



UNIVERSITY of the
WESTERN CAPE

**UWC DISCIPLINARY
POLICY
AND PROCEDURE**

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UWC DISCIPLINARY POLICY AND PROCEDURE
In accordance with the provisions of the Labour Relations Act,
66 of 1995 as amended.

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1. DEFINITIONS OF TERMS

- 1.1 In this Disciplinary Code and Procedure, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and equivalent expressions bear corresponding meanings:
- 1.1.1 "**Act**" means the Labour Relations Act, 66 of 1995;
- 1.1.2 "**Chairperson**" means
- a) the person designated by Council to officiate at the formal disciplinary hearing of the Rector; or
 - b) the person designated by the Rector or his/her nominee to officiate at the formal disciplinary hearing of a member of the University's senior management; or
 - c) the person designated by the Executive Director: Human Resources or his/her nominee to officiate at the formal disciplinary hearing of the employee concerned.
- 1.1.3 "**Code of Good Practice**" means the Code of Good Practice, Schedule 8 to the Act;
- 1.1.4 "**Disciplinary Code**" means this document which sets out the lists of offences and the procedure to be followed in disciplining an employee for misconduct, annexed to this document marked "**Annexure A**";
- 1.1.5 "**Employee Representative**" means any other employee of UWC but excludes a legal practitioner;
- 1.1.6 "**Enquiry**" or "**Hearing**" means a meeting chaired by a Chairperson, the object of which is to consider relevant facts and to make an appropriate decision on the disciplinary matter before him/her;
- 1.1.7 "**Line Manager**" means a person to whom an employee reports. In the case of the Rector, "Line Manager" means Council.
- 1.1.8 "**Management Committee**" means the Management Committee of the University as contemplated in Chapter XI of the Statute of the University of the Western Cape;
- 1.1.9 "**Misconduct**" means unacceptable behaviour that occurs when a rule is broken, or some other unacceptable or inappropriate behaviour occurs.
- 1.1.10 "**PDS**" means Performance Development System, which is applied for developmental purposes using a coaching approach. The goal component may in future be linked to rewards as a differentiator for performance.

- 1.1.11 **“Rector”** means the Rector and Chief Executive Officer of the University of the Western Cape and, for the purpose of these procedures, acting on behalf of and mandated by the Council of the University of the Western Cape to finalise disciplinary matters;
- 1.1.12 **“Senior management”** refers to the Rector, the Vice-Rector or Vice-Rectors, as the case may be, the registrar or registrars, as the case may be, the executive director or executive directors, as the case may be, and the deans.
- 1.1.13 **“UWC”** means the employer, University of the Western Cape.
- 1.1.14 **“Academic employees”** refers to those persons employed by the University primarily to teach or to do research, including the executive members (as their individual contracts reflect) and the Deans.
- 1.1.15 **“Administrative and Support staff falling outside of the bargaining unit”** refers to those employees of the University who are not academics and who are on grades 8 to 1.
- 1.1.16 **“Preliminary Investigation”** refers to an inquiry of limited scope undertaken to verify whether or not an allegation merits further inquiry as a full investigation.
- 1.1.17 **“Formal Investigation”** a formal investigation may be required if the informal procedures are not successful.
- 1.1.18 **“Incapacity: Ill-health or Injury”** according to the Labour Relations Act 66 of 1995, Schedule 8, section 10, is defined as:

“Incapacity on the grounds of ill health or injury may be temporary or permanent. If an employee is temporarily unable to work in these circumstances, the employer should investigate the extent of the incapacity or the injury. If the employee is likely to be absent for a time that is unreasonably long in the circumstances, the employer should investigate all the possible alternatives short of dismissal. When alternatives are considered, relevant factors might include the nature of the job, the period of absence, the seriousness of the illness or injury and the possibility of securing a temporary replacement for the ill or injured employee. In cases of permanent incapacity, the employer should ascertain the possibility of securing alternative employment, or adapting the duties or work circumstances of the employee to accommodate the employee's disability.”¹

2. SCOPE AND OBJECTIVES

- 2.1 The aim of the disciplinary policy and procedure is to provide persons responsible for maintaining discipline at UWC with the necessary guidelines to enable them to apply the policy and procedures in practice. Existing disciplinary policy documents of UWC were taken into account and incorporated where necessary. This policy replaces all previous policies and procedures in this regard unless otherwise expressly stated or covered under a collective agreement, and is applicable to all employees of the University of the Western Cape, excluding those falling within the bargaining unit. It applies to Management staff who are employed on graded 8 to 1, as well as all Academic staff.

