



INSTITUTIONAL REGULATORY CODE (IRC) (Policies, Procedures, Rules etc.)

To be completed by initiator of policy/policy owner:

1. POLICY TITLE:	STUDENT DISCIPLINARY CODE
2. FIELD OF APPLICATION: (All persons to whom policy applies)	All Students
3. COMPLIANCE OFFICER(S): (Persons responsible for ensuring policy implementation)	All Staff and Students
4. STAKEHOLDER CONSULTATION (State the stakeholder group/s consulted during policy formulation/revision)	Dean: Student Affairs Student Representative Council Student Council (George Campus) Registrar MANCO Senate
5. DESIGNATION OF POLICY OWNER: (Person responsible for maintaining policy)	Director: Legal Services
6. NAME OF POLICY OWNER:	Adv D A Newton

POLICY HISTORY *(To be completed by policy owner)*

Decision Date (Compulsory)	Status (New/Revised/ No Changes)	Implementation Date (Compulsory if "new" or "revised")	Approving Authority (If "new" or "revised". N/A if no changes)	Resolution Number e.g. 07/11-10.2 (Minute number. N/A if no changes)	Policy Document Number (e.g. D/.../07 N/A if no changes)	Pending date for next revision (Compulsory)
11/12/04	New	Jan 2005	Interim Council	04/11-5.3	D/08/05	March 2007
7/12/07	Revised	Jan 2008	Council	C07.50.1.2.1.1	D/1028/07	March 2009
22June2012	Revised	Immediately	Council	C12.28.2.2	D/80/12 (22-02-2012_12H43)	2014

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SUBJECT (Broad policy field):	Student Governance
SUBJECT NUMBER:	200
CATEGORY (Policy sub-field):	Discipline and Grievance Procedures
CATEGORY NUMBER:	203
IRC NUMBER:	203.01

STUDENT DISCIPLINARY CODE

PREAMBLE

The rules in this Student Disciplinary Code have been approved by the Council of the Nelson Mandela Metropolitan University in terms of section 36, read with section 32(2)(d) of the Higher Education Act, 1997 and the relevant provisions of the Institutional Statute. The Council exercises control over student discipline in terms of these rules.

1. DEFINITIONS AND INTERPRETATION

- 1.1 **Central Disciplinary Committee** - means the Central Disciplinary Committee established in accordance with paragraph 5.1 of this Code.
- 1.2 **George Campus Disciplinary Committee** – means the disciplinary committee established in accordance with paragraph 6.1 of this Code.
- 1.3 **Initiator** – means a person who has the necessary appropriate knowledge, appointed by the Vice-Chancellor to act as initiator in proceedings of the disciplinary committees established in accordance with the provisions of this Code.
- 1.4 **Internal Review** – means a re-evaluation of the evidence and decision taken at the initial hearing, and includes both substantive and procedural matters.
- 1.5 **Residence Disciplinary Committee** – means a disciplinary committee established in terms of the disciplinary rules for residences.
- 1.6 **SRC** – means the Student Representative Council.
- 1.7 **SRC disciplinary committee** – means a disciplinary committee established in terms of the SRC constitution.
- 1.8 **Student** – means any person:
 - 1.8.1 who is registered with the University for any form of study and includes an applicant who has lodged an application for any form of study at the University, as well as any person attending an orientation programme, prescribed for new entrants, at the University.
 - 1.8.2 who has left the University where the question of the propriety of a degree improperly obtained, or of conduct pertaining to an assessment is in issue.
- 1.9 Council Sentencing Guideline is incorporated by reference into this document.

