



UNIVERSITY OF WESTERN CAPE (UWC)

POLICY ON LEGAL MATTERS AND SIGNING OF CONTRACTS AND AGREEMENTS

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UNIVERSITY OF WESTERN CAPE
WILLEMSTAD, CAPE PROVINCE

POLICY
on
LEGAL MATTERS
and
SIGNING OF CONTRACTS and AGREEMENTS

A. **LEGAL MATTERS**

I. **Definition of "Legal Matters":**

"Legal matters" may entail any one or more of the following:

- 1.1 Letters of demand received from lawyers (attorneys) demanding that an amount of money be paid to (or something be done for) their clients by the University.
- 1.2 Court documentation (whether such are High Court, Labour Court or Magistrates Court documentation) served on the University by the Messenger of the Court. These would include summonses, garnishee orders, etc.
- 1.3 Documentation regarding CCMA matters.
- 1.4 Letters of demand received from private individuals demanding that an amount of money be paid to (or something be done for) them by the University.
- 1.5 Cases where the University wishes to initiate legal action against a private individual, company or firm.
- 1.6 Contracts to be entered into between the University and suppliers of goods **or services**.
- 1.7 Agreements to be entered into between this University and another university or institution concerning academic cooperation, exchange of students, etc.
- 1.8 Obtaining advice or input from a legally qualified person, be such person a practising attorney or advocate, a legal consultant specializing in a particular field (for e.g. labour law), etc.
- 1.9 Agreements to be entered into between this University and another institution, body, state/provincial department or individual concerning the offering of short courses for them, the carrying out of research projects for them, etc.

2. **Dealing with Legal Matters falling within the scope of 1.1 to 1.4 above:**

- 2.1 In dealing with matters falling within the scope of 1.1 to 1.4 above, the steps described hereunder are to be taken.
- 2.2 The relevant document must be brought to the attention of either one of the following persons immediately:

- (a) The Rector.
- (b) The Executive Assistant to the Rector.
- (c) The Legal Advisor to the Rector.

2.3 The person contemplated in 2.2 above will then decide, after consultation with the relevant member of the University's senior management, on the best way to handle the matter by, e.g.:

- (a) Requesting the University's attorneys to obtain the opinion of an advocate on the matter.
- (b) Referring the matter to the University's attorneys to deal with the matter on behalf of the University.
- (b) Entering into correspondence with the person, company or firm concerned.

3. Dealing with Legal Matters falling within the scope of 1.5 above:

3.1 In dealing with matters falling within the scope of 1.5 above, the steps described hereunder are to be taken.

3.2 If a member of senior management is of the opinion that the University should take legal action against any individual, company or firm, he/she must discuss the matter with either one of the following persons:

- (a) The Rector.
- (b) The Executive Assistant to the Rector.
- (c) The Legal Advisor to the Rector.

3.3 The person contemplated in 3.2 above will then decide, after consultation with the relevant member of the University's senior management, on the best way to handle the matter by, e.g.:

- (a) Requesting the University's attorneys to obtain the opinion of an advocate on the matter.
- (b) Instructing the University's attorneys to deal with the matter on behalf of the University.
- (c) Entering into correspondence with the person, company or firm concerned.
- (d) Deciding that the matter should not be pursued.

4. Dealing with Legal Matters falling within the scope of 1.6 above:

4.1 In dealing with matters falling with the scope of 1.6 above, the steps described hereunder are to be taken.

- 4.2 If a (written) contract dealing with the matter at hand exists (e.g. between the University and a current or previous supplier of goods or services) such contract plus any suggested changes thereto have to be brought to the attention of either one of the following persons:
- (a) The Rector.
 - (b) The Executive Assistant to the Rector.
 - (c) The Legal Advisor to the Rector.
- 4.3 The person contemplated in 4.2 above will then peruse the existing contract and, in consultation with the relevant staff member and/or the supplier, decide on:
- (a) The format and contents of the new contract; and
 - (b) Who is to draft the new contract.
- 4.4 If there is no existing contract (see 4.2 above) the need for and the possible contents of such contract has to be discussed with either one of the following persons:
- (a) The Rector.
 - (b) The Executive Assistant to the Rector.
 - (c) The Legal Advisor to the Rector.
- 4.5 The person contemplated in 4.4 above will then decide on:
- (a) The format and contents of such contract; and
 - (b) Who is to draft such new contract.
- 4.6 The final version of the contract entered into between the University and the supplier of goods and/or services to the University is *then to be signed in accordance with the policy set out in B. hereunder.*
5. Dealing with Legal Matters falling within the scope of 1.7 above:
- 5.1 In dealing with matters falling within the scope of 1.7 above, the steps described hereunder are to be taken.
- 5.2 The draft (unsigned) agreement is to be submitted to either one of the following persons:
- (a) The Rector.
 - (b) The Executive Assistant to the Rector.
 - (c) The Vice-Rector: Academic Affairs.
 - (c) The Legal Advisor to the Rector.

- 5.3 The person contemplated in 5.2 above will then peruse the draft agreement and, in consultation with the relevant staff member, decide on the format and contents of such agreement.
- 5.3 The final version of the agreement entered into between the University and the other university or institution is *then to be signed in accordance with the policy set out in B. hereunder.*

NB: Senate at its meeting of 19 November 2004 (S 2004/5) decided that:

- (a) **The draft agreement is to be presented to the Senate International Relations Committee (SIR) for comment before it is finally signed in terms of 5.3 above, provided that in instances where the scheduling of SIR meetings may delay the process, an Executive Committee of SIR should be requested to comment on the draft agreement;**
- (b) A copy of the final and signed agreement has to be submitted to the Executive Committee of Senate and Senate for noting; and
- (c) **The administrative protocols have to be completed before the signing of the agreement.**

6. Dealing with Legal Matters falling within the scope of **1.8** above:

- 6.1 In dealing with matters falling within the scope of 1.8 above, the steps described hereunder are to be taken.
- 6.2 The need for obtaining such advice or input and the particular person from whom the advice or input is to be obtained must be discussed with either one of the following persons:
- (a) The Rector.
- (b) The Executive Assistant to the Rector.
- (c) The Legal Advisor to the Rector.
- 6.3 The person contemplated in 6.2 above will consider the matter (including the possible financial costs for the University) and take a decision on (a) whether a need indeed exist to obtain advice from a person **not** in the employ of the University and (b) whether the suggested advisor is indeed suitable to render the advice sought.
- 6.4 The person contemplated in 6.2 above may wish to assist with the preparation of a proper brief for the person from whom advice or input is to be sought and may wish to be present during discussion with the particular person.

7. Dealing with Legal Matters falling within the scope of **1.9** above:

- 7.1 In dealing with matters falling within the scope of 1.9 above, the steps described hereunder are to be taken.

- 7.2 The draft (unsigned) agreement is to be submitted to either one of the following persons:
- (a) The Rector.
 - (b) The Executive Assistant to the Rector.
 - (c) The Vice-Rector: Academic Affairs.
 - (c) The Legal Advisor to the Rector.
- 7.3 The person contemplated in 7.2 above will then peruse the draft agreement and, in consultation with the relevant staff member, decide on the format and contents of such agreement.
- 7.3 The final version of the agreement entered into between the University and the other institution, body, state/provincial department or individual is *then to be signed in accordance with the policy set out in B. hereunder.*

B. **SIGNING OF CONTRACTS AND AGREEMENTS**

I. General:

Every year UWC enters into various agreements/contracts with other parties. Such agreements/contracts usually create (legal) rights as well as duties for both parties. These rights and duties usually arise from agreements/contracts relating to the following **categories of agreements/contracts:**

- (a) **Academic matters.**
(This category concerns agreements/contracts entered into between UWC and, e.g., other universities or between UWC and donors of funds that are to be utilized for research purposes or between UWC and another institution, body, state/provincial department or individual.)
- (b) **Purely commercial matters.**
(This category concerns agreements/contracts entered into between UWC and, e.g., commercial firms for the supply of goods or services to UWC.)
- (c) **Matters relating to staff**
(This category entails agreements/contracts entered into between UWC and, e.g., unions, newly appointed staff (academic as well as non-academic), current staff, etc., but excludes employment contracts with staff appointed in Faculties for periods less than one academic year. Such contracts are to be signed by the relevant Dean.)
- (d) **Matters relating to students.**

(This category entails agreements/contracts entered into between UWC and, e.g., the SRC (on behalf of students) relating to outstanding tuition fees, tuition fee increases, etc.).

(e) **Matters relating to information technology and communication.**

(This category entails agreements/contracts entered into between UWC and, e.g., suppliers of computer hardware or software, Telkom, etc.)

As the duties flowing from such agreements may have financial implications (directly or indirectly) for the University, it is important that the University has a clear policy on who are allowed to sign such agreements/contracts on behalf of the University, thus creating legal duties (financial or otherwise) for the University.

2. Persons authorized to sign Agreements/Contracts:

2.1 With respect to **category (a)** agreements/contracts:

*Agreements/contracts to be signed by the **Rector** or the **Vice-Rector: Academic**.*

2.2 With respect to **category (b)** agreements/contracts:

*Agreements/contracts to be signed by the **Rector** or the **Executive Director: Finance**.*

2.3 With respect to **category (c)** agreements/contracts:

*Agreements/contracts to be signed by (i) the **Rector** or the **Executive Director: Human Resources**, with respect to appointments not falling within Faculties; or by (ii) the **Rector** or the **Vice-Rector: Academic**, with respect to appointments falling within Faculties for periods longer than one(1) year*

2.4 With respect to **category (d)** agreements/contracts:

*Agreements/contracts to be signed by the **Rector** or the **Vice-Rector: Student Support & Development**.*

2.5 With respect to **category (e)** agreements/contracts:

*Agreements/contracts to be signed by the **Rector** or the **Executive Director: Information and Communication Services**.*

3. Non-availability of persons authorized to sign:

Should it for some reason or another not be possible for the persons contemplated in 2.1 to 2.5 above to sign an agreement/contract, the Rector or, alternatively in the absence of the Rector, the Management Committee may designate, **in writing**,

another member of senior management, e.g. the Registrar or a Dean, to sign on behalf of the University.

4. Record of agreement/contract:

4.1 A person who signs an agreement/contract on behalf of the University (see 2. above) must see to it that he/she (and witnesses if required) signs at least two copies of such agreement/contract (and see to it that each page is properly initialed). One of the copies is to be retained by the University and the other by the other party to the agreement/contract. A copy of each signed agreement/ contract entered into by the University and any other party must preferably be lodged with the office of the Legal Advisor to ensure that all parties to the agreement have properly signed the agreement/contract.

4.2 A copy of each signed agreement/contract must be lodged (for the sake of orderly record- and safe-keeping) at the following University offices:

- a. Agreements/contracts dealing with **academic matters: Office of the Registrar;**
- b. Agreements/contracts dealing with **purely commercial matters: Office of the Executive Director (Finance);**
- c. Agreements/contracts dealing with **matters relating to staff** (excluding persons appointed in faculties for periods not more than one academic year): **Office of the Executive Director (Human Resources);**
- d. Agreements/contracts dealing with **matters relating to students: Office of the Vice-Rector (Student Support and Development);** and
- e. Agreements/contracts dealing with **matters relating to information technology and communication: Office of the Executive Director (ICS).**

NOTE: *Any agreement/contract not signed in accordance with B.1. to 3. above, will not be regarded as legally binding upon UWC*

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Amendments approved by the Management Committee on 22 May 2006

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