¹ Please note that the procedures for medical incapacity will be dealt with in a separate document.

- 2.2 UWC considers the maintenance of discipline to be of paramount importance and expects every employee to act correctly and irreproachably.
- 2.3 UWC undertakes to ensure that employees shall at all times be treated fairly in order to foster healthy productive employee relations.
- 2.4 The Disciplinary Code and Procedure forms part of the terms and conditions of an employee's contract of employment.

3. POLICY PRINCIPLES

- 3.1 The purpose of disciplinary action is to discourage unacceptable behaviour as per the Disciplinary Code of Conduct (Annexure A), and to encourage employees involved to correct unacceptable behaviour, rather than to punish.
- 3.2 UWC upholds the principle and trends of the Labour Relations Act, 66 of 1995 namely that employers and employees should treat each other with mutual respect. UWC recognises equally the core values of employment justice and the efficient operation of its business.
- 3.3 No employee of UWC shall be subjected to arbitrary action and UWC is entitled to satisfactory conduct and appropriate work performance from all of its employees.
- 3.4 Disciplinary action shall be instituted with due consideration of all the relevant facts.
- 3.5 No disciplinary action shall be considered against an employee unless he is afforded a proper opportunity to state his/her case and to defend him/herself against any allegations, which may be taken into consideration against him/her.
- 3.6 In accordance with the provisions of the Disciplinary Code and Procedure, every employee may, during the Hearing in terms of the procedure as set out in the Disciplinary Code and Procedure, be entitled to be assisted or advised by an Employee Representative.
- 3.7 Employees are not entitled to be assisted by a legal practitioner during any proceedings in terms of the Disciplinary Code and Procedure, unless expressly agreed to in writing by UWC in which case UWC shall similarly be entitled to representation by a legal practitioner.
- 3.8 Complaints relating to sexual harassment are dealt with in terms of the University's Sexual Harassment Policy.

4. INVESTIGATION PROCEDURES

4.1 The Preliminary / Informal Investigation

- 4.1.1 If an employee is accused of a disciplinary offence, his/her line manager in consultation and with the support of the Faculty/Division's HR Consultant may proceed with a preliminary investigation into the nature and extent of the offence by means of consultation with the employee and possible witnesses.
- 4.1.2 The purpose of the preliminary investigation is to determine the exact nature of the misconduct, to what extent there are grounds for the disciplinary action, the seriousness of the accusation, the type of evidence that is available and whether action must be taken.
- 4.1.3 During the preliminary investigation there is as yet no assumption of transgression or guilt. The intention is one of gathering facts.
- 4.1.4 If the line manager in consultation and with the support of the Faculty/Division's HR Consultant completes the preliminary investigation and no *prima facie* evidence of a breach of the Disciplinary Code exists, the matter shall be deemed as finalised.
- 4.1.5 If the line manager completes the preliminary investigation and *prima facie* evidence of a breach of the Disciplinary Code exists, the line manager may deal with the matter on condition that the proposed sanction shall amount to no more than a written warning.
- 4.1.6 In the event that the line manager anticipates the sanction to be more serious than a written warning, the matter must be referred to the attention of the Executive Director: Human Resources for formal investigation.

