, record basic information about the complaint on an intake form which will ultimately be filed in a confidential central repository.

The Ombud will also:

- Provide detailed information about resolution options within AJS, specifically the informal and formal complaint procedure;
- Work with complainants seeking informal resolutions;
- Perform other relevant functions typical of an “organizational ombudsman” as detailed part II.8 of the AJS Procedures for Addressing Complaints of Violations of the AJS Sexual Misconduct Policy.

### B. Resolution of Informal Complaints

To resolve the complaint informally, the complainant may contact a Reporting member of the OSM: any Ombud, the OSM chair, or the OSM secretary. There are three informal options: The complainant may (i) request that the complaint be archived. The complainant may (ii) seek accommodation or (iii) request mediation.

In informal cases, the respondent would be notified of the complaint only in the case of (iii) mediation.

The three informal options are outlined below.

- Archiving:

An individual who makes an informal inquiry or complaint may request that the OSM keep the matter confidential from the person alleged to have engaged in misconduct (except in the case of mediation as described below) or other persons involved in the events. The OSM chair, secretary, or Ombud will offer to archive the complaint for possible future use and informal counseling. The respondent is not notified.

Note: an archived complaint is a recorded statement of an allegation and as such is part of the OSM's records. No archived complaint will be acted upon without the consent of the complainant. No archived complaint will be taken into account as evidence by the OSM when adjudicating a formal complaint against the same respondent *without the written consent of the individual who filed the archived complaint* and the author would be notified that the respondent would learn the contents of the complaint and the identity of the complainant. Archived complaints may also be taken into account in determining appropriate remedial measures in another complaint.

However, where, in the opinion of the OSM, a number of archived informal complaints demonstrate a pattern of misconduct by the same person, the OSM may use its authority under s.I of this policy to recommend remedial action by the AJS executive committee. In such cases, the executive committee will not seek the consent or provide feedback to those who made archived complaints. The fact that remedies were enforced will be shared with the membership of AJS through the annual report.

- Accommodation

In addition to archiving, the OSM chair or secretary may also provide accommodating measures that are responsive to the complainant's needs as appropriate and reasonably possible (such as requesting of AJS staff that the complainant and respondent not be assigned to the same conference panel or requesting of *AJS Review* editors that the complainant's submitted article not be sent to the respondent for review). The respondent is not notified by the OSM of the request for accommodation or the nature of any approved accommodation.

- Mediation

Persons submitting an informal complaint will also be offered the option of informal mediation conducted by the chair of the OSM assisted by the secretary and in consultation with the reporting Ombud where relevant. In such a case, the respondent must be notified of the complaint and the complainant's identity by

the OSM secretary (in coordination with the AJS Executive Director) and will be given the opportunity to offer a written response within 7 days. The OSM chair will discuss the complaint separately with both parties (who will not meet face to face) and determine whether a mutually acceptable resolution is possible. The OSM will not be able to engage in informal mediation unless the complainant is willing to reveal the complaint (including the complainant's identity) to the respondent, the OSM chair and secretary.

In all informal cases (archiving, accommodation, and mediation) the complainant will be informed that participation in an informal resolution is voluntary and that the complainant may end the informal process at any time and bring a formal complaint or not pursue the matter further. In some cases, such as allegations of violence, the AJS may be required to report the misconduct to law enforcement, even if the complainant chooses not to pursue the matter further within the AJS.

### C. Formal Complaint Procedure

A member or affiliate may elect to make a formal complaint either without first seeking an informal resolution or after attempting an informal resolution.

- 1) To initiate a formal complaint, the complainant must submit a written statement to the OSM chair and secretary. The statement must name the respondent and describe the events and circumstances underlying the complaint in sufficient detail (such as location, time, and date of the alleged incident(s), the nature of the conduct alleged, the specific policy or policies allegedly violated, and include accompanying documents, such as texts, emails or other relevant material) to allow the OSM chair and secretary to conduct a prima facie review. The complainant will not contact the respondent about the complaint once the complaint has been submitted.
- 2) Upon receipt, the OSM chair and secretary will have 7 calendar days to review the complaint and determine if the facts alleged present a prima facie violation of the AJS Sexual Misconduct policy and if the complainant has standing to submit a formal complaint. If the committee determines that there is no violation of the policy or that the complainant has no standing, they will so inform the complainant, in writing.
- 3) If the OSM chair and secretary determine that the facts alleged could constitute a violation of the policy and that the complainant has standing to file a formal complaint, the chair will inform the respondent in writing that a formal complaint has been filed and will be heard by the OSM. The letter will include the complaint, any documents accompanying the complaint, references to the appropriate section of the AJS Sexual Misconduct policy, and a copy of these procedures.
- 4) Upon receiving notice of the complaint, the respondent will have 14 calendar days to provide a written response to the committee. After being notified of the complaint, the respondent will not contact the complainant. During the



