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## Disciplinary Code for Students of Stellenbosch University

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## **PREAMBLE**

In terms of section 36 of the Higher Education Act, 1997, every student of Stellenbosch University is subject to such disciplinary measures and disciplinary procedures as are determined by the University's Statute or the institutional rules.

Clause 69 of the Statute of Stellenbosch University states that any student who contravenes Rules prescribed by Council or acts contrary to that clause of the Statute becomes liable to such punishment and penalties as Council may determine. Disciplinary measures and procedures are to be prescribed by Council in a disciplinary code for Students.

Flowing from the above, after consultation with the Senate and the Student Representative Council, Council hereby adopts the following as its disciplinary code for Students of Stellenbosch University.

## **CHAPTER 1**

### **General matters**

#### **1 Definitions**

1.1. In this disciplinary code, unless the context indicates otherwise: –

**'Academic Matter'** means an Academic Misconduct which arose from negligence, and which may be dealt with by the relevant Department.

**'Academic Misconduct'** means a breach of academic integrity. It includes, but is in no way limited to, the following:

- a. **Plagiarism**, which is the use of the ideas or material of others without acknowledgement, or the re-use of one's own previously evaluated or published material without acknowledgement (self-plagiarism or text-recycling). In this definition acknowledgement will mean a reference indicating the source of previously expressed ideas or published material, and the details of the publication and self-plagiarism or text-recycling will be the re-use of one's own previously evaluated or published material without acknowledgement or indication thereof.
- b. **Collusion**, which is co-operation among Students when academic work is falsely presented for assessment as an individual effort by one or more of the Students involved.
- c. **Cheating** in examinations and assessments, for example when Students copy or allow their work to be copied, give or ask for assistance from another Student without permission, refer to unauthorised notes, books, electronic devices or

other reference material, or take part in the assessment pretending to be another Student, or allow another Student to impersonate them.

- d. **Fabrication** or invention of research, data, evidence, attendance at lectures or presentations, or committing any other misrepresentation relating to scientific or academic work.

**'Central Disciplinary Committee' ('CDC')** means one of the disciplinary committees established by this disciplinary code. It has jurisdiction to deal with all Disciplinary Matters.

**'Cluster'** means a number of Residences and PSO wards that are grouped together.

**'Complainant'** means a person alleging misconduct by a Student which was directed against the complainant.

**'Dangerous Weapon'** means any object, other than a firearm, capable of causing death or inflicting serious bodily harm, if it were used for an unlawful purpose.

**'Day'** means a calendar day but excludes weekends and public holidays.

**'Disciplinary Appeal Committee' ('DAC')** means one of the disciplinary committees established by this disciplinary code. In terms of this code it hears appeals against decisions of the RDC and the CDC.

**'Disciplinary Matter'** means Disciplinary Misconduct which is of a nature to be dealt with by the RDC or the CDC in terms of this disciplinary code, taking into account the seriousness of the misconduct, the importance of issues raised in the matter, the evidentiary or conceptual complexity of the matter, the broader interest which the University may have in the outcome of the matter, and any other relevant consideration.

In this disciplinary code, Disciplinary Matters are distinguished from Residence Matters, Academic Matters and Equality Matters, which are dealt with by functionaries other than the disciplinary committees.

**'Disciplinary Misconduct'** is an umbrella term which means any breach of University policies, rules or instructions issued under the authority of Council which prescribe Student conduct, including the rules for Student conduct contained in this disciplinary code.

Disciplinary Misconduct includes but is wider than Academic Misconduct, Residence Misconduct, Discriminatory Misconduct, and Sexual Misconduct, which all constitute Disciplinary Misconduct arising in specific circumstances. Disciplinary Misconduct may include conduct on and through social media.

**'Disciplinary Proceedings'** commence by way of a report in terms of clause 33 and continue until the matter is finally disposed of in terms of this disciplinary code, including any appeal where applicable.

**'Discriminatory Misconduct'** means unfair discrimination, harassment and victimisation as defined in the University's Policy on Unfair Discrimination and Harassment.

**'Document'** means the manifestation of any recording, whether visual, audio or both, in any medium, using any technology, and includes any book, pamphlet, list, circular, plan, poster, publication, drawing, photograph, picture or data. It also includes any recording on a disc, hard-drive or other device by which information or data is stored.

**'Equality Matter'** means any matter falling within the jurisdiction of the Equality Unit in terms of the Policy governing that Unit, which it determines not to refer to the CDC as a Disciplinary Matter.

**'Equality Unit'** means the Equality Unit established and regulated by the University's Policy on Unfair Discrimination and Harassment.

**'Expulsion'** means the immediate termination of a Student's registration with the University or withdrawal of the allocation of the right to reside in a Residence, as the case may be, along with the immediate loss of all privileges flowing from such registration or allocation. A Student who is expelled from University is, by virtue of such expulsion, automatically also expelled from any Residence the Student may reside in.

**'Functionary'** means a person exercising a power or performing a function in terms of this disciplinary code or other university authorisation.

**'House Disciplinary Committee'** means one of the disciplinary committees established within a Residence by this disciplinary code. In terms of this code it hears Residence Matters.

**'House Rules'** means internal rules and stipulations that are applicable to individual Residences that are included in the internal rules of each Residence, although they remain subordinate to Residence Rules. (Individual residences should maintain their internal rules and be able to furnish the Centre for Student Communities (CSC) with them on request.)

**'Initiation'** means any Unacceptable Welcoming Practices as defined below.

**'Legal Practitioner'** means a person admitted in the past, or currently, to practice as an attorney in any division of the High Court of South Africa, or an admitted and currently practicing advocate in any division of the High Court of South Africa.

**'Legal Representation'** means representation by a Legal Practitioner.

**'Permission'** means written or oral approval by the person with authority to issue instructions to Students on behalf of the University in any particular context and includes ostensible permission.

**'Policy'** means Stellenbosch University Council approved policy.

**'Premises'** includes any land, building, structure, or part thereof, owned or under the control of the University or for which the University is responsible, and includes athletic and recreational fields and facilities.

**'Private Student Organisation Ward' ('PSO ward')** means a residential association of Students living in private accommodation who are under the authority of a Residence Head.

**'Rector'** refers to the rector of the Stellenbosch University.

**'Residence'** means the physical Residence building provided by the University to house Students, and may also mean the residential association of Students living in that Residence under the authority of a Residence Head or who voluntarily subject themselves to the rules governing that Residence, but does not include Student accommodation rented or leased to a Student by a third party, or any other Student accommodation not provided by the University even though facilitated by the University.

**'Residence Disciplinary Committee' ('RDC')** means one of the disciplinary committees established by this disciplinary code. In terms of this Code it has jurisdiction over Disciplinary Matters which do not involve threats to the physical or mental wellbeing of Students or serious damage to University property.

**'Residence Head'** means the head of a specific Residence or PSO ward with authority over Students assigned to that Residence or PSO ward, and is synonymous with 'Warden', 'Visiting Head', PSO-Coordinator.

**'Residence Matter'** means a residential misconduct which arose from negligence or is of a minor nature.

**'Residence Misconduct'** means misconduct which took place within the physical confines of the Student's Residence, which constitutes a breach of the House Rules, or which was selectively directed at a fellow Student of the same Residence.

**'Residence Rules'** are the overarching rules, approved by the Vice-Rector: Teaching and Learning, with respect to Residences, that are applicable to all residents of residences. The Residence Rules applies to Students of PSO wards, where applicable.

**'Representation'** will in this Code mean for another Student or staff member to speak on behalf of a Student in an enquiry or hearing in terms of this disciplinary code, and representative has a corresponding meaning, except in the case of Legal Representation or Legal Representative, where it will specifically refer to the case where a Student is represented by a Legal Representative. Nothing herein shall be construed to mean that a Student is not entitled to obtain legal advice outside of Disciplinary Proceedings.

**'Sexual Harassment'** has the meaning assigned to it by University's Policy on Unfair Discrimination and Harassment, and is one of the forms of Sexual Misconduct.

**‘Sexual Misconduct’** means behaviour towards, or communication with, another Student in a manner that is sexually inappropriate, harassing, coercive, or violent.

**‘Suspension’** or **‘Suspend’** means the temporary exclusion of a Student from the University, including the loss of all Student privileges which include, but are not limited to, access to Campus and University facilities, or the temporary removal of a Student from his or her Residence and loss of all residential privileges which include but are not limited to access to the Residence, pending the final determination of disciplinary proceedings against that Student. While under suspension, the Student nevertheless remains subject to all the University’s rules, including the provisions of this disciplinary code.

Nothing in this disciplinary code shall be construed to limit the allocation and re-allocation of Residence accommodation for Students and management of Residences by the University in the ordinary course.

**‘Student’** means a person who is registered with the University for the purpose of academic research or study until the person graduates from the academic program for which such person is registered, unless that person is refused re-admission during the course of the academic program, is expelled, cancels the Student’s registration or fails to renew the registration at the beginning of an academic year. For the purpose of this disciplinary code, a postdoctoral fellow is a Student.

**‘Student Association’** refers to Associations registered at the Student Representative Council in accordance with the applicable rules and procedures.

**‘Student Community’** refers to a Residence, a PSO ward, a cluster, an association, a club or a similar structure where a collective of Students are members for a common cause, recognised as such by the University.

**‘Student Union’** is the collective term for all the registered Students of Stellenbosch University.

**‘Student Representative Council’** (**‘SRC’**) means the body of student representatives elected and appointed in terms of the Statute of the University.

**‘Unacceptable Welcoming Practice’** is any attitude, action, rule or practice that is typical of a hierarchical power system and that does not promote a value-driven system, as defined in more detail in the Residence Rules.

**‘University’** means Stellenbosch University.

**‘University Community’** means any staff member, Student, employee or representative of the University, individually or collectively as indicated by the context.

**‘University Campus’** or **‘Campus’** means all Premises occupied or controlled by the University or for which the University is responsible, including Residences.



**'University Premises'** means any building, temporary structure, facility, open area or other property which belongs to the University or for which the University is accountable in law.

**'Written Notice'** means notice in written form and includes any representation of words, letters, symbols, numbers, or figures, whether printed in, inscribed on a tangible medium or stored in an electronic form or other medium, retrievable in a perceivable form, and regardless of whether an electronic signature is affixed.

- 1.2. This code is written in gender neutral format, however should there be any word denoting a gender it must be read to include reference to the other genders.
- 1.3. Any word referring to any Functionary or official of the University will also refer to any succession or replacement Functionary or official.
- 1.4. The English version of this code is the operative version and the Afrikaans version is the translation.

## **2 Purpose of this disciplinary code**

- 2.1 The purpose of this disciplinary code is to provide a framework for good decision-making within which the University exercises discipline over students. In this way, it aims to foster and to maintain an environment which supports the University's values.
- 2.2 For that purpose, this disciplinary code provides clear rules for acceptable Student conduct and sets out disciplinary measures and procedures which ensure that disciplinary action by the University is taken efficiently and in a manner that is reasonable, lawful and procedurally fair.
- 2.3 The disciplinary code recognises that the restoration and healing of the University Community as a whole and the relationships amongst individual members are at the heart of its purpose. Therefore sanctions imposed in terms of this code will take cognisance of the efforts made to restore relationships and will, in addition to the established aims of punishment and deterrence, serve to rehabilitate and educate offenders and where persons found guilty of misconduct and where appropriate, sanctions will contribute to the restoration and healing of the University Community as a whole, the relationships amongst its Student Communities and individual members of the Student Community.

## **3 The Values of Stellenbosch University**

- 3.1 Stellenbosch University operates on the basis of a set of values which every Student is expected to respect and promote, and which ought to inform the application of this disciplinary code:
  - 3.1.1 Excellence: Students of the University strive for excellence.

- 3.1.2 Shared Accountability: Students are responsible along with all other members of the University Community for the achievement of the University's vision.
- 3.1.3 Empathy: Human dignity is promoted through a culture and behaviour that are characterised by self-respect, respect for other people, and respect for the physical environment.
- 3.1.4 Innovation: Students strive to think and act in new and different ways and make better choices and decisions for everyone.
- 3.1.5 Leadership in the Service of Others: Students strive for the wellness of people and the world by leading with humility, responsibility and understanding.