4.2 Formal Investigation of an Accusation

- 4.2.1 Should the matter require a formal investigation, the line manager may request that the Executive Director: Human Resources (or nominee) appoint an Investigator to investigate the allegations. The Investigator shall be an employment law, labour law, employee relations, industrial relations or human resources professional or equivalent.
- 4.2.2 The employee must be informed of the formal investigation into his/her conduct and of the outcome of such an investigation.
- 4.2.3 The investigation should be conducted without unreasonable delay and should ascertain the facts with a view to recommending whether there is *prima facie* evidence of misconduct or poor performance. The Investigator may speak to the employee concerned and to any witnesses and should review any documents (such as emails, notes, CCTV etc.) which may

be relevant to the allegations. Wherever possible any witness interviews should be conducted face to face.

4.2.4 Confidentiality:

Management, employees and the parties concerned must endeavour to ensure confidentiality in the disciplinary enquiry. Only appropriate members of management as well as the representative, alleged offender, witnesses and interpreter, if required, must be present in the disciplinary enquiry. Employers are required to disclose to either party or to their representatives, such information as may be reasonably necessary to enable the parties to prepare for any proceedings in terms of this policy.

4.2.5 The Investigator should also explain to witnesses that they may be required to give evidence at a disciplinary hearing.

4.2.6 Once the Investigator has completed the investigation, he/she should report his/her findings in writing, and make recommendations to the Executive Director: Human Resources on whether they consider there to be *prima facie* evidence of a breach of the Disciplinary Code. It may be that the matter can be dealt with informally (referred back to 4.1 above) or that no action is necessary.

4.2.7 If it is considered that *prima facie* evidence of a breach of the Disciplinary Code exists, the charges must be formulated in writing and handed to the employee within a period of three months from the date of receipt of the investigators report as in 4.2.5 above.

4.2.8 Should the accused employee refuse to receive the notice of the disciplinary hearing / charge sheet, the content thereof must be read to the accused employee and his/her refusal to receive the charge sheet must be recorded on the notice.

4.2.9 The notice of the disciplinary hearing / charge sheet must set out the essential elements of the offence / misconduct / poor performance or incompetence of which the employee is accused and the charge sheet must be accompanied by an explanation of the employee's rights in respect of the disciplinary procedure.

4.2.10 The notice of the disciplinary hearing / charge sheet must be reviewed by Human Resources ahead of it being served on the employee.

5. THE DISCIPLINARY PROCEDURE

5.1 Upon the commission of an alleged act of misconduct which may result in a sanction more serious than a written warning, including the dismissal of an employee, a disciplinary hearing must be convened. The disciplinary hearing and the decision shall be determined on a basis

of equity and fairness. The failure by any Line Manager to institute disciplinary action shall in itself amount to an offence.

5.2 Admission of Guilt

- 5.2.1 If an employee admits that he/she is guilty of an act of misconduct, he/she shall be afforded an opportunity to submit mitigating circumstances, and thereafter a disciplinary sanction may be imposed on him/her. The line manager reserves the right to continue with a formal process.

5.3 Disciplinary Hearing process

- 5.3.1 An employee shall be given at least 7 (seven) working days prior written notice of the date, time and place of the Enquiry in the form of a notice to attend the disciplinary Enquiry. The notice must also state the charges that are levelled against the employee. The employee must be advised of his/her right to be represented and to lead evidence at the disciplinary hearing and to cross-examine witnesses. The employee must also be advised that his/her failure to attend the disciplinary enquiry may result in the hearing continuing in his/her absence. This may lead to a finding in his/her absence.
- 5.3.2 All copies of relevant documents that UWC intends using in support of its case at the Enquiry must be given to the employee together with the notice of the Enquiry, unless circumstances dictate that this is not possible or if the employee agrees otherwise.
- 5.3.3 A Chairperson will be appointed by Executive Director: Human Resources (or nominee). The appointment of the Chairperson will be solely at the discretion of UWC.
- 5.3.4 Only those persons who have to be present in terms of this procedure may attend the Hearing. The admission of any other person as an observer shall be subject to arrangement with the Chairperson.

