

1. DISCIPLINARY CODE: STUDENTS

(Rules prescribed by the University Council)

1.1 DEFINITION OF MISCONDUCT

A student shall be guilty of misconduct and may be dealt with in terms of this code, if he or she

- 1.1.1 contravenes or attempts to contravene any other order, regulation, rule or directive of the University;
- 1.1.2 refuses to obey any lawful instruction or request by any council member, lecturer, official or body of the University, or acts contrary to such instruction or request;
- 1.1.3 is guilty of intentional or negligent conduct which results in:
 - 1.1.3.1 bringing the good name of the University into disrepute;
 - 1.1.3.2 prejudicing or endangering the maintenance of order and discipline at the University;
 - 1.1.3.3 prejudicing or endangering the proper course of teaching, research and/or community service at the University;
- 1.1.4 without detracting from the generality of paragraphs 1.1.1 to 1.1.3,
 - 1.1.4.1 unlawfully infringes another person's fundamental rights as contained in the Bill of Rights, Chapter 2 of the Constitution, 1996 (Act 108 of 1996), while present on University or University-controlled premises or in University context;
 - 1.1.4.2 performs an act which is an offence in terms of South African law and such an act

is prejudicial to the University or its staff, guests, contractors or students;

1.1.4.3 in University context infringes a person's copyright or any other intellectual property right;

1.1.4.4 in University context

a. makes any misrepresentation with regard to any administrative process, which includes but is not limited to the following: misrepresentations regarding academic and other records, including degree and diploma certificates and other documents; misrepresentations regarding illness; misrepresentations made to persuade or attempt to persuade the University to administratively act in a way that the University would not or probably would not have acted in the absence of such misrepresentation;

b. forges a document (which includes drawing up a document purporting to be a copy of a non-existent document as well as changing an existing document); or

c. presents a forged document with the aim of misleading another person

and such act is prejudicial or potentially prejudicial to the University, its staff, guests, contractors or students;

1.1.4.5 uses property of the University or under the University's control unlawfully or without permission, or damages such property in a

- manner that may give rise to delictual liability;
- 1.1.4.6 enters or occupies or attempts to enter or occupy any University or University-controlled premises or building or part thereof without permission;
 - 1.1.4.7 conducts him- or herself in an indecent or improper manner on University or University-controlled premises or at a University function or activity;
 - 1.1.4.8 in any manner infringes the freedom of movement of a student or staff member of the University or a member of the public who is present on University or University-controlled premises or attempts to do so; or
 - 1.1.4.9 conducts him- or herself in an insulting, indecent or improper manner towards a student or staff member of the University or a member of the public who is present on University or University-controlled premises or at a University function or activity;
 - 1.1.4.10 in contravention of the provisions of South African law or a rule of the University, possesses, distributes, buys, sells, uses or is under the influence of a dependency-inducing substance while present on University or University-controlled premises.

1.2 PROCEDURE IN CASE OF MISCONDUCT

- 1.2.1 A charge of misconduct shall be laid with the Registrar.

- 1.2.2 The Registrar may of his or her own volition investigate or refer a charge of misconduct for investigation.
- 1.2.3 Should the Registrar be of the opinion that
 - 1.2.3.1 reasonable grounds exist for a charge of misconduct against a student; and
 - 1.2.3.2 the conduct of the particular student could possibly justify disciplinary steps in terms of paragraph 1.3;the Registrar formulates a charge in writing and convenes a disciplinary investigation by the Disciplinary Committee (Students).
- 1.2.4 The Registrar may, if there are reasonable grounds for suspecting that a student is guilty of serious misconduct, temporarily expel a student from a residence or temporarily deny a student access to the campus of the University, pending the results of the disciplinary investigation. An expulsion of this nature takes place if the Registrar is of the opinion that it is reasonably necessary for the protection of the interests of other students, staff and/or the University.
- 1.2.5 If the Registrar is of the opinion that the conduct of a student does not warrant an investigation by the Disciplinary Committee (Students), but that steps should nevertheless be taken against that particular student, and the student has admitted the charge against him or her and has been afforded the opportunity to address the Registrar on the appropriate disciplinary measures, the Registrar may take steps against the student without implementing any further process. The Registrar may deprive the student of a right or privilege exercised in terms of his or her registration as a

student as provided for in subparagraph 1.3.1.2, or reprimand the student, or impose a fine not exceeding the amount determined from time to time by Council for this purpose. Where the student is of the opinion that the punishment imposed by the Registrar is unreasonable, he or she may lodge an appeal in respect of this specific aspect in terms of paragraph 1.5.