#### **4 The principles informing the application of this disciplinary code**

- 4.1 Disciplinary powers exercised in terms of Chapter 3, Part 1 of this disciplinary code constitute administrative action and are not judicial in nature.
- 4.2 Such powers are subject to the right to administrative justice and any legislation which gives effect to that right.
- 4.3 A Legal Practitioner may only represent the Student in Disciplinary Proceedings when Legal Representation has been duly applied for, and granted. Where Legal Representation is granted, access to, or the availability of, a particular legal representative shall not constitute grounds for delay in the Disciplinary Proceedings save in exceptional circumstances.

#### **5 Application of the disciplinary code**

- 5.1 Regardless of where the conduct complained of takes place, this disciplinary code applies to all Students of the University, as well as any person who has agreed expressly or by implication to be bound by this disciplinary code as if that person was a Student, including by virtue of the following:
  - 5.1.1 applying to study at the University, whether for the first time or as a returning Student;
  - 5.1.2 taking up place at University accommodation;
  - 5.1.3 taking part in University activities relating to the welcoming and integration of newcomer Students prior to registration;
  - 5.1.4 taking part in any academic activities prior to registration;
  - 5.1.5 agreeing to represent the University on or away from Campus in academic, sport, cultural or other official activities;
  - 5.1.6 taking part in an academic bridging programme such as the SciMathUS programme;

- 5.1.7 enrolling to study through a partnership agreement concluded between the University and any partner institution (including but not limited to the Military Academy at Saldanha, the Cape Institute for Agricultural Training: Elsenburg), and provided for in more detail in the applicable agreement and subject to that agreement.
- 5.1.8 any conduct whereby the person holds out to be a registered Student of the University.

## **6 Imminent Threats**

- 6.1 Nothing contained in this disciplinary code shall be construed as preventing the University, its employees, or persons contracted to the University, to take whatever measures are reasonably required to deal with imminent threats to the wellbeing of Students, to prevent the imminent destruction of University property, and to restore order and normal functioning on Campus.
- 6.2 The use of force in such cases shall be limited as far as possible, and may only be employed for the above immediate purpose in the face of imminent harm.
- 6.3 A staff member involved in such an action, whether in its authorisation or execution, shall take reasonable steps to contain the escalation of the conflict, which includes contacting the Head: Equality Unit as soon as practically possible to request the assistance of a mediator, unless this is clearly inappropriate.
- 6.4 Once the imminent threat has been contained, any Student alleged to have committed a misconduct is allowed to call for and receive support from a family member, fellow Student, any member of the University Community or the Student support hotline.
- 6.5 The matter shall be reported as soon as practically possible in one of the ways set out below in Chapter 4, and thereafter dealt with in terms of this disciplinary code.

## **7 Summary**

- 7.1 This disciplinary code is structured as follows: Chapter 1 deals with general matters. Chapter 2 sets out rules for general conduct, including generally applicable rules and rules which apply in particular contexts. Chapter 3 confers disciplinary powers on various disciplinary Functionaries and authorises supporting Functionaries. Chapter 4 sets out disciplinary measures and procedures.
- 7.2 In summary, the procedure envisaged in this disciplinary code to deal with misconduct in the ordinary course is as follows.
- 7.3 A matter is reported through one of several channels, depending on the nature of the suspected Disciplinary Misconduct the relevant Residence Head for Residence Misconduct, the relevant head of department for

Academic Misconduct, the Equality Unit for discriminatory and Sexual Misconduct, and the chairperson of the CDC for all other Disciplinary Misconduct.

- 7.4 In each case, the relevant person must decide how to deal with the matter, taking into account the seriousness of the misconduct, the importance of issues raised, the evidentiary or conceptual complexity of the matter, the broader interest which the University may have in its outcome, and any other relevant consideration.
- 7.5 Some matters may be dealt with at the level at which they arose (at departmental level, by the House Disciplinary Committee, or by the Equality Unit), while others are referred to the disciplinary committees established in this disciplinary code. Matters which are referred to the disciplinary committees are called Disciplinary Matters.
- 7.6 Where alleged misconduct arises in an academic or Residence context but also constitutes a violation of the general rules for Student conduct (for example, where an alleged instance of discriminatory conduct takes place in a Residence against a fellow student of the same Residence), the University will always have an interest in the outcome of the matter that goes beyond the context in which it arose. This will constitute a Disciplinary Matter. The chairperson of the CDC may review a decision by the relevant Functionary to treat a matter as a Residence or Academic Matter, instead of treating it as a Disciplinary Matter.
- 7.7 An initial investigation is conducted to collect evidence relevant to the suspected Disciplinary Misconduct. The initial investigation forms the basis of the University's case, which may be supplemented at various points throughout the disciplinary process.
- 7.8 The Student who is suspected of the Disciplinary Misconduct is presented with a summary of the University's case in respect of the misconduct before any adverse finding or decision is made, to allow the Student to prepare and respond meaningfully to all allegations.
- 7.9 A chairperson of the CDC decides how to deal appropriately with Disciplinary Matters on the basis of the initial investigation, as set out in clause 35. The chairperson may decide to divert the matter to the Equality Unit, in terms of clause 22, for an alternative dispute resolution to adopt the summary procedure if the Student admits the misconduct (clause 36), to refer the matter for an enquiry to the RDC (clause 38), or to refer it for an enquiry before the full CDC (clause 37).
- 7.10 The RDC only deals with Disciplinary Matters which arise from Residence Misconduct, but which do not involve a serious threat to the physical or mental wellbeing of Students or serious damage to University property. All other matters are heard by the CDC.
- 7.11 Where a matter is referred for an enquiry to the RDC or the CDC that does not mean that the enquiry should necessarily mimic a criminal trial. Evidence

can be presented either through oral testimony or witness statements (sworn or otherwise). Cross-examination may, or may not, be appropriate. The University's case is presented to the disciplinary committees by an Evidence Leader (as provided for in clause 29). A Student who is suspected to have committed Disciplinary Misconduct, and any other Student who is affected by the suspected misconduct, will always be allowed to address the relevant committee at the enquiry.

- 7.12 A Student may choose to be represented in Disciplinary Proceedings by another Student or staff member of the University. Legal Representation is not ordinarily allowed, though it may be applied for. Where an application for Legal Representation is dismissed, this does not prevent the Student from obtaining legal advice, but the legal representative may not be present at the enquiry.
- 7.13 Any person who is affected by a decision of the RDC or the CDC may lodge an appeal to the DAC (as provided for in clause 40). The DAC has wide powers, and may consider any additional evidence before it makes a decision.
- 7.14 The disciplinary committees have a wide discretion to impose an appropriate sanction. A Suspended sentence may also be imposed. This means that the sanction will not become effective if the Student complies with the conditions imposed. Examples of such conditions include community service or diversity training offered e.g. by the Equality Unit.
- 7.15 In some cases, the disciplinary committees may recommend that Student communities who have not been found to have committed misconduct nevertheless take part in processes which serve the restoration of trust within the University Community.
- 7.16 In exceptional cases where the University does not, for whatever reason, have the capacity to deal with a Disciplinary Matter, an External Disciplinary Panel may be appointed to exercise disciplinary power on behalf of the University. The process is set out in clause 24 of this code. Panel members must be persons of high standing who are suitable to deal with the case at hand.
- 7.17 Throughout the process, the Student who is suspected of having committed a Disciplinary Misconduct and any other Student who has been affected, including the complainant, if there is one, may ask to be supported by a friend or family member or may request support from the Student support services.
- 7.18 While Disciplinary Proceedings are ongoing, a Student may be Suspended from the University or from a Residence in certain circumstances. The Rector or the Residence Head has the power to temporarily Suspend a Student without giving the Student a hearing, but the Suspension must be confirmed by the RDC or the CDC in terms of clause 32.6.

- 7.19 A flow chart visually representing a summary of the disciplinary process in terms of this disciplinary code is annexed. The flow chart and this summary are intended for ease of reference and comprehension only and shall not give rise to independent rights and obligations.

## **CHAPTER 2**

### **Rules for Student Conduct**

#### **8 Introduction**

- 8.1 In what follows, Council prescribes certain conduct expected from Students within a particular context. These prescriptions may, but need not, be given effect to in greater detail in other University Policies, rules or instructions issued under the authority of Council. In those cases, the relevant Policy, rule or instruction must be interpreted so as to give effect to this disciplinary code.
- 8.2 Where the provisions of this disciplinary code are irreconcilable with overlapping provisions of any other University Policy, rule or instruction issued under the authority of Council, the provisions of this disciplinary code apply. The proviso is that the Functionary acting in terms of this disciplinary code must reconcile and give effect to the substantive provisions of a conflicting Council approved Policy to the greatest extent possible.
- 8.3 Unless otherwise indicated, any breach by a Student of the rules provided for in this chapter, or in any other University Policy, rule or instruction issued under the authority of Council, constitutes Disciplinary Misconduct and will be dealt with in terms of this disciplinary code. Where the Policy, rule or instruction in question prescribes Student conduct, but does not expressly create an offence or set out procedures for dealing with a violation, the conduct in question may nevertheless constitute Disciplinary Misconduct.

#### **9 General Rules**

- 9.1 No Student shall, without good and lawful reason, wilfully engage in any conduct which adversely affects the University, any member of the University Community, or any person who is present on the University Campus at the invitation of the University.
- 9.2 Any criminal conduct committed by a person who is or was a Student against or to the detriment of another member of the University Community shall constitute Disciplinary Misconduct.
- 9.2.1 If found guilty of such an offence by a South African court, in addition to any punishment that may be imposed by the court, the Student becomes liable to be dealt with in terms of this disciplinary code by virtue of a final judgment of the court of last instance. Any finding made in such judgment against the Student concerned shall be proof of the facts on which the finding is based, and shall form part of the preliminary record in terms of clause 34.5.

- 9.2.2 Notwithstanding a charge being laid with the South African Police Services against the Student, and / or notwithstanding pending court proceedings in which the Student is an accused, the University may, but is not required to, proceed with and conclude Disciplinary Proceedings against a Student in terms of the provisions of this disciplinary code, if the conduct complained of also constitutes a distinct and independent Disciplinary Misconduct.
- 9.3 A Student shall not act in a manner that is racist, unfairly discriminatory, violent, grossly insulting, abusive or intimidating against any other person. This prohibition extends but is not limited to conduct which causes either mental or physical harm, is intended to cause humiliation, or which assails the dignity of any other person.
- 9.4 A Student shall not interfere with, or act in any manner which can reasonably be expected to interfere with the proper functioning of the University as an institution of learning and research. The prohibition extends to interference with a member of the University Community's work, study, as well as administrative, custodial and any other function related to the University.
- 9.5 A Student shall not act in any way so as to endanger, or contribute to the endangerment of any other person or group of persons.
- 9.6 A Student shall not act in a manner so as to disrupt, or potentially disrupt, the maintenance of order and discipline at the University.
- 9.7 A Student shall adhere to the conditions of use of the University's resources, including its library, sports facilities, laboratories and any other resource or facility. Wilful failure to adhere to such conditions constitutes misconduct under this code.
- 9.8 A Student shall comply with any reasonable written or oral instruction or request by any member of the University's academic staff, or any other employee or Functionary of the University with authority over the Student, by virtue of their position within the University or specific designation in the relevant context. Wilful disregard of such instruction or request constitutes misconduct under this Code.
- 9.9 If a Student witnesses a misconduct which is likely to cause physical or emotional harm to another member of the University Community or which may cause significant damage to the University's tangible or intangible property, or has good reason to believe that such misconduct is planned, is taking place, or has already occurred, that Student shall report such facts as are known to the Student to any member of staff as soon as practically possible. The Student may request anonymity, and may make the report confidential by way of e-mail.
- 9.10 A Student shall not impede or obstruct a disciplinary investigation undertaken in terms of this Code, or mislead any authorised or delegated official or Functionary exercising powers in terms thereof. This includes, but is not



limited to, instances of making false statements to officials and functionaries performing their duties in terms of this Code.