2. JURISDICTION

- 2.1 The Central Disciplinary Committee and the George Campus Disciplinary Committee may deal with alleged contraventions of any rule under the jurisdiction of the University.
- 2.2 Where misconduct cannot be dealt with by one of the committees referred to in paragraphs 1.4 or 1.6 due to the seriousness of the alleged offence or lack of jurisdiction, the matter must be dealt with by the Central Disciplinary Committee or the George Campus Disciplinary Committee, as appropriate.
- 2.3 If, during the course of proceedings, or after a student has been found guilty by one of the disciplinary committees referred to in paragraphs 1.4 or 1.6, it appears that a penalty, which falls outside its jurisdiction, would be suitable, the committee may terminate its proceedings and refer the matter to the chairperson of the Central Disciplinary Committee or the George Campus Disciplinary Committee, as appropriate.
- 2.4 If, during the course of proceedings before the Central Disciplinary Committee or the George Campus Disciplinary Committee, it appears that the matter at hand falls within the jurisdiction of one of the disciplinary committees referred to in paragraphs 1.4 or 1.6, it may terminate its proceedings and refer the matter to the appropriate disciplinary committee.
- 2.5 If a matter is transferred from one disciplinary committee to another, a report of the oral evidence thus far, as approved by all the members of the first disciplinary committee, or the recording/transcript of the proceedings, if required, as well as any documentary evidence already obtained, may serve as evidence before the new disciplinary committee and a finding by the first disciplinary committee may be acted upon by the new disciplinary committee.
- 2.6 The Central Disciplinary Committee or the George Campus Disciplinary Committee, as applicable, serves as a review body for decisions of the disciplinary committees referred to in paragraphs 1.4 and 1.6.

3. MISCONDUCT

- 3.1 A student shall be guilty of misconduct if he/she deliberately or through negligence:
 - 3.1.1 conducts himself/herself in such a way, which either in fact is or could be prejudicial to the good name of the University, the maintenance of order and discipline at the University, or the proper performance of the work of the University;
 - 3.1.2 infringes any rule or policy of the University applicable to students;

- 3.1.3 refuses to submit to the authority of any legitimate decision of the Council, the Senate, or other authoritative body or staff member of the University;
- 3.1.4 encourages a fellow student to commit any act of misconduct;
- 3.1.5 conducts himself/herself in any other respect in an unbecoming, improper or disgraceful way on any of the University campuses or elsewhere as a student of the University;
- 3.1.6 takes into the examination or test room, or has in his/her possession whilst in the room, any books, memoranda, notes, devices, or any paper whatsoever, except such answer books or other books or papers or devices as have been authorised by the invigilator;
- 3.1.7 aids or attempts to aid another candidate or obtains or attempts to obtain aid from another candidate or communicates or attempts to communicate in any way with another candidate during an examination or test;
- 3.1.8 uses University computers or other equipment in an unauthorised or inappropriate manner;
- 3.1.9 commits an act of plagiarism, including the copying of another student's assignment, or copyright infringement;
- 3.1.10 uses, possesses or distributes alcohol on University premises without obtaining the necessary approval from the relevant University authority;
- 3.1.11 uses, possesses or distributes drugs illegally on University premises.
- 3.2 Conviction in a criminal court shall be prima facie proof of misconduct, where applicable.

4. SUMMARY SUSPENSION

- 4.1 The Vice-Chancellor may, if he/she deems it to be in the interests of the maintenance of good order and discipline at the University, summarily suspend a student for a specified time from all or any of the campuses or residences, the attendance of lectures or any other activity of the University.
- 4.2 The period of suspension may extend until such time as:
 - 4.2.1 the student has been found not guilty by the disciplinary committee,
 - 4.2.2 the student's request for review has been settled in his/her favour, or
 - 4.2.3 the coming into effect of the penalty imposed in terms of this Code.
- 4.3 The Vice-Chancellor may, at any time, set aside the suspension, which he/she has imposed on a student in terms of paragraph 4.1, and, after so doing, he/she may re-impose such suspension.

5. THE CENTRAL DISCIPLINARY COMMITTEE

5.1 ESTABLISHMENT OF CENTRAL DISCIPLINARY COMMITTEE

The Council shall establish a Central Disciplinary Committee for the Port Elizabeth campuses of the University.

5.2 COMPOSITION OF THE CENTRAL DISCIPLINARY COMMITTEE

The Central Disciplinary Committee shall consist of:

- 5.2.1 a chairperson, who shall be a jurist, appointed by the Vice-Chancellor,
- 5.2.2 the Dean of Students or his/her nominee, and
- 5.2.3 a member of the SRC, preferably a law student, appointed by the SRC.
- 5.2.4 the Executive Dean of each faculty or his/her nominee who shall serve on a rotational basis, provided the same panellist presides for the entire session (and in a subsequent session in the event of a matter being part heard).
- 5.2.5 In the interest of clarity, all panellists, including the student appointed in terms of 5.2.3, serves as autonomous members of the Committee, and not as a representative of a constituency.