- 1.2.6 Should the Registrar decide to order a disciplinary investigation by the Disciplinary Committee (Students), a copy of the written charge shall be served on the student concerned. In the document the student is summoned to appear at the specific date, time and venue stated in the document in order to answer to the charge.
- 1.2.7 If the student is a minor, his or her parents or legal guardian must be informed of the disciplinary investigation in a manner which the Registrar deems appropriate under the circumstances.
- 1.2.8 The Registrar shall notify all persons who must be present at the disciplinary investigation.
- 1.2.9 An accused student shall be entitled to be assisted by his or her parents or legal guardian during the disciplinary investigation.
- 1.2.10 An accused student shall not *ipso iure* be entitled to legal representation during the disciplinary investigation. If the student so requests, the Chairperson of the Disciplinary Committee (Students) may give leave to the student to employ the services of a legal representative at his or her own cost. The Chairperson may also give permission to a third party, other than the parent or guardian of the student or his or her legal representative, to assist the student.

- 1.2.11 The Registrar may, as the case may be and when it is justified by the charge, appoint a competent person to handle the charge against the student on behalf of the University. In such instance the accused student is *ipso iure* entitled to legal representation. However, the student remains responsible for his or her own legal costs.
- 1.2.12 The procedure followed during a particular disciplinary investigation is determined by the Disciplinary Committee (Students), taking into account the rules of fair administrative justice. The latter *inter alia* entails that the accused student
- 1.2.12.1 does not have to incriminate him- or herself;
 - 1.2.12.2 is asked whether he or she admits the charge;
 - 1.2.12.3 is permitted to present his or her defence in a manner that the Committee deems appropriate under the circumstances, but which is at the same time fair towards the students
 - 1.2.12.4 is allowed to provide evidence in his or her favour; and
 - 1.2.12.5 is allowed to cross-examine anyone who testifies against him or her.
- 1.2.13 The Disciplinary Committee (Students) shall keep minutes of the proceedings or ensure that such minutes are kept in a manner that it considers appropriate under the circumstances.
- 1.2.14 If the Disciplinary Committee (Students) cannot reach a unanimous decision, the decision of the majority of the members shall apply. In the case of an equal vote, the Chairperson has a casting vote.

- 1.2.15 If so requested by a student who is found guilty, the Disciplinary Committee (Students) must furnish written reasons for its decision and/or disciplinary steps.

1.3 PENALTIES

- 1.3.1 Upon finding a student guilty and having heard evidence in mitigation, the Disciplinary Committee (Students) may
- 1.3.1.1 reprimand the student;
 - 1.3.1.2 temporarily or permanently deprive the student of a right or privilege which his or her registration as a student at the University entails;
 - 1.3.1.3 impose a fine not exceeding the amount determined from time to time for this purpose by Council, and also order the student to pay an amount which amounts to the actual damage caused by the student;
 - 1.3.1.4 deprive the student of the right or privilege to register for a particular subject, or revoke a credit obtained in a subject;
 - 1.3.1.5 compel the student to perform community service within the University for a specified number of hours not exceeding the maximum determined from time to time by the Council for this purpose;
 - 1.3.1.6 suspend the student for a specified period; and/or
 - 1.3.1.7 deny the student the privilege of re-registration as a student at the University.

1.3.2 When an appeal against a decision of the Disciplinary Committee (Students) is lodged in terms of paragraph 1.5, the Chairman, after consulting with the other members of the Committee, may suspend any disciplinary measure imposed by the Committee pending the result of the appeal.