## **10 Academic Misconduct**

- 10.1 Academic activity at the University is based on the values of academic rigour, honesty and trust which together form the bedrock of academic integrity. Academic Misconduct undermines the value of academic integrity and is prohibited.
- 10.2 Students must take responsibility for the integrity of their own work and respect the integrity of the academic assessment process:
- 10.2.1 This includes an obligation to ask for clarification from an academic member of staff where the Student is unsure of what academic integrity requires in the circumstances.
- 10.2.2 In addition, every Student must strictly adhere to an instruction received in the course of an academic assessment by a person with authority over the Student by virtue of their position in the University or specific designation in the relevant context, whether the instruction or the assessment is in oral or written format.
- 10.3 Where Academic Misconduct arises from negligence or is of a minor nature, the matter may be treated as an Academic Matter by the academic department concerned, unless the head of that department refers the matter to the CDC to be dealt with as a Disciplinary Matter. The gravity of the misconduct will be determined taking the following factors into account:
- 10.3.1 Blameworthiness (intent or negligence) of the person committing Academic Misconduct (e.g. Plagiarism): Did the person commit Academic Misconduct knowingly (intentionally), or in circumstances indicating that the person should reasonably have known of the Academic Misconduct (negligently)? Blameworthiness (either intent or negligence) is required to make a finding of Academic Misconduct. To determine intent or negligence all the circumstances must be taken into account, including but not limited to the following factors also relevant to the gravity of the Academic Misconduct and referred to below: the extent of the Academic Misconduct, the importance of the academic activity concerned, the seniority of the person committing the Academic Misconduct and repeated commission of Academic Misconduct.
- 10.3.2 The extent of the Plagiarism: How much of the work presented as part of an academic activity constitutes Plagiarism, in relation to the part of the work constituting an own intellectual contribution? Is the Plagiarism contained in the work so extensive that it is not possible to determine or assess own intellectual contribution?
- 10.3.3 The importance of the academic activity: Did the alleged Academic Misconduct concern a small assignment, a final thesis, or an article submitted for publication?

10.3.4 Harmfulness of the Academic Misconduct: The extent of harm that the Academic Misconduct has caused or can potentially cause to personal and institutional reputation, taking into account all the circumstances, including the seniority of the person committing the Academic Misconduct, the relevant academic activity and the extent of the Academic Misconduct.

10.3.5 Repeated commission of Academic Misconduct.

10.4 Wilful, repeated or serious Academic Misconduct constitutes a disciplinary matter and must be dealt with in terms of the procedures set out in this disciplinary code.

## **11 Dishonesty and misrepresentation**

11.1 A Student shall not publish falsehoods which may reasonably be expected to bring the University or any of its staff or employees into disrepute, or damage the University's good name or reputation, save where the facts on which the publication is based are sincerely held and reasonably believed to be true.

11.2 A Student shall not, whether actively or through silence: -

11.2.1 Mislead any member of the University's academic staff or any other employee of the University with authority over the Student; nor

11.2.2 Make any misrepresentation or a false declaration relating to the Student's academic performance, whether at the University or any other academic institution; nor

11.2.3 Present to, or rely on, any information or Document which the Student knows, or reasonably ought to know, to be false or a forgery.

11.3 When dealing with the University, a Student shall not allow another person to impersonate the Student, nor allow another person to use any identification issued to the Student by the University or relied upon by the University to identify the Student, such as a student number, ID number, student card, access card, electronic password, or any other means of identification.

11.4 A Student shall not falsely hold out to represent the University, or any of its recognised student bodies.

## **12 Sexual Misconduct**

12.1 No Student may behave towards or communicate with any person, on any part of Campus, in a manner that is sexually inappropriate, harassing, coercive, or violent.

12.2 No Student may behave towards or communicate with another Student or University employee or Functionary in a manner that is sexually inappropriate, harassing, coercive, or violent, regardless of where the prohibited behaviour takes place.

- 12.3 In addition, sexual harassment, as defined in the University's Policy on Unfair Discrimination and Harassment, constitutes Sexual Misconduct.

### **13 Premises and property**

- 13.1 A Student shall not make use of, occupy, or enter any University Premises without permission to do so.
- 13.2 A Student shall not remove, make use of, damage or destroy any physical property, including emergency equipment, which belongs to the University, any member of the University Community, or for which the University is accountable, without permission to do so and other than as a consequence of the ordinary and intended use of that property. If a Student is found in possession of property which is known to have been stolen, such Student will be assumed to have committed misconduct under this rule unless the Student is able to show that the property was acquired innocently.
- 13.3 A Student shall not misappropriate funds to which the Student is given access by virtue of the Student's position in the University, or any organisation or association affiliated with the University.
- 13.4 A Student shall not, without permission, bring a firearm onto Campus or be in possession of a firearm on any part of Campus. Furthermore, a Student shall not, without permission, bring onto Campus or have in the Student's possession any Dangerous Weapon, explosive device or material, or fuel which is not reasonably required for the operation of a motor vehicle or another legitimate purpose, in circumstances which give rise to a reasonable suspicion that the Student intends to use the relevant item in contravention of the rules for Student conduct. Any Student who arranges for such action or possession shall be in contravention of this rule as if such Student had personally brought the prohibited item onto Campus or had been found in the Student's possession.
- 13.5 A Student shall not, without permission, distribute any poster, advertisement or leaflet on Campus, or affix these to any notice board, building or ground on Campus. A Student shall furthermore neither arrange nor encourage such actions. In the event that the poster, advertisement or leaflet identifies a Student or student body, they are assumed to be in breach of this rule unless able to show otherwise.
- 13.6 A Student shall not engage in commercial activity on Campus without permission.

### **14 The consumption of alcoholic and illegal substances**

- 14.1 No Student may bring any alcoholic or illegal substance onto any part of Campus without permission to do so.
- 14.2 No Student may sell or purchase any alcoholic or illegal substance on any part of Campus, whether possession thereof is legally permitted or not, nor facilitate or arrange for such a sale by another person, without permission to

do so. In addition, such permitted sale and purchase of intoxicating liquor or narcotic substance must comply with all requirements imposed by the laws of South Africa.

- 14.3 No Student may be in possession of an alcoholic or illegal substance on any part of Campus, where such possession is contrary to the laws of South Africa.

## **15 Events and gatherings on University Campus**

- 15.1 No Student may organise or participate in an event or gathering for which the required permission has not been granted, or which takes place in contravention of any condition of permission having been granted.
- 15.2 Regardless of whether the required permission for an event or gathering has been obtained, no Student may intimidate or otherwise force another person to take part or stopping them from taking part in an event or gathering against their will.
- 15.3 Unless authorised to do so, no Student may prevent another person from entering onto or exiting from any part of the University Campus or into building on Campus during an event or gathering.

## **16 Intellectual Property**

- 16.1 No Student may reproduce or transmit, in any form or manner, including but not limited to photocopy and photography, any Document or work in respect of which copyright exists, unless such reproduction or transmission is permitted by copyright legislation in force at the time of the reproduction or transmission.
- 16.2 Repeated or large-scale infringement of this prohibition constitutes misconduct and shall be dealt with as a Disciplinary Matter. Where the misconduct arises from negligence or is of a minor nature, the matter may be dealt with by the responsible librarian or academic department concerned.
- 16.3 A Student shall not act in a way that is prejudicial to the University's intellectual property, including its digital and electronic systems.

## **17 Residences and PSO wards**

- 17.1 Residences and PSO wards are subject to Residence Rules and House Rules, where applicable.
- 17.2 Residence Rules are updated by the Centre for Student Communities after consultation with the prim committee. Amendments to Residence Rules shall be approved by the Vice-Rector: Teaching and Learning.

- 17.3 Residences and PSO wards may prescribe rules for the conduct of their Students in House Rules.
- 17.4 A breach of the Residence Rules and the relevant House Rules constitutes a Residence Misconduct. Residence Misconduct furthermore includes any other Disciplinary Misconduct in terms of this disciplinary code which took place within a Residence, or which was selectively directed at a fellow Student of the same Residence.
- 17.4.1 Depending on the seriousness of the Residence Misconduct, the importance of issues raised, the evidentiary or conceptual complexity of the matter, and the broader interest which the University may have in its outcome, it will be dealt with either by the relevant House Disciplinary Committee as a Residence Matter, or by the RDC or the CDC as a Disciplinary Matter.
- 17.4.2 Where a provision contained in a house rule overlaps irreconcilably with any substantive or procedural provision in this disciplinary code, this code prevails and the matter automatically becomes a Disciplinary Matter.
- 17.5 Full sets of Residence Rules and relevant House Rules are available on the University's website or at the Office of the Director for Centre for Student Communities.

## **CHAPTER 3**

### **Part 1: Disciplinary powers granted to various disciplinary functionaries**

#### **18 General matters**

- 18.1 This Chapter sets out the powers and functions of disciplinary functionaries (Part 1) and supporting functionaries (Part 2).
- 18.2 Disciplinary functionaries, or in relevant cases their respective chairpersons, determine their own procedures subject to the procedures, safeguards and measures set out in the following Chapter, to deal with the matter fairly and with the necessary expedience. Disputes should be dealt with, with the minimum formalities, but with due regard to the substantial merits of the matter.
- 18.3 Any Functionary exercising disciplinary powers may, prior to exercising such powers:
- 18.3.1 Request and receive the assistance of the Student Disciplinary Investigator to obtain such additional evidence as the disciplinary Functionary considers necessary to properly consider the issue at hand; and

- 18.3.2 May seek and receive information and advice from any other Functionary mentioned in this disciplinary code, but may not abdicate the decision for which the Functionary is responsible.

## **19 The Rector**

- 19.1 The Rector or a delegate of the Rector may temporarily Suspend a Student from the University if, on the facts available at that time, the Rector reasonably fears that:
- 19.1.1 the continued attendance of the Student poses an imminent threat to the order and discipline at the University;
  - 19.1.2 the continued attendance of the Student poses a real and urgent danger to the mental or physical well-being of fellow Students and other individuals on Campus;
  - 19.1.3 that the continued attendance of the Student poses a real and urgent risk of serious damage being done to the University's property; or
  - 19.1.4 the person's continued presence on Campus may be to the detriment of the investigation by (a) interfering with evidence and/or (b) influencing of witnesses.
- 19.2 The Student's Suspension from the University is subject to confirmation by the CDC.
- 19.3 The Rector bears the additional responsibilities and exercises the powers, duties, and functions assigned to the Rector by this disciplinary code.
- 19.4 The powers of the Rector may be delegated to a Vice-Rector.

## **20 Residence Misconduct: dealt with by the Residence Head, the House Disciplinary Committee and the Residence Disciplinary Committee**

### The Residence Head

- 20.1 All suspected Residence Misconduct shall be dealt with in the first instance by the Residence Head in authority over the Residence where the incident arose. The relevant Residence Head must consider whether, on the facts available at that time:
- 20.1.1 a Residence Misconduct is reasonably suspected;
  - 20.1.2 if so, whether the misconduct is to be dealt with as a Residence matter or as a Disciplinary Matter, taking into account the seriousness of the misconduct, the importance of issues raised, the evidentiary or conceptual complexity of the matter, and the broader interest which the University or other Residences may have in its outcome, and any other relevant consideration.

- 20.2 The Residence Head has discretion whether or not to pursue a Residence Matter, taking into account the interests of affected Students and the interest of the Residence, as well as that of the University, if applicable.
- 20.3 The Residence Head may furthermore Suspend a Student from the Residence with immediate effect if, on the facts available at that time, the Residence Head reasonably fears that:
- 20.3.1 the continued presence of the Student in the Residence poses an imminent threat to the order and discipline of the Residence;
  - 20.3.2 the continued presence of the Student in the Residence poses a real and urgent danger to the mental or physical well-being of fellow Students in the Residence;
  - 20.3.3 the continued presence of the Student in the Residence poses a real and urgent risk of serious damage being done to the University's property; or
  - 20.3.4 the person's continued residence may be to the detriment of the investigation by (a) interfering with evidence and/or (b) influencing of witnesses.
- 20.4 A Student's Suspension from the Residence is subject to confirmation by the RDC.
- 20.5 The director responsible for the management of Student Residences shall have residual authority to exercise any of the functions of the Residence Head in the event that the Residence Head is absent or otherwise unable to fulfil those functions for any reason.