5.3 QUORUM

- 5.3.1 At any meeting of the Central Disciplinary Committee the Chairperson and **[one]** two other members shall constitute a quorum.
- 5.3.2 If at any stage during the sitting of the Central Disciplinary Committee a member of the Committee is no longer able to participate in the proceedings, or is absent for any reason, the hearing will continue, provided that the panel is properly constituted and that the Committee is quorate.

5.4 PROCEDURE

- 5.4.1 Whenever misconduct is alleged, or if any person has reason to believe that misconduct in terms of this Code is being or has been committed, a report, preferably in writing, must be made to the Head of Protection Services at the University or to a person acting on his/her behalf.
- 5.4.2 After receiving the report referred to in paragraph 5.4.1, the Head of Protection Services who must forthwith cause the matter to be investigated. For this purpose, evidence may be gathered by interviewing any person who may be involved either as an accused or a potential witness.

Statements may also be taken and the Head of Protection Services may do whatever is necessary for the purpose of such investigation.

- 5.4.3** On conclusion of the investigation referred to in paragraph 5.4.2, a report must be submitted to the initiator, who will decide on the appropriate disciplinary committee to deal with the matter.
- 5.4.4** In the event of proceedings being instituted in the Central Disciplinary Committee, the following procedure shall be followed:
- (a) The allegation is served on the student in writing at least five (5) working days before the hearing, also stating the date, time and place of the hearing. A copy of this Code must be simultaneously served on the student.
 - (b) Any complainant or witness required for the hearing shall be informed in writing at least three (3) working days before the hearing.
 - (c) The initiator shall lead evidence to support the allegation, examine witnesses and the accused, and address the Committee.
 - (d) The accused may present his/her case, lead evidence in his/her defence, examine witnesses and address the Committee.
 - (e) The accused may be assisted by a fellow student or, in the case of a minor, by a family member.
 - (f) In highly exceptional circumstances, the Chairperson, may, in his/her discretion, permit the accused to be represented by a legal practitioner.
 - (g) The complainant, the accused, and any witnesses may be questioned by the members of the Committee.
 - (h) The Central Disciplinary Committee hearing shall be conducted in an informal manner, and in accordance with the Constitution, the rules of natural justice, applicable legislation and with due regard to the rights of the accused student. No accused student will be prejudiced by reason of a failure to comply with the rules of procedure or rules of evidence as applied in the ordinary courts.
 - (i) If the accused fails to attend or to remain in attendance, or disrupts the hearing, the hearing may continue in his/her absence.
 - (j) The findings of the Committee shall be decided in camera by majority vote. In the event of a tie in the voting, the Chairperson shall have a casting vote.
 - (k) The proceedings at the hearing shall be recorded by the minuting secretary.
 - (l) Subject to paragraph 5.5.4 and paragraph 7.3 a decision of the Committee becomes effective as soon as the accused is informed in writing of the finding and the penalty.
 - (m) No student who has been expelled following proceedings under this Code shall be re-admitted at any time, save with the express consent of the Vice-Chancellor. The Vice-Chancellor's decision shall be informed by written representation by the student together with a recommendation by the Dean of Students and Executive Dean concerned.
 - (n) A Discipline Record Book shall be kept in which shall be entered:
 - Name of Disciplinary Authority
 - Name and student number of student found guilty
 - Nature of charge
 - Finding of Disciplinary Committee
 - Penalty imposed
 - Date of finding and penalty
 - (o) If a student is found guilty of misconduct in terms of this Code, this will be reflected on his/her record of conduct; provided that the Committee may nevertheless resolve that no record of the misconduct be entered on the student's record of conduct.
 - (p) The accused may, within ten (10) working days of receiving the written decision of the Committee, request that the decision of the Committee be reviewed in accordance with paragraph 7.
 - (q) If, on review, the finding and/or penalty is amended, this decision of the Review Committee shall be entered in the Discipline Record Book.
 - (r) The Head: Legal Services shall submit an annual report to the Council, via MANCO₁, listing the offences and penalties imposed by the Disciplinary Committee.
 - (s) A student charged with offences categorised as a category three offence in the Council Sentencing Guideline, may elect, upon receipt of an Admission of Guilt Notice, in his/her sole discretion, to pay an Admission of Guilt fine to avoid an appearance before a disciplinary committee.
 - (t) Any student who is in receipt of a Admission of Guilt Notice, but chooses to appear before a disciplinary committee shall notify the Head: Legal Services in writing of his/her decision within 5 working days of being issued with such notice. If no such notice has been given to the Head: Legal Services, the Head: Legal Services may, after a further 10 working days, debit the student's fees account if the fine remains unpaid.
 - (u) A schedule of such fines, determined in terms of paragraph 8.3, shall be placed on the Student Portal by the Head: Legal Services and reviewed at the commencement of each academic year.