5.4 Guidelines for the conducting of Disciplinary Hearings

- 5.4.1 The Chairperson will chair the Hearing and introduce all parties for the Record.
- 5.4.2 The Chairperson will read the infringement/s as stated in the charge sheet.
- 5.4.3 The Chairperson will ask all witnesses to leave the room.
- 5.4.4 The Chairperson will ask the alleged offender to state his/her plea in response to the allegations.
- 5.4.5 The Chairperson will afford the person delegated to act on behalf of UWC to present his/her case and to allow for the calling of witnesses, as well as the submission of relevant evidence.
- 5.4.6 The alleged offender or his/her Employee Representative will be granted an opportunity to cross-examine evidence led on behalf of UWC.

- 5.4.7 The alleged offender or his/her Employee Representative will present his/her response and will be granted the opportunity to call witnesses.
- 5.4.8 The Chairperson will grant the opportunity to the complainant to cross-examine the alleged offender or his/her witnesses, on evidence presented.
- 5.4.9 The Chairperson must at some stage request the parties to address him/her on mitigating and / or aggravating circumstances, should he/she deem it so fit. This address shall in no way be construed by either party to be a predetermined judgement in favour of / against the accused employee in anyway.
- 5.4.10 The Chairperson will then adjourn the Hearing to make his/her written findings on the evidence presented within a period of 7 (seven) days after the Hearing.
- 5.4.11 The Chairperson will decide on an appropriate sanction. In the event that the Chairperson considers the sanction of dismissal appropriate, he/she shall make this recommendation to the Rector which may either accept or reject the recommendation, in which case the Rector shall implement its own sanction, subject to the requirements of law and fairness.
- 5.4.12 The Rector shall be required to agree to the dismissal of any employee of UWC.
- 5.5 Rights of the accused employee
- 5.5.1 The accused employee has the following rights with regard to the matter lodged against him/her and such rights must be expounded on the charge sheet:
- 5.5.2 The right to hear and receive the charge / issue in writing.
- 5.5.3 The right to state his/her case in defence against the accusation(s).
- 5.5.4 The right to receive and study any document submitted as evidence beforehand.
- 5.5.5 The right of having his/her case finalised within a reasonable time.
- 5.5.6 The right to have an interpreter present if necessary to interpret the proceedings in a language he/she understands. The request for an interpreter must be submitted to the Employee Relations Office at least two (2) working days before the start of the disciplinary hearing.
- 5.5.7 The right to representation by a fellow UWC employee.
- 5.5.8 The right to prepare to respond to the charge(s) and to receive timely notice of a disciplinary hearing (at least 7 (seven) working days before the start of the disciplinary hearing).
- 5.5.9 The right to pose questions to witnesses via the Chairperson.

- 5.5.10 The right to present extenuating circumstances prior to a decision being made regarding an appropriate sanction.
- 5.5.11 The right to a verdict within a reasonable period of time (within 7 (seven) days).
- 5.5.12 The right to be notified of any sanction.
- 5.5.13 The right to refer a dispute about the disciplinary process to either the Commission for Conciliation, Mediation and Arbitration, or by agreement with the University to private arbitration.

6. DISCIPLINARY PROCEDURE WITH RESPECT TO MEMBERS OF SENIOR MANAGEMENT

- 6.1 The Rector has the prerogative to institute disciplinary procedures in the case of senior management. In the case of the Rector, Council will appoint an appropriate person or committee using the same policy and procedure as outlined in this document.

7. SPECIFIC PROCEDURES WITH REGARD TO SPECIFIC MISCONDUCT

Alcohol intoxication or being under the influence of drugs / intoxicating substances while on duty.

- 7.1 Should a line manager suspect that an employee is under the influence of drugs or alcohol, the following guidelines must be followed:

It is the responsibility of the supervisor to make an observation of the employee for e.g.:

- a) are the employee's pupils enlarged/constricted?
- b) are the employee's eyes bloodshot?
- c) does the employee smell of alcohol?
- d) is the employee unstable on his/her feet?
- e) is the employee's speech affected?
- f) is the employee's speech slurred?
- g) what is the employee's general behaviour? For example, is the person exceptionally drowsy or aggressive?