#### The House Disciplinary Committee

- 20.6 The House Disciplinary Committee acts through a full committee, made up of a chairperson and additional members. The Residence Head or a nominee of the Residence Head is chairperson of the House Disciplinary Committee. The additional members are appointed in terms of the constitution and House Rules of the respective Residences.
- 20.7 Every Residence must establish a House Disciplinary Committee. The House Disciplinary Committee has jurisdiction to deal with Residence Matters. Pending the adoption of a constitution of the House Disciplinary Committee in terms of this code, the committee, panel or Functionary currently authorised to exercise discipline over Students in the particular Residence retains its powers and jurisdiction. The HDC does not have the power to expel a Student.
- 20.8 The House Disciplinary Committee may request the assistance of a SDI to assist in or guide an investigation into the suspected Residence Misconduct.

- 20.9 The decision of the House Disciplinary Committee is taken by majority vote. In the event of a tie, the chairperson holds the deciding vote.
- 20.10 The chairperson of the House Disciplinary Committee must ensure that proper records are kept of all proceedings before the House Disciplinary Committee.
- 20.11 Any Student adversely affected by a decision of the House Disciplinary Committee may appeal that decision to the RDC.
- 20.12 In the absence of House Rules, or House Rules that do not provide for a House Disciplinary Committee, then the Residence Rules shall apply to such extent as required to address the deficiency, subject to the provisions and requirements of this Code.

#### The Residence Disciplinary Committee

- 20.13 The RDC has jurisdiction to hear Disciplinary Matters arising from Residence Misconduct, which nevertheless does not involve a serious threat to the physical or mental wellbeing of Students or serious damage to University property. The RDC does not have the power to expel a Student.
- 20.14 The RDC has the further jurisdiction to confirm a temporary Suspension imposed by a Residence Head, and to review the Suspension in terms of clause 32.11.
- 20.15 When required to confirm a Suspension:-
- 20.15.1 The RDC shall request the Head Student Discipline to institute an urgent investigation to verify the facts on which the Residence Head's decision was based, and obtain any additional relevant evidence; and
- 20.15.2 The RDC shall confirm the Suspension if the evidence obtained in the investigation considered together with the submissions by the Student concerned in terms of clause 32.5.2, supports the reasons provided by the Residence Head for Suspending the Student.
- 20.16 The RDC also has jurisdiction as an appeal body to the House Disciplinary Committee. In that case the RDC takes its decision on the record of proceedings before the House Disciplinary Committee and may confirm that decision, or set it aside and refer the matter back for reconsideration.
- 20.17 In all cases, the RDC acts through a full committee, made up of a chairperson and at least two other members from the RDC panel. Decisions of the RDC are taken by consensus, and if not reached, majority vote. In the event of a tie, the chairperson holds the deciding vote.
- 20.18 The following decisions may be taken by round robin, including electronically, initiated by the chairperson:



20.18.1 A decision on any application relating to an enquiry before the RDC, including an application to be allowed to take part in the enquiry (clause 28.7), an application to observe an enquiry (clause 30.2), an application by a witness to give evidence at an enquiry other than through oral evidence (clause 30.7), an application for Legal Representation (clause 31.3); and

20.18.2 A review of a Suspension in terms of clause 32.11.

20.19 The Director: Legal Services appoints the chairperson and additional members of the RDC from the RDC panel in respect of each particular case. All Residence Heads are members of the RDC panel by virtue of their appointment to that position.

20.20 Insofar as is practically possible in any particular case, the members of the RDC, including the chairperson, ought to be heads of a Residence or PSO ward in the same cluster as the Residence in which the matter arose, but must exclude the Residence Head of that particular Residence in instances of appeal or a review of a Student's Suspension from a Residence.

20.21 In exceptional circumstances, the Director: Legal Services or delegate/s may appoint additional members to the RDC panel from among suitable members of the University Community. In that case, the chairperson must nevertheless be a Residence Head from the relevant cluster.

20.22 Any Student, adversely affected by a decision of the RDC, save for a decision taken on appeal from a House Disciplinary Committee, or a decision reviewing a Student's Suspension from a Residence, may appeal that decision to the DAC.

20.23 The RDC may determine its own terms of reference which must be compatible with these rules, and be confirmed by the Director: Legal Services.

## **21 Academic Misconduct: dealt with by the Head of Department**

21.1 All suspected Academic Misconduct shall be dealt with in the first instance by the relevant Head of Department, or their nominee, who must consider whether, on the facts available at that time:

21.1.1 An Academic Misconduct is reasonably suspected;

21.1.2 If so, whether the misconduct is to be dealt with as an Academic Matter or a Disciplinary Matter, taking into account the seriousness of the misconduct, the importance of issues raised, the evidentiary or conceptual complexity of the matter, the broader interest which the University or other Departments may have in its outcome, and any other relevant consideration.

- 21.2 The Head of Department has a discretion whether or not to pursue an Academic Matter, taking into account the interests of affected Students and the interest of the Department, as well as that of the University, if applicable.

## **22 Discriminatory Misconduct and Sexual Misconduct: dealt with by the Equality Unit**

- 22.1 Any suspected Sexual Misconduct and Discriminatory Misconduct shall ordinarily be dealt with in the first instance by the Equality Unit in terms of the policies governing that Unit.
- 22.2 The Head of the Equality Unit may decide to refer the matter to the CDC for an enquiry, in which case it becomes a Disciplinary Matter and is dealt with by the CDC in the ordinary course as if it had been referred for an enquiry by the chairperson of the CDC (as set out in clause 37). University management, and any other disciplinary or supporting Functionary, may make submissions or recommendations to the Equality Unit regarding the handling of the matter as a Disciplinary Matter.
- 22.3 If for any reason the Equality Unit is in the view of the Head of the Equality Unit, not able, or unwilling, to deal with a matter arising from suspected discriminatory or Sexual Misconduct, the matter may be dealt with as a Disciplinary Matter in the ordinary course.

## **23 The Central Disciplinary Committee**

- 23.1 The CDC acts through a chairperson alone when:
- 23.1.1 Deciding whether to proceed with a Disciplinary Matter;
  - 23.1.2 Deciding on the appropriate channel to deal with a Disciplinary Matter;
  - 23.1.3 Following the summary procedure;
  - 23.1.4 Deciding any application relating to an enquiry before the CDC, including an application to be allowed to take part in the enquiry (clause 28.7), an application to observe an enquiry (clause 30.2), an application by a witness to give evidence at an enquiry other than through oral evidence (clause 30.7), an application for Legal Representation (clause 31.3); and
  - 23.1.5 Deciding a review of a Suspension on the grounds of undue delay in terms of clause 32.11.
- 23.2 In all other cases, the CDC acts through a committee made up of a chairperson and three additional members selected from the CDC panel, at least one of whom shall be a Student nominee.

- 23.3 In the event of no consensus, the decision of the CDC acting through a full committee is taken by majority vote. In the event of a tie, the chairperson holds the deciding vote.

#### Chairpersons of the CDC

- 23.4 A chairperson of the CDC shall at least be a senior academic staff member, who holds the position of lecturer or professor at the University, or a former or retired senior academic staff member from the University who held a permanent appointment of at least senior lecturer or professor at the University.
- 23.5 The chairpersons of the CDC are appointed by the Director: Legal Services on recommendation of the Dean of the Law Faculty.
- 23.6 The chairpersons of the CDC are appointed concurrently in respect of an academic year. The Director: Legal Services selects a particular chairperson to act for a particular part of the academic year, or in respect of a particular case, after consulting the Dean of the Law Faculty.

#### Members of the CDC panel

- 23.7 A member of the CDC panel shall be a member of the University Community, nominated as follows:
- 23.7.1 Each Faculty must nominate at least one senior academic staff member from each Faculty, accompanied by a short motivation. In the case of the Law Faculty, the nomination for a CDC panellist is in addition to the nomination of a chairperson.
- 23.7.2 Each responsibility centre of the Rector's Management Team must nominate at least one senior non-academic staff member from each centre, accompanied by a short motivation.
- 23.7.3 The SRC shall nominate at least ten post-graduate Students, accompanied by a short motivation. Should the SRC fail to do so, the Senior Director: Student Affairs may nominate suitable post-graduate Students to the CDC panel. Where this disciplinary code requires the SRC to take steps, but it fails or refuses to do so for whatsoever reason, Disciplinary Proceedings may proceed regardless of the SRC's failure or refusal with the necessary adjustments to the applicable rules and procedures to compensate for the failure or refusal.
- 23.8 The Director: Legal Services selects and appoint the members of the CDC from among the CDC panel for a particular part of the academic year or in respect of a particular case, after considering the motivations provided and the recommendation from the HSD regarding the experience, suitability, and availability of panel members, as well as the need for the CDC committee to reflect racial and gender diversity.

23.9 A decision of the CDC may be appealed to the DAC.

#### Confirmation of temporary Suspension

23.10 The CDC must consider and confirm or dismiss the Suspension of a Student from the University which has been temporarily imposed by the Rector in terms of clause 19.1.

23.11 When required to confirm a Suspension:

23.11.1 The CDC shall request the HSD to institute an urgent investigation to verify the facts on which the Rector's decision was based, and obtain any additional relevant evidence; and

23.11.2 The CDC shall confirm the Suspension if the evidence obtained in the investigation considered together with the submissions by the Student concerned in terms of clause 32.5.2, if any, support the reasons provided by the Rector for suspending the Student.

## **24 External disciplinary panel**

24.1 When circumstances so demand, the Rector or a delegate may direct the Director: Legal Services to appoint persons who are not members of the University Community to constitute an External Disciplinary Panel in terms of special terms of reference to exercise disciplinary powers in a particular case.

24.2 The terms of reference are determined by the Rector on advice of the Director: Legal Services.

24.3 The Rector's power to direct that an EDP be appointed and to determine the terms of reference of an EDP may be delegated to an appropriate Vice-Rector.

24.4 When deciding whether to constitute an EDP, the Rector or the Rector's delegate must consider at least the following:

24.4.1 The volume of the material which is likely to become relevant in a particular matter, in light of the capacity constraints of the members of the RDC panel and the CDC, as the case may be;

24.4.2 The number of persons implicated in a complaint and the likely time to be taken up in oral submission of evidence in light of possible capacity constraints of the members of the RDC panel and the CDC, as the case may be;

24.4.3 The need for the University's investigations and the execution of disciplinary functions to be seen to be impartial; and

24.4.4 The need for urgent resolution of the matter in the circumstances of the particular case.

- 24.5 The EDP is made up of a chairperson and no less than two and no more than six additional members. In the absence of consensus, a decision of the EDP is taken by majority vote. In the case of a tie, the chairperson holds the deciding vote.
- 24.6 When appointing persons to act on the EDP, the Director: Legal Services must consider their experience and suitability to deal with Disciplinary Matters on behalf of the University and the particular case at hand.
- 24.7 Subject to the terms of reference and taking into account the procedure ordinarily adopted in enquiries before the CDC (as set out in clause 37), the chairperson determines the EDP's procedure.
- 24.8 The EDP ordinarily conducts the enquiry and makes fully substantiated recommendations to the CDC for a determination of the relevant Disciplinary Matter.
- 24.9 A decision by the CDC in those circumstances may be appealed to the DAC in the ordinary course.
- 24.10 Where the circumstances leading to the establishment of an EDP include allegations of bias against the University, or where none of the CDC's chairpersons are able or available to receive and determine the recommendations of the EDP, the terms of reference may direct the EDP to make a final, binding determination of the Disciplinary Matter before it. In that case:-
- 24.10.1 The chairperson of the EDP must be a retired Rector or Vice Rector, or equivalent, of a University in the Republic of South Africa, a retired Judge, or a retired or former member of the Law Faculty who at the time of retirement held the position of lecturer;
- 24.10.2 The additional members of the EDP shall be suitable professionals of high standing; and
- 24.10.3 There shall be no appeal against the finding of an EDP.

## **25 Appeals to the Disciplinary Appeal Committee**

- 25.1 An appeal against a decision by the RDC or the CDC is heard and determined by the DAC.
- 25.2 The DAC acts through a full committee made up of the chairperson, one academic staff member and one Student member. A decision of the DAC is taken by majority vote.
- 25.3 The chairperson of the DAC shall be the Dean of the Law Faculty by virtue of appointment, or a professor of the Law Faculty appointed as such by the Director: Legal Services after consultation with the Dean of the Law Faculty.