5.5 COMPETENT PENALTIES

5.5.1 The Central Disciplinary Committee may impose any of the following penalties, subject to the provisions in paragraph 5.5.3:

- (a) Oral reprimand and/or warning
- (b) Reprimand and/or warning in writing
- (c) Apology in writing to a particular person or body
- (d) Compensation for, or repair of damage caused by the student
- (e) Payment of a suitable fine, not exceeding R5000
- (f) Deprivation of all or some of the following privileges for a determined or indefinite period:
 - (i) Participation as a member, organiser or official of any student organisation or participation in any student activities of any nature
 - (ii) Obtaining or wearing the colours of the University in any form
 - (iii) Use of library facilities
 - (iv) Access to computer facilities of the University
- (g) Forbid the student to keep or drive a motor vehicle of any nature on the University premises
- (h) Forfeiture of a bursary and/or loan
- (i) Revoking a student's appointment of any kind whatsoever
- (j) Refusal of admission to any or all University examinations and/or tests and/or other forms of assessment
- (k) Forfeiture of examination marks, semester marks, course marks and any other forms of credit acquired in University examinations, tests, or by other means
- (l) Forfeiture of a degree, diploma or other certificate obtained from the University in a fraudulent manner
- (m) The imposition of appropriate University community service for such period as the Committee may deem fit in the circumstances; alternatively if the community service is not performed or is not performed satisfactorily, a fine not exceeding an amount of R5000 may be imposed
- (n) Suspension from the University and/or a University residence for a specified period
- (o) Expulsion from the University and/or a University residence.
- (p) Any other suitable penalty

5.5.2 In any case where the penalty mentioned above is imposed, the Central Disciplinary Committee may postpone the coming into effect of that penalty or any part thereof for a definite period on such conditions as the Committee may deem equitable.

5.5.3 A penalty of expulsion or suspension imposed by the Central Disciplinary Committee shall not come into operation until it has been approved by the Vice-Chancellor.

5.6 POWERS OF REVIEW

5.6.1 A request for review by the Central Disciplinary Committee must be lodged with the Chairperson of the Central Disciplinary Committee by the student within ten (10) working days of written notification of the finding and penalty of the disciplinary committee referred to in paragraph 1.4 or 1.6, as applicable.

5.6.2 The request referred to in paragraph 5.6.1 must be accompanied by the reasons for making it.

5.6.3 The execution of the penalty imposed by a disciplinary committee referred to in paragraph 1.4 or 1.6, as applicable, shall be postponed pending the outcome of the review by the Central Disciplinary Committee.

5.6.4 The disciplinary committee referred in paragraph 1.4 or 1.6, as applicable, shall submit a written report to the Chairperson of the Central Disciplinary Committee. The report shall set out:

- the procedure followed;
- the facts established; and
- the factors taken into consideration in the imposition of the penalty.

5.6.5 The Central Disciplinary Committee shall have the power to:

- (a) confirm or set aside the decisions of the previous disciplinary committee
- (b) impose any penalty which the previous disciplinary committee was empowered to impose; or
- (c) arrive at such other findings, or issue any instructions as may be necessary for justice to be done: Provided that any member of the Central Disciplinary Committee, who was a member of the previous disciplinary committee, shall not take part in the review process.