- 7.2 A second person must be present to serve as witness of the observation made by the line manager.
- 7.3 During the examination/observation the employee has the right to be represented by a fellow employee.
- 7.4 After the examination/observation has been performed, the supervisor can consider further steps:

- a) If the employee smells of alcohol or appears to be under the influence of alcohol, the line manager may request the employee to voluntarily blow into breathalyser or voluntarily submit him/herself for a blood test (obtainable from the UWC Doctors' office or appropriate arrangements to be made).
 - b) If the line manager suspects drug abuse, the employee may be sent for blood tests after the Manager; Employee Relations has been informed, and the consent from the employee has been voluntarily obtained.
- 7.5 Should the employee refuse to be tested, a note must be made of the refusal to be tested and can be noted as aggravating circumstances in a disciplinary hearing.
- 7.6 Should the observation and/or breathalyser test/blood test be of such a nature that it is obvious that the employee is under the influence of alcohol/drugs, the employee must be sent home.
- 7.7 The incident must be reported to the Executive Director or Director: Human Resources so that formal steps can be followed.

8. SUSPENSION WITH PAY

- 8.1 Where the nature of the alleged transgression is such that there is:
- 8.1.1 an element of dishonesty in the alleged misconduct;
 - 8.1.2 the possibility of tampering with evidence;
 - 8.1.3 the possibility of interfering with investigation;
 - 8.1.4 the possibility of intimidating a witness(es);
 - 8.1.5 an impact on industrial peace;
 - 8.1.6 an impact on the image of the organisation,
- 8.2 UWC may immediately suspend the employee until the disciplinary hearing is held and finalised. Such suspension will only take place where the employee is being paid his/her full salary.
- 8.3 The employee may be afforded an opportunity prior to being suspended to provide reasons why he/she should not be suspended. UWC will take a decision regarding whether the employee should be suspended after considering the employee's representation.

9. ROLES AND RESPONSIBILITIES

- 9.1 A representative of the Employee Relations Office and / or the Human Resources Department will monitor and ensure that substantive and procedural fairness principles are applied prior to, during and after the Disciplinary Hearing.
- 9.2 The employer representative will present the employer's case during the Disciplinary Hearing.
- 9.3 The Employee or Employee Representative will represent the employee during the Disciplinary Hearing and will present the employee's case.
- 9.4 The Chairperson will chair the Disciplinary Hearing and make written findings on guilt and sanction on the basis of evidence presented.
- 9.5 The accused employee's absence, without an acceptable reason, from a disciplinary hearing does not render the findings of the Chairperson invalid and a disciplinary hearing may proceed in the absence of an employee if the employee does not have an acceptable reason for being absent from the disciplinary hearing.

10. GUIDELINES FOR DISCIPLINARY OFFENCES (Refer to the Disciplinary Code, Annexure A).

- 10.1 The list of offences stipulated in the disciplinary code is not exhaustive but merely a guideline for disciplinary action applicable to certain offences. UWC may take appropriate action against any employee for any action or actions not mentioned in the Disciplinary Code which is considered unacceptable. This includes any alleged action on the part of the employee which makes it intolerable in management's discretion from an employee relations point of view to continue the relationship.
- 10.2 Where an employee is found guilty of misconduct, such misconduct may warrant the imposition of a disciplinary sanction.
- 10.3 The severity of disciplinary action will depend on the circumstances of each case and mitigating and aggravating circumstances will be taken into account.
- 10.4 The appropriateness of the sanction will also depend on the impact of the act of misconduct on workplace relationships.
- 10.5 The Chairperson of a hearing may deviate from these guidelines within their sole and unfettered discretion provided they act in accordance with the Code of Good Practice, a copy of which is available from the Human Resources Department.

11. **DISCIPLINARY SANCTIONS**

11.1 This Disciplinary Code and Procedure allows for the following disciplinary action: -

11.1.1 verbal warning;

11.1.2 written warning;

11.1.3 Final written warning;

11.1.4 suspension without pay;

11.1.5 demotion; and

11.1.6 dismissal

11.1.7 The degree of the alleged misconduct will have a bearing on any remedial action / penalty applied.

11.2 **Disciplinary Warnings**

The Line Manager in consultation and with the support of the Faculty/Division's HR Consultant may take one of the following kinds of disciplinary action depending on the seriousness of the alleged transgression, offence or situation -

11.3 **Verbal Warning**

11.3.1 A verbal warning may be given when an employee's behaviour is determined by the line manager to be inappropriate, or where there is an act of misconduct which is not serious enough to warrant a written warning. A formal disciplinary enquiry need not be convened, provided that the employee is nonetheless provided with an opportunity to make representations prior to the verbal warning being given.

11.3.2 The employee is required to sign that they have been issued with a verbal warning in the presence of a witness or the employee's chosen Employee Representative, if any.

11.3.3 The Manager issuing the verbal warning shall clearly communicate it to the parties. The verbal warning shall record the reasons for such warning and the action necessary to correct and prevent recurrence of the offence and also that further disciplinary action shall be taken if no improvement takes place.

11.3.4 The verbal warning shall be signed by the person issuing the warning and a copy thereof shall be handed to the employee. In the event that the employee refuses to

sign the warning, a witness will sign in his/her stead and record such refusal. The verbal warning shall then be placed on the employee's personnel file.

11.3.5 A verbal warning shall remain valid for 3 (three) months from the date of issue.

11.3.6 In the event that the employee does not agree with the sanction of a verbal warning, the employee may make written representations which shall be recorded with the documented verbal warning.

11.3 **Written Warning**

11.3.1 A written warning may be given when an employee has failed to improve his/her behaviour, where (a) verbal warning/s have been issued within the preceding 6 months for the same or similar offence/s, or where there is an act of misconduct which is not serious enough to warrant a final written warning. A formal disciplinary enquiry need not be convened, provided that the employee is nonetheless provided with an opportunity to make representations prior to the written warning being given.

11.3.2 A written warning shall be valid for 6 (six) months from the date of issue.

11.3.3 In the event that the employee does not agree with the sanction of a written warning, the employee may make written representations which shall be recorded with the written warning.

11.4 **Final Written Warning**

11.4.1 A final written warning may be given either where a written warning is considered inadequate because of the seriousness of the conduct of the employee or when the same or similar misconduct is committed within 6 (six) months of the employee concerned having been issued with a written warning for the same or similar misconduct. A formal disciplinary enquiry must be convened, unless the employee waives his/her right to a formal disciplinary enquiry.

11.4.2 Failure to heed a final written warning may result in dismissal. A final written warning shall be valid for 9 (nine) months from the date of issue.

11.4.3 If an employee is not satisfied with a warning issued to him/her, he/she may refer a dispute to the CCMA in terms of the Act.

11.5 **Status of Warnings issued**

Only current warnings will be taken into account when deciding on an appropriate sanction. UWC may, however, take lapsed warnings into account if a pattern of misconduct is observed.

11.6 Suspension without pay (only as a sanction)

11.6.1 When an act of misconduct is committed, suspension from work without pay may be imposed as an alternative to dismissal. A formal disciplinary hearing must be convened in order to impose this sanction, unless the employee waives his/her right to a formal disciplinary hearing. The period of suspension will depend on the seriousness of the offence.

11.6.2 Suspension without pay cannot be handed down as a sanction unless the employee agrees thereto. Where an employee refuses to agree to suspension without pay, he/she may be dismissed.

11.7 Demotion

11.7.1 Demotion to a lower position and a consequent reduction of remuneration may be imposed as an alternative to dismissal. A formal disciplinary hearing must be convened in order to impose this sanction, unless the employee waives his/her right to a formal disciplinary hearing.

11.7.2 Demotion may be an appropriate penalty in circumstances where the proven misconduct renders the employee unsuitable for the post or the circumstances are such that the employee cannot be retained in the post held.