- 25.4 The academic staff member of the DAC shall be an academic member of staff of the Law faculty appointed for each academic year by the Director: Legal Services after consultation with the Dean of the Law Faculty. Where that academic staff member is not available or able to deal with a particular case, the Director: Legal Services may appoint another academic staff member after consultation with the Dean of the Law Faculty, whether that staff member is part of the Law Faculty or not, to act as academic staff member of the DAC on a temporary basis for a particular time or in respect of a particular case.
- 25.5 The Student member of the DAC shall be a post-graduate Student nominated by the SRC for each academic year. Where the Student member is not available, or able to deal with a particular case, or the SRC fails to make a nomination, the Director: Legal Services or delegate/s may appoint another post-graduate Student after consultation with the Dean of the Law Faculty. Such Student may be appointed to act as Student member of the DAC on a temporary basis (for a particular time) or in respect of a particular case, and may be part of the Law Faculty, or not. A failure to appoint such Student will not invalidate the process.
- 25.6 The DAC has wide appeal powers. It may consider any ground of review contained in legislation giving effect to the right to administrative justice, and it may rehear any Disciplinary Matter on the merits to whatever extent the DAC considers necessary and in whatever form the DAC may direct. The DAC has the power to substitute its finding for that of the RDC and the CDC in whole or in part, or to set the relevant decision aside and remit the matter to those committees for re-consideration subject to the direction of the DAC.

## **Part 2: Supporting functionaries**

### **26 Director: Legal Services**

- 26.1 The Director: Legal Services bears the overall responsibility for the implementation of this disciplinary code, in addition to exercising the powers, duties and functions assigned to the Director in this disciplinary code.
- 26.2 The Director: Legal Services reports to the Rector annually by the 1st quarter of the following year on all aspects of the implementation of this disciplinary code.
- 26.3 The Director: Legal Services has residual authority to exercise any of the functions of the HSD in the event that the HSD is absent or otherwise unable to fulfil those functions for any reason.
- 26.4 The HSD may delegate any responsibilities with the consent of the Director: Legal Services.

## **27 Head of Student Discipline**

- 27.1 The University shall appoint a HSD who bears the overarching responsibility to provide administrative and clerical support to the disciplinary processes conducted by the RDC, CDC, EDP and the DAC, and any other disciplinary Functionary on request, in addition to exercising the powers, duties, and functions assigned to the HSD herein.
- 27.2 The HSD may be assisted in any tasks by another staff member placed in the office of the Director: Legal Services. The HSD reports to the Director: Legal Services.
- 27.3 The responsibilities of the HSD include but are not limited to the following:
- 27.3.1 To receive, record and process all Disciplinary Matters reported and referred to the CDC;
  - 27.3.2 To manage and supervise any investigation carried out by a Student Disciplinary Investigator;
  - 27.3.3 To make recommendations to any disciplinary Functionary who requests it, including but not limited to making recommendations to the chairperson of the CDC on the procedure to be adopted in dealing with an alleged misconduct and any procedural aspect of enquiries conducted by the RDC, CDC and DAC;
  - 27.3.4 To manage communications from, between, and submissions to, the RDC, CDC and the DAC, which includes communication with the Equality Unit, relevant Heads of Department and Residence Heads;
  - 27.3.5 To act as clerk of the RDC, CDC and the DAC during Disciplinary Proceedings;
  - 27.3.6 To keep, or cause to be kept, a combined file in respect of each Disciplinary Matter which must contain in original or duplicate all documentation pertaining to the matter, including the initial report and the initial investigation, the preliminary record, written submissions, applications regarding Legal Representation, transcripts or recordings of oral evidence presented and oral argument submitted, and notification of the respective disciplinary Functionary's decisions and reasons, as well as appeal records, if applicable;
  - 27.3.7 To maintain records relating to, and to supervise the fulfilment of, Suspended sentences, and report thereon in writing to the chairperson of the relevant committee which imposed the Suspended sentence once it has been fulfilled;
  - 27.3.8 To maintain records relating to Disciplinary Matters which are diverted to the Equality Unit, and report thereon to the chairperson of the relevant committee;

- 27.3.9 To request and receive registers of proceedings by the House Disciplinary Committee every semester and report thereon to the Director: Legal Services if it appears from such records that House Disciplinary Committees are not complying with the provisions of this Code;
- 27.3.10 To fulfil any additional advisory, administrative, or clerical function requested by any disciplinary Functionary; including to keep a record of any matters which suggest a need for revision of this disciplinary code as and when they arise. The matters in need of revision must be reported at least annually to the Director: Legal Services or more frequently if required or requested;
- 27.3.11 To assist Students in their interaction with and submissions to the various disciplinary functionaries;
- 27.3.12 To monitor and maintain a dedicated email account where any suspected misconduct may be reported;

## **28 Student Disciplinary Investigator**

- 28.1 The University shall appoint a full-time SDI to that position in the Directorate: Legal Services. In addition, the Director: Legal Services may appoint a suitably qualified Student Disciplinary Investigator/s in respect of a particular case who is or may not be a staff member of the University.
- 28.2 A SDI conducts investigations at the instruction from the HSD.
- 28.3 Any University staff member who becomes aware of a possible misconduct may request the urgent assistance of a SDI to secure evidence relevant to the misconduct before reporting it in one of the ways set out in this disciplinary code. The assistance must be rendered as soon as reasonably possible.
- 28.4 A SDI shall conduct the initial investigation, as well as any further investigation as may be required after a matter is referred to the RDC or the CDC for an enquiry, or as is required by the DAC. A SDI may furthermore carry out any other investigation into possible Student misconduct which the SDI is requested to undertake by the HSD.
- 28.5 In order to conduct the investigation, the SDI has access to information, documentation, and recordings which are under the control of the University, to the extent legally permitted. Such information, documentation and recordings must be treated confidentially by the SDI. It may only be accessed and used for the purpose of the immediate Disciplinary Proceedings, save for when the information, documentation or recording gives rise to a well-founded suspicion of serious, unrelated misconduct by the same Student or another person, in which case the SDI must report the matter.
- 28.6 The SDI may interview any person in the course of the investigation, including the Student who is suspected of having committed the misconduct.



The SDI must interview a complainant, if any, and must ascertain whether the complainant wishes to make submissions or take part in a possible future enquiry. The Student suspected of misconduct cannot be compelled to cooperate, and must be advised of this fact prior to the commencement of the interview.

- 28.7 Every other person who wishes to make submissions or otherwise take part in a possible future disciplinary enquiry may submit an application to the SDI, setting out the grounds on which the person asks to be admitted. Such application must be in writing and must be submitted in the form and manner as required. The SDI may ask for clarification or any additional information on such application, which is to be included in the preliminary record for determination by the chairperson of the CDC.
- 28.8 The SDI must consider institutional imperatives in the investigation.

## **29 Evidence Leader**

- 29.1 The University shall appoint an Evidence Leader to present the results of the investigation conducted by the SDI on behalf of the University in an enquiry of the RDC, CDC or the DAC, and assist the chairperson and panel of the relevant disciplinary body.
- 29.2 The Evidence Leader, in cases before the CDC and DAC, may be:
- 29.2.1 a full-time appointment in Legal Services, or
  - 29.2.2 an *ad hoc* appointment by the Director: Legal Services in respect of a particular case; or a particular time period.
- 29.3 The person appointed as Evidence Leader, in cases before the CDC and DAC, must at least hold a law degree and may be:
- 29.3.1 the HSD; or
  - 29.3.2 a person from outside the University Community including a practicing or retired Legal Practitioner.
- 29.4 The Evidence Leader, in cases before the RDC, may be any of the persons referred to in paragraphs 29.2 and 29.3, or any other Student or staff member of the University nominated as such by the Director: Legal Services.
- 29.5 The Evidence Leader may challenge evidence presented by any person appearing in an enquiry before the relevant disciplinary committee, and may question a person who gives oral evidence to the extent permitted and directed by the chairperson of the relevant disciplinary committee.

## CHAPTER 4

### **Disciplinary Measures and Procedures**

#### **30 General matters**

- 30.1 All Disciplinary Proceedings provided for in this disciplinary code shall ordinarily be closed to the public.
- 30.2 An interested party or parties may apply for access to an enquiry by the RDC, CDC or DAC as observer on good cause shown, which must include at least a direct and substantial or personal interest in the proceedings.
- 30.3 The chairperson of the relevant committee to whom the application is addressed may issue directives as to how an application(s) shall be dealt with – either individually or collectively if there is more than one – taking into account the need for the expeditious determination of the enquiry.
- 30.4 Where an application for access is received and the chairperson of the relevant committee is of the *prima facie* view that access ought to be granted, every Student called to participate in the enquiry must be given an opportunity to respond to the application in the manner determined by the Chairperson.
- 30.5 Permission for access may be granted in whole or in part, and may be subject to such conditions as the relevant disciplinary committee considers necessary to safeguard the interests of any Student involved in the proceedings, the integrity of the disciplinary process, or the interests of the University.
- 30.6 The identity of any Student suspected or found to have committed Disciplinary Misconduct, as well as any Student called to participate in any disciplinary enquiry, shall not be published outside of the context of the relevant Disciplinary Proceedings, except with the express permission of the relevant disciplinary committee or Functionary.
- 30.7 Any Student who is called to participate in an enquiry as a witness may apply to the relevant disciplinary committee to give evidence in writing, by way of closed circuit television, or anonymously. Such application may be granted if the witness is able to show a reasonable fear for the Student's mental or physical well-being, or that the integrity of the enquiry will be undermined, should such witness be called to give evidence in the ordinary course.
- 30.8 If an application in terms of clause 30.7 is granted, the Student suspected of misconduct must be provided with a full and complete transcription or record of the evidence given, only subject to the protection of the identity of the witness if sought and granted, and an opportunity to respond thereto.

- 30.9 Records of all Disciplinary Proceedings shall be kept by the office of the HSD and are available to any party to the relevant Disciplinary Proceedings on request, or to any interested party on application. Unless permission has been granted to identify a particular Student as mentioned above (clause 30.6), the name and any details which may identify that Student shall be blacked out or otherwise obscured from the records. Where records are in the form of audio recordings, a transcription of such recordings may be requested or applied for, as the case may be, at that party's own expense.
- 30.10 Any communication to the Chairperson of the RDC, CDC or DAC needs to be addressed to the HSD, or nominee, and be delivered, or sent to, the office of the HSD, or nominee.

### **31 Representation and Legal Representation:**

- 31.1 A Student may choose to be represented in Disciplinary Proceedings by another Student or staff member of the University. This is referred to as Representation in this code. A Student appearing before a HDC, RDC, CDC and DAC will have a right to Representation.
- 31.2 Legal Representation is not ordinarily allowed, though it may be applied for in hearings before the RDC, CDC and DAC.
- 31.3 A Student appearing before the RDC, CDC, or DAC on suspected misconduct may apply to the chairperson of the RDC, CDC or DAC, as the case may be, to be allowed Representation by a Legal Practitioner.
- 31.4 The application must be submitted within five Days of notification to appear before the applicable disciplinary committee.
- 31.5 If the Student is unable to apply within that time, the application must set out the circumstances that led to the late filing of the application and ask for condonation which shall be granted if the chairperson is satisfied that the Student took all reasonable steps to submit the application in time and did not unreasonably delay the submission.
- 31.6 The convenience or availability of any particular Legal Practitioner will not be regarded as good reason for a delay of Disciplinary Proceedings, save in exceptional circumstances.
- 31.7 The relevant chairperson has a discretion to grant an application for Legal Representation, after taking into account at least the following:
- 31.7.1 The need for the expeditious determination of the matter in view of its impact on the wider University Community or any particular members of the University Community.
- 31.7.2 The nature of the allegations against the Student.
- 31.7.3 The factual and legal complexity of the case.