6. GEORGE CAMPUS DISCIPLINARY COMMITTEE

6.1 ESTABLISHMENT OF THE GEORGE CAMPUS DISCIPLINARY COMMITTEE

The Council shall establish a George Campus Disciplinary Committee for the George campuses of the University.

6.2 COMPOSITION OF THE GEORGE CAMPUS DISCIPLINARY COMMITTEE

The George Campus Disciplinary Committee shall consist of:

- 6.2.1** a chairperson, who shall be a jurist, appointed by the Vice-Chancellor,
- 6.2.2** a senior staff member appointed by the Dean of Students,
- 6.2.3** a member of the Student Council of the George Campus, appointed by the Council.
- 6.2.4** a member of the academic staff appointed by the Campus Principal.
- 6.2.5** The provisions of paragraph 5.2.5 are applicable.

6.3 QUORUM

At any meeting of the George Campus Disciplinary Committee, the Chairperson and two other members shall constitute a quorum, and the provisions of paragraph 5.3.2 shall apply.

6.4 PROCEDURE

As in paragraph 5.4, with the necessary changes.

6.5 COMPETENT PENALTIES

As in paragraph 5.5, with the necessary changes.

6.6 POWERS OF REVIEW

As in paragraph 5.6, with the necessary changes.

7. RIGHT OF REVIEW

7.1 If the Central Disciplinary Committee or the George Campus Disciplinary Committee, as applicable, imposes one or more of the penalties mentioned in paragraph 5.5, the student may, within ten (10) working days of written notification of such finding and penalty, submit a written request to the Director: Legal Services for a review of the finding and/or the penalty by the Review Committee. The request must be accompanied by the reasons for making it.

7.2 The execution of the penalty imposed by the Central Disciplinary Committee or the George Campus Disciplinary Committee, as applicable, shall be postponed pending the outcome of the review by the Review Committee.

7.3 In the case of a review in terms of paragraph 7.1, the relevant disciplinary committee shall submit a written report to the Chairperson of the Review Committee outlining:

- the procedure followed;
- the facts established; and
- the factors taken into consideration in the imposition of the penalty.

7.4 The Review Committee shall consist of two members [**of Council**], who shall be appointed by the Chairperson of Council for a period of 3 years. The Review Committee may co-opt additional persons for the purpose of review, if deemed necessary; provided that such co-opted member who was a member of the disciplinary committee concerned shall not take part in the review process.

7.5 The Review Committee shall have the power to:

7.5.1 confirm or set aside the decisions of the disciplinary committee; or

7.5.2 impose any penalty which the disciplinary committee was empowered to impose, or

7.5.3 arrive at such other findings, or issue any instructions as may be necessary for justice to be done.

7.6 The decision of the Review Committee shall be recorded in the Discipline Record Book; provided that in the event that the student is found not guilty, the endorsement, if any, on the student's record of conduct, shall be expunged.

7.7 The decision of the Review Committee is final.

7.8 The decision of the Review Committee shall be included in the annual report submitted to Council in accordance with paragraph 5.4.4(r).

8. INCIDENTAL PROVISIONS

8.1 Any person who:

- 8.1.1** laid a charge;
 - 8.1.2** gave evidence before the disciplinary committee; or
 - 8.1.3** independently of the disciplinary committee, investigated the validity or otherwise of the charge, shall be disqualified from being a member of the disciplinary committee.
 - 8.2** The Head: Legal Services may, at any time, order that a disciplinary hearing be transferred from one disciplinary body to another.
 - 8.3** The Vice-Chancellor may, from time to time, amend monetary penalties as provided for in paragraph 5.4.4 (u) and 5.5.1. Such amended monetary penalties must be submitted to MANCO for ratification. If MANCO should alter or set aside any such amendment, its validity up to the time of alternation or setting aside by MANCO is not affected.
 - 8.4** Disciplinary steps in terms of this Code may be instituted notwithstanding any pending or completed criminal investigation relating to the same matter against a student.
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