1.4 DISCIPLINARY COMMITTEE (STUDENTS)

1.4.1 The Disciplinary Committee (Students) shall have three members. The members appointed to serve on a specific committee shall be appointed from the ranks of the following categories of persons:

1.4.1.1 a person with a legal qualification from within or outside the University, appointed by the Registrar to act as the Chairperson of the disciplinary investigation;

1.4.1.2 an academic staff member of the University; and

1.4.1.3 a registered student of the University appointed from the ranks of the serving Student Court judges.

1.4.2 After the Chairperson of a specific disciplinary committee has been appointed by the Registrar, it shall be the duty of the Chairperson to appoint the remainder of the committee in consultation with the Registrar and in accordance with the abovementioned guidelines.

1.4.3 If there are no Student Court judges or such judges are unavailable, the disciplinary investigation may lawfully continue without a representative from the ranks of the judges of the Student Court.

1.5 APPEAL PROCEDURE

- 1.5.1 A student may appeal against the conviction and/or the disciplinary measures imposed by the Disciplinary Committee (Students) in accordance with the following procedure:
 - 1.5.1.1 The student may appeal to the Appeals Committee of Senate against the conviction and/or the disciplinary measures imposed by the Disciplinary Committee (Students) by lodging a written Notice of Appeal to the Registrar.
 - 1.5.1.2 The written Notice of Appeal shall be lodged with the Registrar not later than ten days after the student has been informed in writing of the finding of the Disciplinary Committee (Students).
 - 1.5.1.3 The grounds of appeal shall be furnished in detail in the Notice of Appeal.
 - 1.5.1.4 On receipt of the Notice of Appeal, a copy thereof shall be submitted to the Chairman of the Disciplinary Committee (Students), whereupon the Committee shall prepare a response to the grounds of the appeal within a reasonable time and submit it to the Registrar.
 - 1.5.1.5 The Registrar shall provide the student with the response furnished by the Disciplinary Committee (Students), who in turn may within seven days submit a written replication to the Registrar.
 - 1.5.1.6 The Registrar shall then arrange for the appeal to be heard as soon as possible by the Appeals Committee of Senate.
 - 1.5.1.7 The Appeals Committee of Senate may ratify, alter or set aside any conviction

and/or disciplinary measure imposed, which may include the suspension or reduction of or increase in disciplinary measures, and may otherwise make any order which, taking into account the facts of the case, would be just and equitable.

- 1.5.1.8 The appeal shall be adjudicated on the basis of the documentation before the Appeals Committee of Senate and no representation on behalf of any party shall be permitted at the hearing of the appeal.

1.6 APPEALS COMMITTEE OF SENATE

The Appeals Committee of Senate consists of:

- 1.6.1 the Chairperson of Senate or his or her delegate; and
- 1.6.2 two members of Senate, one of whom must be a member of the Faculty of Law: provided that a member of Senate who has served as a member of the Disciplinary Committee (Students) in respect of a certain matter, may not serve as a member of the Appeals Committee of Senate in respect of the same matter.

1.7 GENERAL

- 1.7.1 If the Disciplinary Committee (Students) and/or the Appeals Committee of Senate deprives a student of a right or a privilege that he or she exercises as a student, or temporarily or permanently denies him or her entrance to the University or a University residence, such student shall forfeit all claims to a refund or reduction of or exemption in respect of money paid or payable to the University.

- 1.7.2 If a student refuses to attend a disciplinary hearing, or where he or she has been absent from such hearing for a second time without the permission of Chairman of the Committee, the hearing may be continued forthwith in his or her absence in a manner which the Disciplinary Committee (Students) deems appropriate.
- 1.7.3 If the Vice-Chancellor and Principal is of the opinion that the circumstances of a specific case warrant it, he or she may perform some or all of the actions performed by the Registrar in terms of the Disciplinary Code or, alternatively, he or she may delegate the authority to perform these functions to another staff member of the University.
- 1.7.4 Nothing in this document shall prohibit the Council of the University from promulgating specific disciplinary codes and procedures for regulating conduct in Residences or in other units within the University where this is necessitated by operational requirements. This Code shall apply in the absence of such measures.