- 31.7.4 The gravity of potential sanctions in the event that the Student is found to have committed the suspected misconduct. An application for Legal Representation shall not be refused if the Student faces Expulsion as a possible sanction.
- 31.7.5 The availability of suitable Student or staff members to represent the Student should the application for Legal Representation be dismissed; and
- 31.7.6 Whether there are significant factual disputes which may require witness testimony and cross-examination.
- 31.8 Where an application for Legal Representation was granted by the RDC or the CDC, as the case may be, Legal Representation may continue before the DAC.
- 31.9 Where an application for Legal Representation is dismissed, this does not prevent the Student from obtaining legal advice, but the legal representative may not be present at the enquiry.
- 31.10 Notwithstanding the granting of the right to Legal Representation the Chairperson of the RDC, CDC or DAC, as the case may be, may issue directives and impose reasonable time limits regarding any procedural aspect of the enquiry, including the leading of evidence and cross-examination, with a view to achieving the expeditious determination of the matter. This may include a directive that legal submissions be made in writing.

## **32 Suspension from the University or a Residence**

### Temporary Suspension

- 32.1 Should any non-student member of the University Community, including any Functionary referred to in this disciplinary code, have reason to believe that the Suspension of a Student is warranted, that person shall report the matter as follows:
- 32.1.1 To the HSD who will report it to the Rector or the Rector's delegate, for consideration of a temporary Suspension (as provided for in clause 19.1) from the University; or
- 32.1.2 To the Residence Head of the relevant Residence for consideration of a temporary Suspension (as provided for in clause 20.3) from the Residence;
- 32.2 Any Student who has reason to believe that the Suspension of another Student is warranted may, but is not obliged to, report the matter as above.
- 32.3 The Rector and the Residence Head may also impose a temporary Suspension from the University in terms of clause 19.1, or the Residence in terms of clause 20.3, as the case may be, on their own initiative.

- 32.4 The Functionary imposing a temporary Suspension must immediately report the matter to the Centre for Student Counselling and Development, and advise the Student how to obtain support pending the finalisation of Disciplinary Proceedings. The Student must also be provided with the number for the Student support hotline.
- 32.5 The Student should, as soon as reasonably practical after being informed of the temporary Suspension and/or temporary Suspension from the Residence, be:
- 32.5.1 Furnished with the reasons for the temporary Suspension;
- 32.5.2 must be informed of the right to oppose the confirmation of the temporary Suspension before the RDC or the CDC, as the case may be. At the Student's election, written or oral submissions as to why such Suspension should not be confirmed, may be submitted; and
- 32.5.3 Advised of the place and time of the confirmation hearing and any practical and logistical arrangements for such a hearing.

#### Confirmation of the Suspension

- 32.6 A temporary Suspension from the University or a Residence must be confirmed by the CDC (as provided for in clauses 23.10 and 23.11) or the RDC (as provided for in clauses 20.14 and 20.15), respectively.
- 32.7 The RDC and the CDC determines its own procedure in the confirmation hearing.
- 32.8 The temporary Suspension lapses if confirmation proceedings are not commenced within five Days of the temporary Suspension. The temporary Suspension remains in effect for the duration of the confirmation hearing, which may be postponed from time to time for further investigation or on other reasonable grounds, on good cause shown.
- 32.9 In the event that the RDC or CDC, as the case may be, confirms the Suspension, the Student shall remain Suspended pending the finalisation of the Disciplinary Proceedings against the Student, including any appeal, unless the relevant Disciplinary Committee orders otherwise at the hearing (clause 32.11).
- 32.10 Disciplinary Proceedings must commence by way of a report in terms of clause 33 as soon as practically possible after the temporary Suspension has been imposed.

#### Review on the grounds of undue delay

- 32.11 A Student who has been Suspended, whether temporarily or finally, may apply in writing to the chairperson of the RDC or to the CDC respectively, for

a review of the Suspension on the grounds of undue delay in the investigation or in the progression of the Disciplinary Matter.

32.12 An application for review of a Suspension on the grounds of undue delay may be lodged no more than once every two weeks.

### **33 Reporting and referral of a suspected Disciplinary Misconduct**

33.1 Unless a complainant has already reported a matter to the Equality Unit, the procedure for reporting a suspected Disciplinary Misconduct is the following:

33.2 If the suspected misconduct appears to the person reporting it to constitute Residence Misconduct, it must be reported to a member of the House Committee, who may either deal with the matter summarily in terms of the House Rules, or it must be reported to the Residence Head of the relevant Residence or PSO ward. In the event that the member of the House Committee deals with the matter summarily, it must be reported to the Residence Head at the earliest reasonable opportunity for confirmation. In the case of any unresolved matter, the Residence Head determines whether to refer it as a Residence Matter to the HDC, or as a Disciplinary Matter to the CDC for determination of the appropriate disciplinary channel.

33.3 If the suspected misconduct took place within an academic setting, including during exams, assessments or lectures, or if the suspected misconduct appears to the person reporting it to be an Academic Misconduct, it must be reported to the Head of the relevant Department. The Head of Department decides whether the matter is treated as an Academic Matter within the Department or to refer it as a Disciplinary Matter to the CDC for determination of the appropriate disciplinary channel.

33.4 Where suspected misconduct arises in an academic or Residence context but also constitutes a violation of the general rules for Student conduct, the University is presumed to have an interest in the outcome of the matter that goes beyond the context in which it arose, and such a matter will constitute a Disciplinary Matter. The decision to treat a matter as a Residence or Academic Matter, as the case may be, is subject to review by the Chairperson of the CDC on application by the Director: Legal Services. The Chairperson may require further investigation and the co-operation of any other Functionary for the purpose of review. If the Chairperson determines that the matter is a Disciplinary Matter, it will be referred to the CDC for determination of the appropriate disciplinary channel in the ordinary course.

33.5 If the suspected misconduct appears to the person reporting it to constitute discriminatory or Sexual Misconduct, it must be reported to the Equality Unit. The Head of the Equality Unit decides whether to deal with it as an Equality Matter or to refer it as a Disciplinary Matter to the CDC for determination of the appropriate disciplinary channel.

33.6 Any other suspected misconduct, and any instance of suspected misconduct which cuts across the various contexts set out immediately above, must be reported to the office of the HSD for referral to the CDC.

- 33.7 Nothing in this clause shall be construed as preventing a Functionary assigned a function or granted a power in terms of this disciplinary code from reporting a matter as provided above, including the institution of Disciplinary Proceedings on their own initiative.
- 33.8 The HSD receives referrals of Disciplinary Matters on behalf of the CDC from a Residence Head, a Head of Department, or the Equality Unit, as the case may be.
- 33.9 The HSD may decline to accept a report or referral if the facts reported at face value do not substantiate a reasonable suspicion that a Disciplinary Misconduct has occurred. In that case, the HSD must provide a written explanation to the person reporting or referring the matter.

#### **34 The initial investigation**

- 34.1 Any staff member, University employee, or other person with authority over a Student by virtue of their position in the University or specific designation in the context, may gather and confiscate evidence of suspected Disciplinary Misconduct which is immediately at hand for the purpose of reporting the suspected misconduct. The person confiscating the evidence must contemporaneously confirm the confiscation in writing to the Student, and must hand the evidence to the SDI as soon as reasonably possible after the matter has been reported, to form part of the initial investigation.
- 34.2 Upon receipt of a report, or a referral to the CDC for determination of the appropriate disciplinary channel, the HSD shall authorise an initial investigation into the suspected misconduct.
- 34.3 The results of the initial investigation shall be presented to the Student suspected of having committed the misconduct by the HSD, by way of a Written Notice and an invitation to do one of the following:
- 34.3.1 To admit to the suspected misconduct and provide a short written statement setting out all relevant facts, and indicating whether and on what grounds the Student wishes the matter to be dealt with by way of the summary procedure or by the Equality Unit rather than the CDC; or
- 34.3.2 To deny the suspected misconduct, and submit a short written statement indicating the grounds of the Student's denial, and whether or not the Student intends applying for Legal Representation.
- 34.3.3 The Student's written statement forms part of the preliminary record.
- 34.4 The notice referred to immediately above in clause 34.3 above shall contain the following:
- 34.4.1 Summary of the evidence obtained in the initial investigation, and a list and brief description of the Disciplinary Misconduct which the Student is suspected of having committed.

- 34.4.2 Notice of the fact that further investigations may take place in the event that the matter is referred to the RDC or the CDC for an enquiry, as the case may be, or diverted to the Equality Unit for resolution.
  - 34.4.3 An explanation of the different disciplinary channels which may be followed. The Student shall be advised that referral to the Equality Unit at that stage, as well as the adoption of the summary procedure, requires a full admission of the conduct complained of.
  - 34.4.4 An invitation to admit to committing the misconduct complained of, with a clear statement that the Student is under no obligation to do so.
  - 34.4.5 A clear statement of the potential sanctions which may be imposed in the summary procedure, as well as mention of the mitigating value of a voluntary admission.
  - 34.4.6 The Student may be placed on terms to respond to the notice within 72 hours. If no response is received in that time, the Student will be taken to have denied committing the misconduct. If it is later established that the Student did in fact commit the Disciplinary Misconduct, the Student's failure to co-operate may be taken in aggravation of the sanction imposed.
- 34.5 The results of the initial investigation along with the written submissions of the Student suspected of Disciplinary Misconduct shall together constitute the preliminary record.

#### Referral from the Equality Unit

- 34.6 Where a matter has been reported to the Equality Unit and, after investigation, referred to the CDC for an enquiry, the record of the Equality Unit's investigation shall form the preliminary record, supplemented as the HSD considers necessary.

### **35 Selection of the appropriate disciplinary channel**

- 35.1 The preliminary record accompanied by a written recommendation from the HSD shall be placed before a chairperson of the CDC for a decision on the appropriate channel to deal with the suspected Disciplinary Misconduct, from among the following:
- 35.1.1 The chairperson has discretion to refuse to pursue the matter, taking into account the nature of the allegations against the Student, the interests of the University Community and the person(s) against whom the conduct complained of was directed, and the strength of the evidence obtained in the initial investigation. In that case, the Student must receive notice in writing that Disciplinary Proceedings against him will not be pursued.



- 35.1.2 The chairperson may adopt the summary procedure in terms of clause 36, if the Student has admitted the conduct complained of and the chairperson is satisfied that the admission was voluntarily made in full knowledge of the potential consequences.
- 35.1.3 Unless the matter was referred from the Equality Unit in terms of clause 22.2, the chairperson may divert the matter to the Equality Unit to be dealt with in terms of the University's Policy on Unfair Discrimination and Harassment if both the Student, who is suspected of having committed the misconduct, and the Student(s) against whom the misconduct was committed, if they have been identified, agree to the diversion. The chairperson must consult the Equality Unit prior to taking the decision to divert the matter, and must be satisfied that each of the Students in question have agreed voluntarily in full knowledge of the potential consequences.
- 35.1.4 The chairperson may refer the matter to the RDC for an enquiry in terms of clause 38.
- 35.1.5 The chairperson may refer the matter to the full CDC for an enquiry in terms of clause 37.
- 35.2 Before making a determination, the chairperson of the CDC may invite submissions from any party, including from members of the Rector's Management Team, and may request the HSD to cause further investigation on any specific issue.
- 35.3 As soon as reasonably practical after making a determination, the chairperson must notify the Student in writing of the decision.
- 35.4 In the event that the summary procedure is adopted, the notification of the chairperson's decision must include an invitation to the Student to address the chairperson within a reasonable time regarding sanction.
- 35.5 In the event that the matter is diverted to the Equality Unit, the notification of the chairperson's decision must include the contact details of the Equality Unit.
- 35.6 In the event that the matter is referred to an enquiry before the full RDC or the CDC, the notification of the chairperson's decision must in addition include the following:
  - 35.6.1 The notification must confirm the summary of the evidence obtained in the initial investigation and subsequently, and provide a list and brief description of the Disciplinary Misconduct which the Student is suspected of having committed. The detail provided must be sufficient to enable the Student to respond meaningfully.
  - 35.6.2 The notification must refer to the right to apply for Legal Representation, must explain how to submit the application, and provide the Student with a generic example of such an application.

35.6.3 The notification must explain that the nature of the enquiry may include oral testimony or the submission of sworn statements, or both. The notification must state that the RDC or the CDC, as the case may be, will provide a directive in due course giving further details of the enquiry.