11.7.3 Demotion may occur provided that it takes place with the employee's consent. Where the employee refuses to accept demotion, he/she may then be dismissed.

11.8 Dismissal

If a final written warning fails or if an incident occurs which appears to require stronger action than a final written warning or may warrant summary dismissal, a disciplinary hearing must be instituted and a formal hearing must be held as soon as possible. The procedure as set out hereunder must be followed.

12. ABUSE OF POLICY/PROCEDURES

Allegations of harassment or discrimination are serious matters. Accusations made without sufficient grounds so as to purposely annoy, embarrass or harm the respondent are considered to be frivolous, vexatious, or bad faith accusations and may result in sanctions against the complainant. Sanctions will be in accordance with disciplinary measures outlined in this procedure as read with any other relevant and applicable policy.

13. MULTIPLE AND COUNTER ACCUSATIONS

Where there is more than one accusation arising from the same incident(s) against the same respondent, the accusations may be dealt with in the same proceeding. Where the

respondent files a counter accusation, this may also be dealt with at the same time. UWC holds the right to first complete one matter before addressing further matters raised by the same person or also matters that may relate to a case in progress.

14. CRIMINAL CONDUCT

If a matter involves evidence of criminal conduct, UWC may lay criminal charges and/or institute civil proceedings against the employee to recover monies lost as a result of theft, fraud, bribery or corruption.

The fact that an employee was found guilty or not guilty, in the course of criminal or civil proceedings, will not preclude UWC from taking further disciplinary steps against the employee concerned.

Annexure A

DISCIPLINARY CODE**1. SCOPE AND PRINCIPLES**

- 1.1 This document represents the Code of Conduct of the UWC. This code must be read together with the Disciplinary Policy and Procedure of the UWC, as the procedure for the handling of any disciplinary offence is set out in it.
- 1.2 The examples of disciplinary offences and the phases of disciplinary action for every offence, as set out in this code, in no way represents a comprehensive list of disciplinary offences and does not bind the UWC as employer, or the Chairperson of a disciplinary hearing in his/her discretion to take suitable steps against an offender for any disciplinary offence.
- 1.3 Additional factors may influence the decision of the Chairperson regarding the appropriate disciplinary action, such as, for example:
- the nature and seriousness of the offence;
 - the disciplinary record of the employee (the frequency of similar offences);
 - Extenuating circumstance; and aggravating circumstances.
- 1.4 An employee of the University of the Western Cape is guilty of misconduct and may be dealt with in accordance with the provisions of the University's applicable disciplinary rules and procedures if he/she:
- 1.4.1 contravenes any provisions of the University's Statute or the rules of the University or his/ her conditions of employment;
- 1.4.2 commits, causes or permits to be done, or connives at, any act which is prejudicial to the administration, discipline or efficiency of the University;
- 1.4.3 disobeys, disregards or defaults in carrying out a lawful order or instruction given to him/her, or by word or conduct displays insubordination;
- 1.4.4 is negligent or indolent in the discharge of his/her duties;
- 1.4.5 attempts, contrary to the rules and procedures of the University, to secure intervention from outside sources in relation to his/her position and conditions of service at the University, provided that an employee of the University shall not be precluded to obtain redress in terms of the provisions of statutory or common law;
- 1.4.6 conducts him/herself in a disgraceful, improper or unbecoming manner or whilst on duty is grossly discourteous to any person;
- 1.4.7 uses, or is under the influence of, intoxicating or stupefying drugs or alcohol whilst on University premises or whilst engaged on official University business;
- 1.4.8 without first having obtained the permission of Council, discloses, otherwise than in the discharge of his/her official duties, confidential information gained by or conveyed to him/her through his/her employment in the service of the University or uses such information for any purpose other than in the discharge of his/her official duties, whether or not he/she discloses such information or not;
- 1.4.9 without the permission of the Council, accepts or demands in respect of the carrying out or a failure to carry out his/her duties, any commission, fee, or reward, pecuniary or otherwise (and not being emoluments payable to him/her in respect of