remaining steps of the process the complainant and respondent will have no direct contact.

- 5) After receiving the respondent's statement, the OSM chair and secretary have 10 days to ask clarificatory questions or request additional information from either party, and to appoint a hearing panel consisting of the chair and four members of the core OSM. The panel members will receive a copy of the complaint and response and will withdraw if their relationship to the parties involved or other circumstances lead them to believe that they cannot judge the matter fairly. The secretary will write to the complainant and the respondent providing the names of the panel members and informing them of their right to object to the participation of a panel member. Any objection must be submitted in writing within two days of the secretary's notification and must state the grounds for the belief that the panel member is incapable of fairly judging the matter. The OSM chair will decide if the objection is justified, and that decision is final. Parties have the same opportunity to object to any replacement panel member.
- 6) Once the panel is assembled, the complaint and the response and all documents relating to the complaint will be provided to the hearing panel and the parties. The panel will convene (virtually or in person) within 10 calendar days to interview the complainant and respondent -- who will each have an opportunity to respond to the other party's interview -- as well as other relevant parties. The panel may examine and take into account reports and evidence collected by law enforcement bodies or other investigators as well as the respondent's previous *formal discipline* for other acts of sexual misconduct by the AJS OSM or other comparable bodies, including written reprimands. Previous *accusations* of sexual misconduct may not be taken into account when determining culpability for a violation.
- 7) The panel will determine whether the respondent has violated AJS policy, giving an affirmative answer if it is satisfied that a violation has been shown by a preponderance of the evidence. The panel may find violations in addition to those charged; the respondent will be notified of them and will have an opportunity to respond. The panel will reach its conclusion by a majority vote and by secret ballot with no abstentions allowed.
- 8) If a respondent is found to have violated AJS policy, the panel will recommend a penalty taking into account the nature of previous penalties assessed for similar violations. The panel will reach its conclusion regarding a penalty by a majority vote and by secret ballot with no abstentions allowed. At the penalty stage, the panel may take into account any other disciplinary history that may have been previously imposed on the respondent by AJS.
- 9) Penalties range from temporary or permanent revocation of the ability to participate in AJS-sponsored events (in the case of both members and affiliates), to temporary or permanent revocation of the various privileges of AJS membership or AJS membership itself (in the case of members). These privileges include but are not limited to full or partial participation in AJS-sponsored conferences, events, programs, and activities; holding office or a

position of responsibility in the AJS; publication in any or all of the AJS's publication venues.

- 10) Within 10 days of the hearing, the OSM chair and secretary will produce a written report with its findings, based on the information provided by and known to the complainant, respondent and other relevant parties, and its recommendations, and will submit the report to the AJS Executive committee.
- 11) Within 7 days of receiving the report, the Executive Committee will convene (virtually or in person) to discuss the report. The Executive Committee may consult with the OSM chair and secretary regarding the panel's conclusions and recommendations and must do so if they are contemplating materially modifying or rejecting the panel's conclusions or recommendations. In any event, the Executive Committee will render a decision within 10 days of receiving the report and provide written notice of their findings to the complainant and respondent. The decision will set out the committee's conclusions and the penalties imposed if any. The complainant is entitled to know any penalty imposed that may affect the complainant directly (e.g., a prohibition on contacting the complainant).
- 12) All AJS members and affiliates, including complainants and respondents, are expected to respect confidentiality and to engage in the dispute resolution process in good faith. Retaliation against either party or against the committee for seeking to uphold the policy or follow the procedure against sexual misconduct will not be tolerated and may result in additional sanctions.

D) Immediate Interim remedies regarding conduct at an AJS-sponsored event:

The possibility of immediate interim measures exists to allow a response in real time to defuse a potential harmful situation until further investigation can be undertaken. Complaints made regarding sexual harassment or sexual misconduct *during an AJS-sponsored event, program, or activity* may be brought to an AJS Ombud, the OSM chair or secretary, or directly to the AJS president or Executive Director. A list of Ombuds with photographs and contact details will be publicized on the AJS website, in conference registration materials, in the conference program booklet, on the conference app, and will be available at the registration booth.

Complainants may discuss their concerns with an Ombud, the OSM chair or secretary, or AJS president or Executive Director who will review available options. The AJS president in consultation with the OSM chair and/or secretary has the authority to implement immediate measures to address the allegations of sexual misconduct onsite, including exclusion of the person alleged to have violated the AJS policy on sexual harassment from scheduled panels, and expulsion from the meeting.

Concerns regarding sexual misconduct at AJS events may be brought to the attention of the persons designated above by any individual. Complainants who wish to avail

themselves of the formal complaint process herein must be dues-paying members of AJS or persons affiliated with an AJS-sponsored program or activity (e.g., conference exhibitor, observer, recruiter). Individuals or groups who have observed conduct that may violate the sexual misconduct policy but who are not themselves subjects of the conduct may bring their concerns to an Ombud or other reporting member but may not file a request for accommodation or mediation or file a formal complaint.

## **VII. Recordkeeping and Reporting**

The secretary and Executive Director will together keep and retain records of OSM proceedings, storing them in a secure place. They will retain records of complaints received, actions taken in response to informal complaints, supplementary documents received in connection with a formal complaint, minutes from formal hearings, the reports of hearing panels, written notices of final decisions provided to complainants and respondents and any subsequent official correspondence.

Anonymized data based on the complaints will be shared with the AJS Office on Sexual Misconduct which will prepare a statistical abstract and annual report on the handling of sexual misconduct complaints by the AJS. The report will include general demographic information (e.g., breakdown of complainants and respondents by gender, professional status, etc.) and other data in order to help the AJS understand trends and shape policy. This report will be shared with the AJS board and membership.

## **VIII. Confidentiality**

The OSM and all members of the AJS involved in a matter before the OSM will treat the work of the Office, including materials that the Office may acquire from the parties, as confidential (i.e., not shared beyond the relevant OSM members), except from the AJS Executive Committee and from any party to whom the Executive Committee decides, in order to effectively respond to the complaint, to release information, unless disclosure is required by law. A penalty (see s. 1) may be imposed by the AJS on any member or affiliate who discloses OSM communications, documents, or information contained within them in violation of these procedures or who is responsible for the improper disclosure of such documents by others. The OSM may not be able to preserve the confidentiality of its records in the event of litigation. Confidential communications with AJS officials, including the AJS Ombuds, are subject to legal discovery.

**IX. Summary of Time Periods Referred to in the OSM Formal Complaint Procedures**

The following time periods generally apply to the review of a formal complaint. The [designee] may extend a time period for good cause. The parties will be informed by the Chair if a time period is extended, and the Chair’s decision is final.

OSM Chair and secretary complete prima facie review of complaint, inform complainant of result and, if accepted, inform respondent of complainant and formal procedures	Within 10 days after receiving complaint
Respondent submits a response to the complaint	Within 14 days after delivery of complaint to respondent
Parties may object to panel members in a formal complaint	Within 2 days after notification of panel members’ names
OSM chair appoints a panel and supplies panel members with documentation	Within 10 days after receiving the respondent’s response to the complaint
Panel convenes to interview the parties and consider the complaint	Within 10 days after the appointment of the panel
OSM chair and secretary submits written report of the panel’s conclusions and recommendations to the AJS Executive Committee	Within 10 days after reaching agreement by majority vote on a conclusion and recommendation
Executive Committee convenes to review the report	Within 7 days after receiving the panel report
Executive Committee renders a decision	Within 10 days after receiving the panel report
Executive Committee informs complainant and respondent of its conclusion and appropriate remedies	Within 5 days of rendering decision

**X. Modifications to the AJS procedures for addressing complaints of violations of the AJS Sexual Misconduct Policy**

In consultation with the members of the Office on Sexual Misconduct, the OSM chair and secretary may jointly propose modifications to these procedures. Modifications must be approved by the AJS Executive Committee.