**36 Summary procedure before the chairperson of the Central Disciplinary Committee**

36.1 The chairperson's decision in the summary procedure is based on the preliminary record.

36.2 The chairperson has the discretion to impose sanctions from among the following:

36.2.1 The payment of such amount as constitutes reasonable and adequate compensation for any damage, loss or costs caused by the Student.

36.2.2 A written warning, including a final warning in the case of a repeated or serious offence.

36.2.3 The publication on appropriate notice boards on the Campus of particulars of the offence and penalty, including the name of the Student.

36.2.4 The imposition of an appropriate restorative, rehabilitative or punitive assignment, including community service, of not more than 50 hours at an appropriate organisation or body.

36.2.5 Any combination of the sanctions set out immediately above.

36.3 The sanction shall not be reflected on the Student's academic record, but shall be recorded on the Student record system.

36.4 When deciding on the appropriate sanction, the following considerations are relevant and must inform the determination among all other relevant considerations:

36.4.1 Proportionality between the misconduct and the sanction imposed;

36.4.2 Mitigating circumstances, including that the Student has admitted to the conduct;

36.4.3 The interest of members of the University Community affected by the misconduct and the University as a whole.

## **37 Enquiry before the full Central Disciplinary Committee**

### Directives and notifications prior to the enquiry

- 37.1 The chairperson of the CDC may direct the HSD to cause further investigation into any aspect of the matter.
- 37.2 Where a complainant, or any other Student affected by the suspected misconduct, has indicated to the SDI a wish to take part in the Disciplinary Proceedings, that Student may make written submissions in this regard.
- 37.3 In appropriate cases, the chairperson may invite members of the University Community to make written or oral submissions to the CDC regarding the matter by way of a public notice. The name of a Student suspected of Disciplinary Misconduct may only be published in exceptional circumstances.
- 37.4 The HSD, in consultation with the chairperson, must issue a directive to the Student suspected of Disciplinary Misconduct and the complainant, if any, setting out the following information:
  - 37.4.1 The time and the date for the enquiry of the matter, which ought to be at least ten Days from the date of delivery of the directive. In setting the time and date for the enquiry, the chairperson must consider the circumstances of the Student suspected of Disciplinary Misconduct, as well as the complainant, if any, and any other person with an interest in the matter.
  - 37.4.2 The CDC's decision on the application for Legal Representation, if one was submitted.
  - 37.4.3 Where further investigation has raised new factual issues or expanded the range of suspected misconduct, the directive must provide a summary of such new material.
  - 37.4.4 Whether the CDC considers it necessary for witnesses to be called, taking into account the result of the initial and further investigations, or whether it requires evidence to be submitted by way of sworn statements in whole or in part. Where the CDC calls for sworn statements, the directive must set out a timeline for their submission.
  - 37.4.5 Any procedural matters the CDC wishes to bring to the parties' attention, such as time limits for argument or the language to be used at the enquiry.
  - 37.4.6 Any other matter the CDC considers necessary.

### The enquiry

- 37.5 The preliminary record, the results of the further investigation as well as any additional relevant material including sworn statements must be circulated among the members of the CDC in advance of the enquiry.
- 37.6 The CDC may require the attendance of any member of the University Community who has made submissions to the CDC regarding the matter, and may question that person at the enquiry.
- 37.7 The Evidence Leader presents the case for the University.
- 37.8 Cross-examination of witnesses, if any, must be with permission of the chairperson CDC.
- 37.9 The CDC may ask questions to any party appearing before it, and may direct the conduct of the enquiry subject to the requirement that any person with an interest in the matter must be provided with a full opportunity to address the CDC.

### Sanctions

- 37.10 The CDC has a discretion to impose one or more of the following sanctions if it finds that a Disciplinary Misconduct has been committed:
  - 37.10.1 The payment of reasonable compensation for any damage, loss or costs caused by the Student to the University or to any other person as a result of the misconduct.
  - 37.10.2 A final written warning.
  - 37.10.3 The submission of an apology in writing or in person to anyone affected by the misconduct.
  - 37.10.4 The imposition of an appropriate restorative, rehabilitative or punitive assignment, including community service, of not more than 150 hours at an appropriate organisation or body.
  - 37.10.5 The deprivation, Suspension or withholding of any Student privileges, such as participation as a member, organiser or office-bearer of any Student organisation, or any other leadership position, or participation in Campus activities.
  - 37.10.6 The forfeiture of examination results, final marks, class marks and other forms of credit obtained in examinations, tests or otherwise.
  - 37.10.7 The forfeiture of a bursary or loan granted or administered by the University.
  - 37.10.8 Cancellation of a degree or diploma improperly obtained.

- 37.10.9 Expulsion from the University or a University Residence for a stated period of time or indefinitely. Where the Expulsion is for a limited period of time, re-admission of the Student may be made subject to reasonable conditions, and also be subject to normal rules for re-admission.
- 37.10.10 Notice in writing identifying the Student, providing the nature of the misconduct and the sanction imposed to a professional body or any other person or body that may have an interest therein.
- 37.10.11 Notice in writing identifying the Student, providing the nature of the misconduct and the sanction to the Dean of the Faculty in which the Student studies.
- 37.10.12 The publication on Campus of the particulars of the offence and penalty, including the Student's name.
- 37.10.13 Any combination of the sanctions listed immediately above.
- 37.10.14 The sanction may be reflected on the Student's record.
- 37.11 When deciding on the appropriate sanction, the following considerations are relevant and must inform the determination among other relevant considerations:
  - 37.11.1 Proportionality between the misconduct and the sanction imposed;
  - 37.11.2 Mitigating circumstances, if any, which may include the Student's co-operation with the disciplinary process;
  - 37.11.3 Conversely, lack of co-operation with the disciplinary process may be regarded as an aggravating circumstance.
  - 37.11.4 The interest of members of the University Community affected by the misconduct and the University as a whole.
- 37.12 The CDC has discretion to defer the effective date for the sanction pending the outcome of an appeal. Where it reasonably appears to the CDC that an appeal is lodged solely or primarily for the purpose of delaying the implementation of the sanction, it shall refuse to defer the effective date.
- 37.13 The CDC may Suspend whole or part of the sanction subject to the fulfilment of any condition which it considers appropriate.
  - 37.13.1 This may include referral of the matter for an alternative dispute resolution mechanism with the express agreement of the complainant, if any.
  - 37.13.2 The HSD monitors the fulfilment of any condition of a Suspended sanction and reports thereon to the chairperson of the CDC. If it appears to the HSD that the condition of Suspension has not been

met in the required time or required manner, the HSD shall invite the Student to provide an explanation in writing, which must be included in the report to the chairperson. If the chairperson is satisfied that the condition of Suspension has not been fulfilled as required by the condition of Suspension, the chairperson shall bring the sanction into force and notify the Student accordingly.

- 37.14 In appropriate cases, or on recommendation, the CDC may recommend that groups of Students who have not been found to have committed misconduct nevertheless take part in processes which serve the restoration of trust within the University Community.

#### Notification of the CDC's decision and sanction

- 37.15 The decision of the CDC may be given orally immediately, in which event reasons for the decision must be provided in writing at a later stage. Written reasons for the CDC's decision shall be provided to all affected parties, and must be delivered as soon as reasonably possible.
- 37.16 A summary of the facts of the matter, the outcome, and reasons shall be published on a public University forum with the names of all parties redacted.

#### Appeal

- 37.17 Any party affected by the decision of the CDC may lodge an appeal against the decision within five Days of receiving reasons for the decision. The appeal lies to the DAC.
- 37.18 The notification of the CDC's decision must include all information necessary for the person receiving notification to lodge an appeal.
- 37.19 The appeal is lodged by way of a notice setting out the grounds of appeal, in the manner and within the time frames prescribed in the notification of the CDC's decision.

### **38 Enquiry before the Residence Disciplinary Committee**

#### Directives and notifications prior to the enquiry

- 38.1 The chairperson of the RDC may direct the HSD to cause further investigation into any aspect of the matter.
- 38.2 Where a complainant or any other Student affected by the suspected misconduct has indicated a wish to the SDI to take part in the enquiry, that Student may do so, on such conditions as the chairperson deem appropriate.
- 38.3 In appropriate cases, the chairperson may invite members of the Residence in which the matter arose to make written or oral submissions to the RDC regarding the matter by way of a public notice. The name of a Student

suspected of Disciplinary Misconduct may only be published in exceptional circumstances.

38.4 The HSD, or nominee, in consultation with the chairperson of the RDC must issue a directive to the Student suspected of Disciplinary Misconduct and the complainant, if any, setting out the following information:

38.4.1 The time and the date for the enquiry, which ought to be at least ten Days from the date of delivery of the directive. In setting the time and date for the enquiry, the chairperson must consider the circumstances of the Student suspected of Disciplinary Misconduct, as well as the complainant, if any, and any other person with an interest in the matter.

38.4.2 The RDC's decision on the application for Legal Representation, if one was submitted.

38.4.3 Where further investigation has raised new factual issues or expanded the range of suspected misconduct, the directive must provide a summary of such new material.

38.4.4 Whether the RDC will accept evidence to be submitted by way of sworn statements in whole or in part, in which case the directive must set out a timeline for submission.

38.4.5 Any procedural matters the RDC wishes to bring to the parties' attention, such as time limits for argument or the language to be used at the enquiry.

38.4.6 Any other matter the RDC considers necessary.

#### The enquiry

38.5 The preliminary record, the results of the further investigation as well as any additional relevant material including statements must be circulated among the members of the RDC in advance of the enquiry.

38.6 The RDC may require the attendance of any member of the University Community who has made submissions to the RDC regarding the matter, and may question that person at the enquiry.

38.7 The Evidence Leader presents the case for the University.

38.8 Cross-examination of witnesses, if any, must be with permission of the RDC.

38.9 The RDC may ask questions of any party appearing before it.

#### Sanctions

38.10 The RDC has a discretion to impose one or more of the following sanctions if it finds that a Disciplinary Misconduct has been committed:

- 38.10.1 The payment of reasonable compensation for any damage, loss or costs caused by the Student to the University or to any other person as a result of the misconduct.
  - 38.10.2 A final written warning.
  - 38.10.3 The submission of an apology in writing or in person to anyone affected by the misconduct.
  - 38.10.4 The imposition of an appropriate restorative, rehabilitative or punitive assignment, including community service, of not more than 100 hours in a Residence or PSO ward, on Campus, or at an appropriate organisation or body.
  - 38.10.5 The deprivation of such position of leadership as the Student may occupy in the University Residence or PSO ward concerned, or in the Student Union.
  - 38.10.6 The Suspension of certain privileges enjoyed by the Student as a member of the relevant Residence or PSO ward, or as a Student of the University, but excluding Expulsion from the relevant Residence, PSO ward or University.
  - 38.10.7 Any combination of the sanctions listed immediately above.
- 38.11 When deciding on the appropriate sanction, the following considerations are relevant and must inform the determination among other relevant considerations:
- 38.11.1 Proportionality between the misconduct and the sanction imposed;
  - 38.11.2 Mitigating circumstances, if any, which may include the Student's co-operation with the disciplinary process;
  - 38.11.3 Conversely, lack of co-operation with the disciplinary process may be regarded as an aggravating circumstance;
  - 38.11.4 The interest of members of the Residence affected by the misconduct, as well as the interests of the Residence, and the University.
- 38.12 The RDC has discretion to defer the effective date for the sanction pending the outcome of an appeal. Where it reasonably appears to the RDC that an appeal is lodged solely or primarily for the purpose of delaying the implementation of the sanction, it shall refuse to defer the effective date.
- 38.13 The RDC may Suspend whole or part of the sanction subject to the fulfilment of any condition which it considers appropriate.



38.13.1 This may include referral of the matter to the Equality Unit for an alternative dispute resolution mechanism with the express agreement of the complainant, if any.

38.13.2 The HSD monitors the fulfilment of any condition of a Suspended sanction and reports thereon to the chairperson of the RDC. If it appears to the HSD that the condition of Suspension has not been met in the required time or required manner, the HSD shall invite the Student to provide an explanation in writing, which must be included in the report to the chairperson. If the chairperson is satisfied that the condition of Suspension has not been fulfilled, the chairperson shall bring the sanction into force and notify the Student accordingly.