- his/her duties), or fails to report to the Council the offer of any such commission, fee or reward;
- 1.4.10 improperly uses, or uses in an unauthorised manner, any property of the University;
- 1.4.11 misappropriates for gain any property, whether monetary or otherwise, belonging to the University, an employee or student of the University or any visitor to the University;
- 1.4.12 absents him/herself from duty without leave or valid cause;
- 1.4.13 with a view to obtaining any privilege or advantage in relation to his/her official position or his/her duties, or to causing prejudice or injury to the University makes a false or incorrect statement, knowing it to be false or incorrect;
- 1.4.14 incites racial hatred on or off University premises;
- 1.4.15 sexually harasses persons, whether students, members of staff or members of the public, on or off University premises;
- 1.4.16 conducts him/herself, on or off University premises, in a manner detrimental to the University's good name, the efficiency of the administration of the University, race relations on University premises and good relations between members of staff, between students, between student organisations or between members of staff and students (see "Relationship document" in Appendix A) attached;
- 1.4.17 conducts him/herself in an inappropriate manner towards the students and other employees of the University, members of the University's Council or visitors to the University;
- 1.4.18 commits plagiarism;
- 1.4.19 incites employees or students of the University to commit a criminal offence;
- 1.4.20 incites employees of the University to participate in unlawful industrial action against the University;
- 1.4.21 contravenes any of the University's rules or statutory regulations regarding safety on University premises;
- 1.4.22 offers bribes to any student or employee of the University or members of the University's Council;
- 1.4.23 refuses to testify at any disciplinary hearing being held in terms of these rules;
and
- 1.4.24 distributes by print, electronic or other means pornographic material on University premises.

Annexure B**RULES PERTAINING TO RELATIONSHIPS BETWEEN STAFF AND STUDENTS / BETWEEN STAFF.****1. Relationships between staff and students**

- 1.1 Staff should conduct themselves at all times in ways that are consistent with University policy and procedures and acknowledge their professional and ethical responsibility to protect the interests of students and accept the obligations and constraints inherent in that responsibility.
- 1.2 To maintain the relationship with students based on trust, confidence and equal treatment, staff are strongly advised not to enter into an intimate relationship with a student for whom they have a responsibility in the areas of teaching/learning, assessment, selection or research.
- 1.3 Such relationships can lead to perceived or actual conflicts of interest, which can have a detrimental effect on the teaching and learning environment for other students and colleagues.

2. Relationships between staff

- 2.1 Individuals who are tasked with people management responsibilities must disclose any relationship with a member of staff within their department.
- 2.1 Individuals sitting on decision-making bodies must recuse themselves if and when decisions are being taken about individuals with whom they have a close relationship.
- 2.2 Members of staff are required to declare an interest where a personal relationship gives rise to a reasonable apprehension that a conflict of interest might exist, or that the integrity of the academic, administrative or institutional processes of the University could be threatened.

3. The following are incidents where such relationships raise questions about conflict of interest, trust and/or confidentiality which may occur at the outset, during or on the termination of a relationship. Such conflicts may arise in relation to the following areas:

- 3.1 Management and supervision of staff including career progression and staff development;
- 3.2 Deployment of financial and other resources;
- 3.3 All aspects of teaching and learning;
- 3.4 Access to confidential information;
- 3.5 Access to Student Services including financial assistance, accommodation and other services;
- 3.6 Contractual matters including employment, career opportunities, placements, accusations and discipline;

3.7 Assignment of work and facilities to students.

4. Duty to declare relationship:

- 4.1 It is the responsibility of the staff member (both staff members) to declare the close relationship with a student/ another staff member to the Head of the Department or Senior Line Manager.
- 4.2 The Head of the Department or Senior Line Manager shall take whatever steps necessary to ensure that the academic or administrative process is not compromised and that the staff member is not in any way responsible for any academic or institutional assessment of the student/staff member involved in the relationship.
- 4.3 The non-disclosure of any such a relationship, resulting in academic, administrative or institutional processes being brought into question therefore may result in disciplinary action being taken.