38.14 In appropriate cases or on recommendation, the RDC may recommend that groups of Students who have not been found to have committed misconduct nevertheless take part in processes which serve the restoration of trust within the Residence or the University Community.

#### Notification of the RDC's decision and sanction

38.15 The decision of the RDC may be given orally immediately, in which event reasons for the decision must be provided in writing at a later stage. Written reasons for the RDC's decision shall be provided to all affected parties, and must be delivered as soon as reasonably possible.

38.16 A summary of the facts of the matter, the outcome, and reasons shall be published on a public University forum with the names of all parties redacted.

#### Appeal

38.17 Any party affected by the decision of the RDC may lodge an appeal against the decision within five Days of receiving reasons for the decision. The appeal lies to the DAC.

38.18 The notification of the RDC decision must include all information necessary for the person receiving the notification to lodge an appeal.

38.19 The appeal is lodged by way of a notice setting out the grounds of appeal, in the manner and within the time frames prescribed in the notification of the RDC's decision.

### **39 Appeal to the RDC against a decision by the House Disciplinary Committee**

39.1 When an appeal is lodged against a decision of the House Disciplinary Committee, the chairperson shall inform the HSD of the appeal immediately.

39.2 An appropriate record of the proceedings before the House Disciplinary Committee must be prepared by the person responsible for record keeping in terms of clause 20.10. Proceedings may be recorded with audio equipment.

- 39.3 The HSD must call on the appellant to submit the grounds of appeal in writing, and inform the appellant of the date and time for the hearing of the appeal.
- 39.4 The record of proceedings and grounds of appeal must be provided to the RDC in advance of the appeal hearing. Access to the record of proceedings may be granted to any party to the appeal at the discretion of the Chairperson of the RDC who determines the manner and extent of the access. Copies or transcriptions, as the case may be, may be allowed against payment of reasonable costs thereof.
- 39.5 In an appeal hearing against a decision by the House Disciplinary Committee, the RDC determines its own procedures, subject to what is contained in this Code, and Legal Representation will not be allowed.
- 39.6 The RDC hears only argument based on the record of proceedings before the House Disciplinary Committee. It may set the decision of the House Disciplinary Committee aside and remit the matter for reconsideration subject to the direction of the RDC, or it may confirm the decision of the House Disciplinary Committee.
- 39.7 There is no further appeal against a decision of the House Disciplinary Committee.

#### **40 Enquiry before the Disciplinary Appeal Committee**

- 40.1 Immediately upon the lodging of an appeal to the DAC, the HSD must compile the record of the enquiry in the RDC, or the CDC, which includes the transcription of any recordings, and supplement the combined file referred to in clause 27.3.6 accordingly. The combined file must be provided to the members of the DAC as soon as practically possible.
- 40.2 Access to the record of the enquiry may be granted to any party to the appeal at the discretion of the Chairperson of the DAC who determines the manner and extent of the access. Copies or transcriptions, as the case may be, may be allowed against payment of reasonable costs thereof.

##### Directives prior to the enquiry

- 40.3 The chairperson of the DAC may direct the HSD to cause further investigation into any aspect of the matter.
- 40.4 In appropriate cases, the chairperson may invite members of the University Community to make written or oral submissions to the DAC regarding the matter by way of a public notice. The name of the appellant and any other affected Student may only be published in exceptional circumstances.
- 40.5 The chairperson of the DAC must issue a directive to the appellant and any other affected Student setting out the following information:

- 40.5.1 The time and the date for the enquiry of the appeal, which ought to be at least ten Days from the date of delivery of the directive. In setting the time and date for the enquiry, the chairperson must consider the circumstances of the appellant and any other affected Student.
- 40.5.2 The DAC's decision on the application for Legal Representation, if one was submitted.
- 40.5.3 Where further investigation has raised new factual issues, the directive must provide a summary of such new material.
- 40.5.4 Whether the DAC considers it necessary for additional witnesses to be called or further evidence to be admitted. Where the DAC calls for sworn statements, the directive must set out a timeline for their submission.
- 40.5.5 Any procedural matters the DAC wishes to bring to the parties' attention, such as time limits for argument or the language to be used at the enquiry.
- 40.5.6 Any other matter the DAC considers necessary.

#### The enquiry

- 40.6 The record of proceedings in the RDC or the CDC, as the case may be, as well as any additional relevant material including statements must be circulated among the members of the DAC in advance of the enquiry.
- 40.7 The DAC may require the attendance of any member of the University Community who has made submissions to any disciplinary committee regarding the matter, and may question that person at the enquiry.
- 40.8 The Evidence Leader presents the case for the University.
- 40.9 Cross-examination of witnesses, if any, must be with permission of the DAC.
- 40.10 The DAC may ask questions of any party appearing before it, and may direct the conduct of the enquiry subject to the requirement that the appellant and any person affected by the decision appealed against must be provided with a full opportunity to address the DAC.

#### Sanctions

- 40.11 The DAC is limited to the range of possible sanctions of the disciplinary committee from where the matter was appealed.
- 40.12 The DAC has discretion to impose sanctions that differ from those imposed by the disciplinary committee from where the matter was appealed, despite confirming that committee's findings regarding the Disciplinary Misconduct.

#### Notification of the DAC's decision and sanction

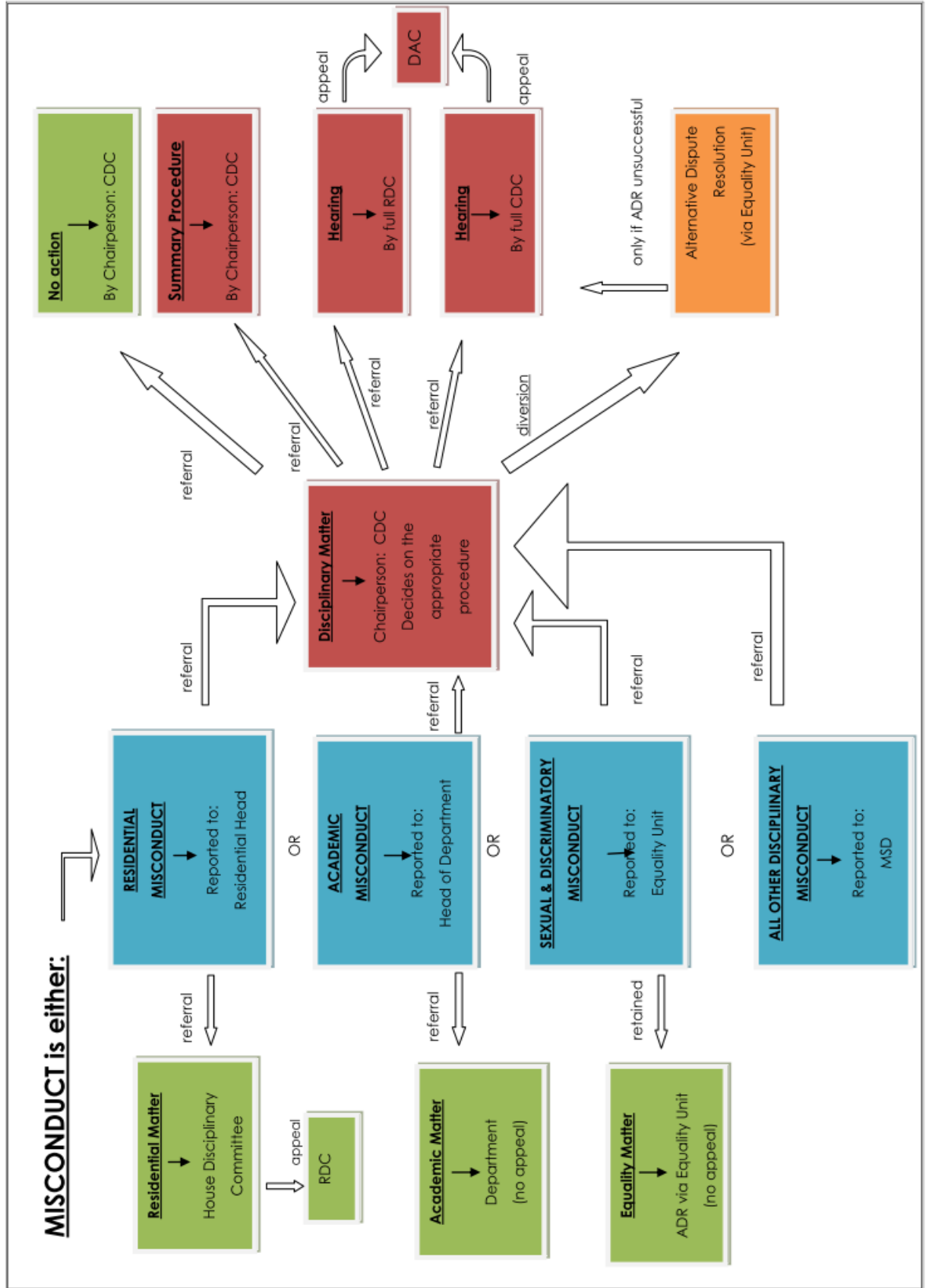
- 40.13 Notification of the DAC's decision must be in writing and must be delivered as soon as reasonably possible, but no later than one calendar month after the enquiry. Written reasons for the DAC's decision shall be provided to all affected parties.
- 40.14 A summary of the facts of the matter, the outcome, and reasons shall be published on a public University forum with the names of all parties redacted.

## ACRONYM LIST

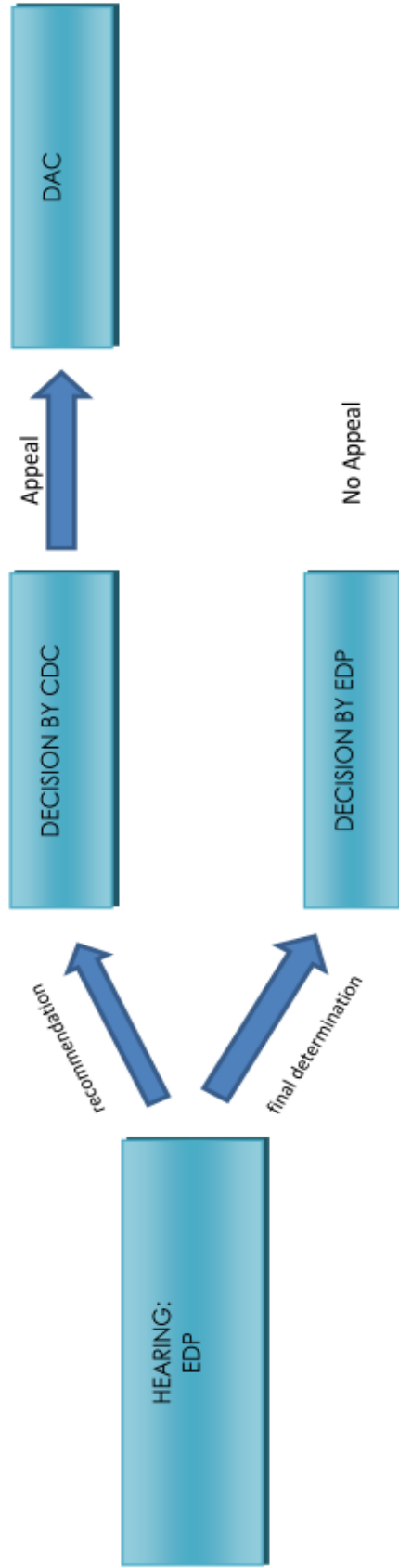
<b>ACRONYM</b>	<b>FULL NAME</b>	
<b>CDC</b>	<b>Central Disciplinary Committee</b>	
<b>DAC</b>	<b>Disciplinary Appeal Committee</b>	
<b>EDP</b>	<b>External Disciplinary Panel</b>	
<b>HSD</b>	<b>Head: Student Discipline</b>	
<b>PSO</b>	<b>Private Student Organisation Ward</b>	
<b>RDC</b>	<b>Residence Disciplinary Committee</b>	
<b>SDI</b>	<b>Student Disciplinary Investigator</b>	
<b>SRC</b>	<b>Student Representative Council</b>	

# FLOW CHARTS OF THE PROCESSES

## ORDINARY CASE



## EXTRAORDINARY CASE



## TEMP SUSPENSION:

