



UNIVERSITY OF ZULULAND

POLICY AND PROCEDURES

Disciplinary Code: Students

POLICY NUMBER	VC P1	POLICY OWNER	Vice-Chancellor
OVERSEEING COMMITTEE(S)		Manco → Council	
APPROVAL DATE	12 September 2013	REVISION DATE	12 September 2017

POLICY STATEMENT

This policy provides guidelines regarding student discipline.

UNIVERSITY OF ZULULAND

DISCIPLINARY CODE: STUDENTS

CONTEXT

Paragraph 65 of the Statute of the University of Zululand stipulates as follows with regard to Student Discipline:

65. Student discipline

- (1) Registered students are subject to the disciplinary measures and procedures applicable to students as determined by this Statute and the Rules.
- (2) The disciplinary measures and provisions applicable to students as described in the Rules and contemplated by section 36 of the Act, may be changed by Council after consultation with Senate and the SRC as provided for in section 32(2)(d) of the Act.
- (3) If the Vice-Chancellor, who is the chief disciplinary officer of the University, is of the opinion that the circumstances of a specific case warrant it, he or she may perform some or all of the actions performed by the Registrar in terms of the Disciplinary Code or, alternatively, he or she may delegate the authority to perform these functions to another employee or an independent external person.
- (4) The definition of misconduct, the composition of the various disciplinary committees and their duties, the procedures followed during a disciplinary hearing and the various disciplinary measures that may be imposed, as well as the lodging of an appeal shall be set out in the Rules and made available to all students.
- (5) Where a student has been found guilty of misconduct and the disciplinary measure applied by the University leads to suspension or termination of his or her studies at the University, or his or her expulsion from a University residence, the student concerned shall forfeit all claims to a refund or a rebate on fees paid or payable to the University.

The Disciplinary Code: Students (the Code) of the University of Zululand represents the Rules with regard to student discipline at the University, as contemplated in paragraph 65(2) and (4) of the Statute, and shall, subject to the provisions of the Statute and the Rules, apply to all registered students of the University.

The University resolved to take a firm position against all acts of plagiarism and consequently developed and approved Rules ("Policy and Procedure on Managing and Preventing Acts of Plagiarism", attached to this Code as Annexure B) to manage and prevent acts of plagiarism. All alleged misconduct of students pertaining to plagiarism will therefore be dealt with in accordance with said Rules.

Experience has also shown that a large number of disciplinary enquiries are the result of contraventions of the "Rules Governing Examinations, Tests and Other Academic Assignments". These Rules are attached to this Code with a view to informing students of the contents thereof and to alert them to the serious consequences of misconduct associated with examinations, tests and academic assignments.

PREAMBLE: DISCIPLINARY CODE

Central to the academic stature of the University is the quality and integrity of its academic, research and community engagement programmes. Multiple other factors, however, impact on the academic stature of the institution. Important factors are the behaviour of students and the policies, programmes and practices applied by the institution to regulate such.

The Code is an important institutional instrument to steer the behaviour of students with a view to developing and preparing them to become well-rounded people and responsible citizens of the country. The ultimate goal is to guide and assist students to embrace a value framework and institutional culture showing due respect for the constitutional rights of people and the Rules of the University.

The Code provides for a variety of disciplinary measures to be applied, depending on the circumstances of each case. The vast majority of these measures are designed to afford students the opportunity to correct their behaviour, whilst continuing with their studies. Incidences of serious misconduct, however, must be dealt with firmly and appropriate disciplinary measures might have far-reaching impact on the future of a student at the University and/or other universities. Certain incidences of misconduct may also compel or otherwise prompt the University to report an incident to the South African Police Service for investigation and action, and/or to pursue a particular matter in a court of law or other appropriate forum.

The Code furthermore promotes the fair and lawful adjudication of disciplinary matters and the imposition of suitable disciplinary measures. The processes and procedures imbedded in the Code are also aligned with the institutional aspiration to initiate and finalise disciplinary matters as soon as possible.

The Code is an important instrument whereby the University gives effect to its responsibility to implement all reasonable measures to protect the interests of students, members of staff, contractors and members of the public on its premises.

The Code also has as its objective the promotion and protection of the interests of the University as an educational institution.

The Code is not intended to be an exhaustive, catch-all set of rules and regulations providing for every conceivable objectionable and/or punishable act by a student. The rules and regulations below will therefore not be assigned an overly literal or strict interpretation. When the conduct of a student is being assessed, the determining factor will always be the objective aim of a rule or regulation.

This Code, including Annexure A (*Disciplinary Code for Students: University of Zululand Residences*), Annexure A1 (*Disciplinary Guidelines: Residences*), Annexure B (*Policy and Procedure on Managing and Preventing Acts of Plagiarism*) and Annexure C (*Rules Governing Examinations, Tests and Other Academic Assignments*) may be reviewed from time to time, as contemplated in paragraph 65 (2) of the Statute, and is therefore subject to change.

INTERPRETATION

In this Code, unless expressly stipulated otherwise, or the context indicates the contrary:

- Words importing genders include all genders; the singular includes the plural and *vice versa*; and natural persons include all categories of legal entities;
- Any word or term defined in the Code shall bear the same meaning throughout the Code and the Annexures thereto, except where a different meaning is assigned to it in an Annexure by way of a separate definition.

DEFINITIONS

The following terms shall have the meanings assigned to them hereunder and similar expressions shall have corresponding meanings:

"Appeals Committee" means the committee appointed in accordance with paragraph 1.6 of the Code;

"Chairperson" means the Chairperson of the Disciplinary Committee (Students) appointed in accordance with paragraph 1.4;

"Code" means the Disciplinary Code: Students, including all Annexures thereto, as approved by Council;

"Constitution" means the Constitution of the Republic of South Africa, Act No 108 of 1996;

"Copyright and Other Intellectual Property Rights" means the rights protected in accordance with relevant legislation;

"Dependency-inducing Substance" means the substances defined in Section 1 of the Drugs and Drug Trafficking Act, Act No 140 of 1992, or any statutory modification thereof, or any supplementary law or law passed in substitution thereof;

"Disciplinary Code: Students" see **"Code"**;

"Disciplinary Code for Students: University of Zululand Residences" or **"Residence Code"** means the disciplinary code and disciplinary guidelines attached to the Code as Annexures A and A1 and approved as such by the Council of the University;

"Disciplinary Committee (Students)" means the committee composed in accordance with paragraph 1.4 of the Code;

"Disciplinary Enquiry" means the process described in the Code to investigate and adjudicate the alleged misconduct of a registered student;

"Final Year of Study" means the academic status of a student as determined by the Registrar in accordance with the Rules of the University;

"Fine" means the amount determined by the Council of the University from time to time and imposed by an adjudicatory body in terms of the Code as an appropriate disciplinary measure;

"Legal Practitioner" means a person suitably qualified to practise as a lawyer in terms of applicable South African legislation for legal practitioners;

"Legal Representative" means a legal practitioner, a lecturer in a law department at the University, a registered student of the University with a legal qualification, or a student enrolled for a legal qualification at the University in his/her final year of study;

"Legal Qualification" means a formal legal qualification recognised as such by South African qualification authorities;

“Misconduct” means the conduct of students described in paragraph 1.1 of the Code and paragraph 7.2 of the Disciplinary Code for Students: University of Zululand Residences;

“Practical Experience” means at least 2 (two) years’ experience in legal practice or 2 (two) years’ experience as a lecturer in a law faculty or law department at a tertiary institution;

“Registrar” means the person appointed by the Council of the University as such in accordance with the provisions of the Higher Education Act, Act No 101 of 1997, as amended, and the Statute and Rules of the University, and any person acting in the said capacity;

“Residence Code” means the **“Disciplinary Code for Students: University of Zululand Residences”**;

“Rules” means the collective term for all the policies, protocol, codes of conduct, regulations and directives of the University as approved by the Council, the Senate or any other authorised body of the University, or by any official or employee with appropriate delegated authority;

“Statute” means the Statute of the University as approved by the Minister of Higher Education and Training, or his successor in title, and duly published in the Government Gazette;

“University” means the University of Zululand, a public higher education institution and juristic person established in terms of the Higher Education Act, Act No 101 of 1997, as amended;

“Vice-Chancellor” means the person appointed by the Council of the University as such in accordance with the provisions of the Higher Education Act, Act No 101 of 1997, as amended, and the Statute and Rules of the University, and any person acting in the said capacity.

1.1 MISCONDUCT

The following constitutes misconduct in terms of this Code:

If a student –

- 1.1.1 contravenes, or attempts to contravene, any Rule of the University;
- 1.1.2 refuses to obey, or acts contrary to, any lawful instruction or request by any fellow student, member of staff, contractor of the University, or any other person who is in a position of authority or to whom authority is delegated by the University;
- 1.1.3 is guilty of intentional or negligent conduct which results in:
 - 1.1.3.1 the good name of the University being brought into disrepute or otherwise compromised;
 - 1.1.3.2 the maintenance of order and discipline at the University being prejudiced or otherwise compromised;
 - 1.1.3.3 the proper course of teaching, research and/or community engagement at the University being prejudiced or otherwise compromised;
- 1.1.4 unlawfully infringes on another person’s human rights, as contained in the Bill of Rights (Chapter 2) of the Constitution;
- 1.1.5 on University or University-controlled premises, or at any other location while attending a University-related activity or representing the University or where such a student may be seen to represent the University or may

- otherwise be identified as a student of the University, performs an act which is an offence in terms of South African law, or conducts himself or herself in an indecent or improper manner, or performs any act that may bring the good name of the University into disrepute;
- 1.1.6 in University context, infringes on the Copyright or other Intellectual Property Rights of the University or any other person or entity, provided that acts of plagiarism, as contemplated in the Rules pertaining to "*Policy and Procedures Managing and Preventing Acts of Plagiarism*", shall be adjudicated in accordance with said Rules;
- 1.1.7 in University context, –
- 1.1.7.1 acts in a dishonest manner, or attempts to act in a dishonest manner, which includes, without limiting the generality of this provision, theft, unauthorised possession of property, bribery, fraud, forgery, perjury or presenting false or misleading statements;
- 1.1.7.2 intimidates and/or assaults, or attempts to intimidate and/or assault any person, or engages in fighting;
- 1.1.7.3 makes misrepresentations with regard to any administrative process, which includes, but is not limited to, the following: misrepresentations regarding academic and other records; degree, diploma or any other certificates; illness; persuading, or attempting to persuade, the University to administratively act in a way that the University would not, or probably would not, have acted in the absence of such misrepresentations; and/or
- 1.1.7.4 counterfeits a document, and/or presents a counterfeit document as a legitimate one, changes an existing document, or forges another person's signature on any document;
- 1.1.8 possesses and/or uses property of the University, or property under the University's control, unlawfully or without permission, or damages such property in a manner that may give rise to liability for damages;
- 1.1.9 enters or occupies, or attempts to enter or occupy, any University or University-controlled premises or building or part thereof, without permission;
- 1.1.10 in any manner infringes, or attempts to infringe, on University or University-controlled premises, or at a University-related function or activity (at any location), or in circumstances where he or she represents or may be seen to represent the University, or may be identified as a student of the University, on the freedom of movement of a student, a member of staff, a contractor of the University, or a member of the public;
- 1.1.12 conducts himself or herself in an insulting, indecent or improper manner towards a student, a member of staff, a contractor of the University, or a member of the public, on University or University-controlled premises or at a University function or activity (at any location) or in circumstances where he or she represents or may be seen to represent the University, or may be identified as a student of the University;
- 1.1.13 in contravention of the provisions of South African law or a Rule of the University, unlawfully possesses, distributes, buys, sells, uses, and/or is under the influence of a dependency-inducing substance while present on University or University-controlled premises or at a University-related function or activity (at any location), or in circumstances where he or she

- represents or may be seen to represent the University, or may otherwise be identified as a student of the University;
- 1.1.14 accepts or attempts to obtain any benefit or information or access to information in an inappropriate manner;
 - 1.1.15 intentionally or negligently supplies false or incorrect information and such actions are to the detriment, or potential detriment, of the University;
 - 1.1.16 assists, or attempts to assist, or encourages another student to commit an act which constitutes misconduct; and/or
 - 1.1.17 refuses to subject him- or herself to the approved disciplinary processes of the University and/or fails to comply with any disciplinary measure imposed on him or her by an authorised disciplinary committee or body.

1.2 PROCEDURE IN CASE OF MISCONDUCT

1.2.1 General

- 1.2.1.1 In case of an alleged transgression of this Code, a charge of misconduct shall be laid with the Office of the Registrar.
- 1.2.1.2 The Registrar may inform the parents, or legal guardian of a student (notwithstanding the student having reached the legal age of majority), in a manner in which the Registrar deems appropriate, of any disciplinary investigation and/or proceedings initiated or completed involving the student;
- 1.2.1.3 The Registrar may appoint a University staff member (full-time or part time), or a person from outside the University with appropriate legal qualifications and practical experience, to act as an initiator in proceedings before the Disciplinary Committee (Students).
- 1.2.1.4 When the Registrar is of the opinion that a formal charge(s) of misconduct against a student is warranted, disciplinary processes against the student as set out below shall be commenced with.

1.2.2 Expedited informal procedure

- 1.2.2.1 The Registrar may, after due investigation of alleged misconduct, at his or her sole discretion and by agreement with the student, finalise the matter and impose an appropriate disciplinary measure, provided that the expulsion of a student from the University, or a University or University-controlled residence, and /or the permanent deprivation of a student of any privilege or benefit associated with his registration, must be confirmed by the Vice-Chancellor.
- 1.2.2.2 The Registrar shall, in instances where an agreement as contemplated in paragraph 1.2.2.1 is not reached, refer the matter for a formal disciplinary enquiry.

1.2.3 Temporary suspension or removal of a student from University-controlled premises, or a University or University-controlled residence, pending a disciplinary procedure

- 1.2.3.1 If reasonable grounds exist to believe that a student has committed misconduct of a serious nature, the Registrar may suspend a

student temporarily from the University and/or a University or University-controlled residence, or deny a student access to any or all University-controlled premises pending the finalisation of a disciplinary investigation.

- 1.2.3.2 The Registrar is entitled to act in the manner set out above, where he or she is of the reasonable opinion that the suspension of the student is necessary in order to maintain the order and discipline on the premises of the University and/or to protect the interests of the University, the student involved, other students, members of staff, contractors of the University and the public.
- 1.2.3.3 The Registrar must inform the student in writing of his or her intention to suspend him or her temporarily.
- 1.2.3.4 The student shall be entitled to make verbal representations to the Registrar, should he or she be of the opinion that the grounds referred to in paragraph 1.2.3.1 and 1.2.3.2 above do not exist, or do not justify his or her temporary suspension, or that other compelling reasons exist why the intended suspension should not be effected.
- 1.2.3.5 The Registrar shall consider the above-mentioned representations and exercise his or her discretion in a fair and just manner, taking into account all relevant circumstances.
- 1.2.3.6 The Registrar must inform the student in writing of his or her final decision with regard to the intended suspension, after consideration of the students representations, as referred to in paragraph 1.2.3.4.

1.2.4 Procedure: Formal plea and agreed disciplinary measure

- 1.2.4.1 Where a student is formally charged by the University with misconduct and the student, before the disciplinary enquiry has commenced –
 - i) admits to the charge(s) against him or her; and
 - ii) enters into a plea and disciplinary measure agreement with the University,the Registrar shall, subject to the provisions of paragraph 1.2.2.1, follow the procedure described in paragraph 1.2.4.2, provided that the agreed disciplinary measure is in accordance with paragraph 1.3 below.
- 1.2.4.2 The charge(s), admission of guilt and disciplinary measure imposed shall be noted and recorded by the Registrar in the presence of the student, or the student and his or her parent or legal guardian, or the student and his or her legal representative, as the case may be.
- 1.2.4.3 The Registrar must refer the matter for a formal disciplinary enquiry in accordance with this Code, should it at any time become evident that the student may not be guilty of the charges against him or her, or that the student wishes to revisit his or her decision regarding the plea and disciplinary measure agreement.

1.2.5 Formal disciplinary procedure

- 1.2.5.1 If a charge against a student has been formulated as envisaged in paragraph 1.2.1.4 and the student denies the charge(s) against him or her, the Registrar must convene a disciplinary enquiry by the Disciplinary Committee (Students). This Committee will determine whether the student is guilty of the alleged misconduct and decide on appropriate disciplinary measures in accordance with this Code.
- 1.2.5.2 The written charge(s) shall be compiled and delivered to the student concerned indicating the date, time and venue when the student has to answer to the charge(s).
- 1.2.5.3 A student shall be entitled to be accompanied by his or her parent(s) or legal guardian and/or legal representative during the disciplinary enquiry. The student may only be represented at the disciplinary enquiry by a legal representative. The Chairperson of the Disciplinary Committee (Students) may, at his or her discretion, give permission to a third party, other than the parent(s), the legal guardian of the student, or a legal representative to assist the student. A student's parent(s) or legal guardian, or any third party as referred to herein, will only be allowed to provide general support to the student and shall not be permitted to represent the student.
- 1.2.5.4 Should the student wish to obtain the services of a legal representative, such services shall be obtained entirely at his or her own expense. The name and contact details of such legal representative must be submitted to the Registrar before the date of the disciplinary enquiry. Neither the University, nor the student shall have any claim against each other pertaining to the costs incurred by a party in respect of legal representation.
- 1.2.5.5 The procedure followed during any particular disciplinary proceeding shall be determined by the Chairperson of the Disciplinary Committee (Students), taking into account the rules of natural justice and fair administrative process. This would, *inter alia*, include:
 - i. providing the student with full details of the charge(s) against him and the related supporting documentation, as applicable;
 - ii. affording the student and his or her legal representative reasonable (not less than 5 working days) time to prepare for the proceedings;
 - iii. advising the student, appearing before the Disciplinary Committee (Students) without legal representation, that he or she is not compelled to incriminate him- or herself;
 - iv. appropriate questioning by the Chairperson to ensure that the student understands the charge(s) against him or her and to enter a plea of guilty or not guilty to the charge(s), as the case may be;
 - v. permitting the University and the student to call witnesses to give evidence in their favour and to submit any other relevant documentation and information;
 - vi. permitting the University and the student to lead evidence in chief and to cross-examine each other's witnesses;

- vii. permitting the University and the student to submit their final submissions to the Committee before the decision of the Committee (guilty or not guilty) is handed down;
 - viii. permitting the University to present aggravating, and the student to submit mitigating circumstances, in the instance where the student is found guilty of misconduct;
 - ix. informing the student of the relevant internal processes (including any appeal process), which he or she may pursue in the event of being found guilty as well as the possible outcome of such processes; and
 - x. providing to the student, upon request within a reasonable time (within 5 working days), written reasons for any decision made by the Disciplinary Committee (Students).
- 1.2.5.6 The Disciplinary Committee (Students) shall keep minutes of the proceedings in a manner that it deems appropriate.
- 1.2.5.7 After handing down its decisions, and providing reasons for its decisions, if so requested, the Disciplinary Committee (Students) has completed its function.

1.3 DISCIPLINARY MEASURES

- 1.3.1** Upon finding a student guilty of misconduct and having heard evidence in aggravation and mitigation, the Chairperson may impose any one, or a combination, of the following disciplinary measures:
- 1.3.1.1 reprimand the student;
 - 1.3.1.2 temporarily, or permanently, deprive the student of any right or privilege associated with his or her registration as a student at the University;
 - 1.3.1.3 impose a fine, not exceeding the amount determined from time to time for this purpose by the Council of the University on recommendation of the Vice-Chancellor, and/or order the student to pay an amount equalling the amount of the actual damage caused by the student, and/or to re-reimburse any other party for damages suffered as a consequence of the student's actions;
 - 1.3.1.4 compel the student to perform community service within or for the benefit of the University for a specified number of hours, as is deemed to be reasonable, given the nature and seriousness of the transgression and the evidence presented to the Disciplinary Committee(Students);
 - 1.3.1.5 deny the student the right or privilege to register for a particular module, or revoke a credit obtained in a module;
 - 1.3.1.6 suspend the student's registration for a specified period;
 - 1.3.1.7 permanently expel a student from the University;
 - 1.3.1.8 deny the student the privilege of re-registering as a student at the University;
 - 1.3.1.9 suspend the award of any degree, qualification and/or other award pending the finalisation of any disciplinary proceeding or the expiry of any suspended disciplinary measure, or compliance with any sanction or measure;

- 1.3.1.10 recommend to Senate and Council the revocation of any qualification or award; and or
- 1.3.1.11 recommend to Management the referral of the student to a registered clinic or other institution, depending on the circumstances, for appropriate treatment.
- 1.3.2** The Chairperson may suspend any of the above disciplinary measures, wholly or in part, on the condition that the student adheres to, or complies with any measure imposed.
- 1.3.3** The Registrar shall inform the student in writing of the outcome of the disciplinary enquiry as soon as possible after the conclusion thereof, where after the imposed disciplinary measure(s) shall take effect.
- 1.3.4** If an appeal against a decision of the Disciplinary Committee (Students) is lodged in terms of paragraph 1.5, the Registrar may, in appropriate circumstances, suspend any disciplinary measure imposed by the Disciplinary Committee (Students) pending the result of the appeal.

1.4 DISCIPLINARY COMMITTEE (STUDENTS)

- 1.4.1** The Disciplinary Committee (Students) consists of the Chairperson and 2 (two) additional members.
- 1.4.2** The Chairperson shall be appointed from the ranks of the following categories of persons:
 - 1.4.2.1 University staff (full-time or part time) with legal qualifications and practical experience, or
 - 1.4.2.2 External persons with legal qualifications and practical experience.
- 1.4.3** The additional members of the Disciplinary Committee shall be appointed from the ranks of the academic staff, in the case of academic matters, and all members of staff, in the case of all other matters.
- 1.4.4** The Chairperson and the additional members of the Disciplinary Committee (Students) are appointed by the Registrar, in consultation with the Vice-Chancellor or his or her authorised representative, for a particular disciplinary enquiry. The Registrar may appoint alternate members as appropriate in the circumstances.
- 1.4.5** All disciplinary investigations and proceedings (which shall include appeal procedures) are of a strictly confidential nature and shall be treated as such by all the parties attending the proceedings as well as the staff involved in the processes pertaining to disciplinary enquiries. The aforesaid confidentiality obligation shall extend to any documentation utilised or information disclosed for purposes of a disciplinary enquiry. The University reserves the right to obtain a written undertaking of confidentiality from any involved party.
- 1.4.6** The University may inform the university community appropriately of incidents of misconduct, or trends identified by the University, and the disciplinary measures applied, provided that the students and staff involved may not be identified in such communications.
- 1.4.7** The Registrar must take appropriate steps to ensure consistency in the application of disciplinary measures at the University as a whole.

1.5 APPEAL PROCEDURE

1.5.1 A student may appeal against the finding and/or the disciplinary measures imposed by the Disciplinary Committee (Students) in accordance with the following procedure:

- 1.5.1.1 The student may appeal to the Appeals Committee by lodging a written notice of appeal with the Office of the Registrar.
- 1.5.1.2 The written notice of appeal shall be lodged with the Registrar not later than 5 (five) working days after the decision of the Disciplinary Committee (Students) has been communicated to the student. The University may require an undertaking from the student to carry the costs incurred by the University to prepare the record of the proceedings of the Disciplinary Committee (Students).
- 1.5.1.3 The grounds of appeal must be furnished in the notice of appeal and must indicate clearly whether the appeal is lodged against the finding and/or the disciplinary measure.
- 1.5.1.4 On receipt of the notice of appeal, a copy thereof shall be submitted to the Chairperson of the Disciplinary Committee (Students), whereupon the Chairperson shall prepare a response within a reasonable time and submit it to the Registrar.
- 1.5.1.5 The Registrar shall then arrange for the appeal to be heard as soon as possible by the Appeals Committee as composed in accordance with paragraph 1.6.
- 1.5.1.6 The Appeals Committee may confirm, alter or set aside any finding and shall be entitled to suspend, increase or reduce any disciplinary measure imposed by the Disciplinary Committee (Students). Should the Appeals Committee set aside the finding and/or disciplinary measures imposed by the Disciplinary Committee (Students), or reduce the disciplinary measures imposed on the student, any amount paid by the student in accordance with paragraph 1.5.1.2 above shall be refunded.
- 1.5.1.7 The appeal shall be decided on the basis of the documentation before the Appeals Committee and no verbal representation on behalf of the student or the University shall be allowed.

1.6 APPEALS COMMITTEE

1.6.1 The Appeals Committee consists of:

- 1.6.1.1 A Deputy Vice-Chancellor of the University designated by the Senate, or in the absence of Deputy Vice-Chancellors, any other person designated by the Senate, who shall act as Chairperson;
- 1.6.1.2 Two academic members of staff elected by the Senate from its ranks for a term of 2 (two) years, provided that at least one member must have a legal qualification and appropriate practical experience; and
- 1.6.1.3 Senate may elect as many alternates for members of the Appeals Committee as it deems appropriate.

- 1.6.2** A person who served on the Disciplinary Committee (Students) in respect of a particular matter may not serve in any capacity on the Appeals Committee.

1.7 GENERAL

- 1.7.1** If a student refuses, or fails to attend a disciplinary hearing without an acceptable reason, the hearing may continue in his or her absence in a manner which the Disciplinary Committee (Students) deems appropriate.
- 1.7.2** Where a student's misconduct also constitutes a breach of the professional or ethical code of a profession, the University shall, upon request by the professional body and/or if compelled by law, provide relevant information pertaining to a disciplinary enquiry involving a particular student. The consent of the relevant student shall be obtained before the release of any information, should it be required by law.
- 1.7.3** In the event that a student is guilty of misconduct which also constitutes a criminal offence, the University shall be entitled (and in certain circumstances may be legally obliged) to report the matter to the South African Police Service.
- 1.7.4** Any reference to the Registrar of the University in this Code shall, unless the context indicates differently, include the Registrar's representative, authorised to perform the respective functions of the Registrar as set out in this Code.
- 1.7.5** A student may be found guilty of misconduct if the Disciplinary Committee (Students) is on a balance of probabilities of the view that the student had indeed committed the alleged misconduct.

1.8 JURISDICTION AND PRECEDENCE

- 1.8.1 Nothing in this document shall prohibit the Council of the University from promulgating separate or supplementary disciplinary codes and procedures to regulate the conduct of students in any constituent part of the University, or with regard to any specific manifestation of misconduct.
- 1.8.2 Adjudicating bodies have the jurisdiction as determined in the respective codes.
- 1.8.3 All registered students of the University are subject to the general disciplinary rules and procedures laid down in the Code and the Policy and Procedure on Managing and Preventing Acts of Plagiarism, which rules and procedures shall take precedence over any rules and/or procedures contained in any other Code or regulation.. In the event of any conflict between the rules and procedures of the Disciplinary Code: Students and the Policy and Procedure on Managing and Preventing Acts of Plagiarism, the rules and procedures of the Disciplinary Code: Students shall take precedence.
- 1.8.4 The provisions of the Act and the Statute take precedence over any Rule of the University.

1.9 AMENDMENTS

- 1.9.1 Amendments to this Code will have no effect unless it is approved by the

Council of the University.

1.9.2 Council may only amend the Code after due process, as prescribed by the Higher Education Act, Act 101 of 1997, as amended, and the Statute of the University, have been followed.

1.10 ANNEXURES TO THE CODE

Annexure A:	Disciplinary Code for Students: University of Zululand Residences
Annexure A1:	Disciplinary Guidelines: Residences
Annexure B:	Policy and Procedure on Managing and Preventing Acts of Plagiarism
Annexure C:	Rules Governing Examinations, Tests and Other Academic Assignments

DISCIPLINARY CODE FOR STUDENTS: UNIVERSITY OF ZULULAND RESIDENCES

CONTEXT

The Disciplinary Code for Students: University of Zululand Residences (hereafter the "Residence Code") set out below will govern discipline and related matters in University-controlled Residences.

1. DEFINITIONS

In the Residence Code, unless it is expressly stipulated otherwise, or the context indicates another meaning, the following terms shall have the meanings assigned to them hereunder and similar expressions shall have corresponding meanings:

"Chairperson of the Residence" means the chairperson of the House Committee of a Residence, or a person with a similar title, depending on the tradition and practice of a particular Residence;

"Dean of Students" means the person designated by the University with the responsibilities associated with student affairs;

"Disciplinary Committee (Students)" means the committee appointed by the University in accordance with the Disciplinary Code: Students to adjudicate student disciplinary matters and which, for purposes of the Residence Code, may also be referred to by way of the acronym "DCS";

"Disciplinary Enquiry" means the process described in this Residence Code to investigate and adjudicate the alleged misconduct of a residence student;

"Fine" means the amount of money determined by the Council of the University from time to time, and imposed by an adjudicatory body in terms of this residence Code as an appropriate disciplinary measure;

"Head of Residences" means a staff member of the University, appointed by the University to oversee, manage and control the students, their structures and all other aspects of Residence life at the University;

"Head of the Residence" means a staff member of the University appointed by the University to oversee, manage and control the students in a particular Residence;

"House Committee" means the committee appointed by the Residence's management and constituted in accordance with the applicable University and Residence management rules, policies and procedures, and which for purposes of this Residence Code may also be referred to by way of the acronym "HC";

"Residence" means any place of student accommodation controlled and/or managed by the University;

"Residence Code" means the Disciplinary Code for Students: University of Zululand Residences and its Annexures; and

"Residence Disciplinary Committee" means the committee set out and constituted in accordance with paragraph 3.1, and which for purposes of this Residence Code may also be referred to by way of the acronym "RDC".

2. APPLICATION OF THE RESIDENCE CODE AND MATTERS INCIDENTAL THERETO

- 2.1 All students in Residences are subject to the general disciplinary rules and procedures laid down in the Code, which rules and procedures shall enjoy precedence over any rules and/or procedures contained in the Residence Code or otherwise laid down by the management of any Residence, and in the event of any conflict the rules and procedures of the Code shall enjoy precedence.
- 2.2 Each Residence shall determine its own house rules, which shall only become effective and binding if accepted by a majority of residents at a Residence meeting. The rules and procedures contained in the Code and the Residence Code shall enjoy precedence over any such house rules and in the event of any conflict the rules and procedures of the Code or the Residence Code, as the case may be, shall enjoy precedence.

3. COMPOSITION OF THE RESIDENCE DISCIPLINARY COMMITTEE (RDC)

- 3.1 The RDC of a Residence shall be constituted as follows:
 - 3.1.1 The Head of Residences, who shall also act as Chairperson of the RDC;
 - 3.1.2 The Head of the Residence;
 - 3.1.3 The Chairperson of the Residence;
 - 3.1.4 The HC member for discipline;
 - 3.1.5 Two other senior residents of the particular Residence, who shall at least be at a 3rd (third) year level of study, appointed by the Head of Residences;
- 3.2 The requirement for a member of a Residence's HC to act as the HC member for discipline does not imply that a Residence needs to establish a separate portfolio assigned solely to overseeing discipline in the Residence, and such function may be allocated to any current HC member by the Head of the Residence.
- 3.3 The official duties of the HC member for discipline may be delegated to another HC member for purposes of any gathering or meeting of the RDC.
- 3.4 The Head of Residences may only be replaced as the Chairperson of the RDC by the Dean of Students, or his or her authorised representative.

4. DUTIES AND POWERS OF THE HOUSE COMMITTEE MEMBER FOR DISCIPLINE

The HC member for discipline's responsibilities, in addition to such other duties as may from time to time be assigned to him or her by the HC, shall include the following:

- 4.1 Investigating all complaints of a disciplinary nature and relating to any student resident in the relevant Residence, that is reported to the HC member for discipline;
- 4.2 Deciding, subject to the provisions of paragraph 5 and in consultation with the relevant Head of the Residence and the Chairperson of the Residence, whether a particular student should be charged with misconduct as set out in this Residence Code. A decision by the aforementioned functionaries not to proceed with a disciplinary investigation, shall not preclude the Head of Residences or another authorised official or authorised forum (such as the Disciplinary Committee

- (Students)), to proceed with a disciplinary enquiry, should such an official or forum deem it appropriate in the circumstances;
- 4.3 Arranging, in consultation with the Head of Residences, the Head of the Residence and members of the HC, meetings of the RDC;
 - 4.4 Preparing a charge sheet, setting out in sufficient detail the charges against a student, and serving the charge sheet on the student in question;
 - 4.5 Preparing and providing timeously any documentation that will be presented by the HC member for discipline at a RDC hearing as evidence to substantiate any charge or charges against a student (i.e. a student charged with misconduct should be furnished with such documentation in advance of the RDC hearing to enable the student to prepare him or herself appropriately for the meeting of the RDC);
 - 4.6 Ensuring that the disciplinary measures imposed by the RDC on any student are properly and timeously executed;
 - 4.7 Keeping a complete written record of all cases of misconduct (i.e. where a student is found guilty of misconduct) as well as disciplinary measures imposed by the RDC;
 - 4.8 Referring all disciplinary matters outside the jurisdiction of the RDC to the Head of Residences who shall refer all such matters to the Dean of Students. The Dean of Students shall, in turn, refer the matter to an appropriate forum.

5. TEMPORARY SUSPENSION OF A STUDENT FROM A RESIDENCE AND THE SUSPENSION OF A HOUSE COMMITTEE MEMBER FROM DUTIES

- 5.1 If the Head of Residences reasonably believes that a student has committed serious misconduct which justifies his or her temporary suspension from the Residence pending the finalisation of a disciplinary investigation, the Head of Residences must, as soon as possible, report the matter to the Dean of Students. The Dean of Students must refer the matter, together with all such documentation as may be relevant, to the office of the Registrar for consideration.
- 5.2 The Registrar shall, as soon as possible after receiving the above referral from the Dean of Students, decide whether or not the student in question should be temporarily suspended from the Residence and shall inform the Dean of Students and the Head of Residences of his or her decision in this regard. Before the suspension is finalised, the student must be afforded the opportunity to make submissions to the Registrar. Temporary suspensions shall commence at the date and time determined by the Registrar, upon which the student in question shall immediately leave the Residence.
- 5.3 Any matters referred to the Registrar as set out in paragraphs 5.1 and 5.2 shall be referred by the Registrar to the Disciplinary Committee (Students) for adjudication and the RDC shall have no jurisdiction in such matters.
- 5.4 In the case of a HC member being accused of misconduct, the Head of Residences may, in consultation with the relevant Head of the Residence, and subsequent to the HC member in question being informed of the complaints against him or her and the HC member being afforded the opportunity to make submissions in this regard, temporarily relieve the HC member of his or her duties (but with retention of his or her position) pending the finalisation of a disciplinary investigation.
- 5.5 Alleged misconduct of HC members must be dealt with in accordance with the Code. Should a HC member be found guilty by a disciplinary enquiry, he/she will automatically be relieved of his/her membership of the HC, unless the Disciplinary Committee (Students) explicitly rules otherwise.

6. DUTIES AND POWERS OF THE CHAIRPERSON OF THE RDC

- 6.1 The chairperson of the RDC shall formulate in writing the verdict on the charge(s) (i.e. guilty or not guilty) and finding on sanction (if applicable) reached by the RDC pursuant to a Disciplinary Enquiry, and shall furnish reasons for the verdict and the disciplinary measure imposed (if applicable).
- 6.2 The chairperson of the RDC shall provide the Dean of Students with a written copy of the finding(s) set out in paragraph 6.1 within 2 (two) working days.
- 6.3 The chairperson of the RDC may, after consultation with the other members of the RDC, at any time during a RDC hearing discontinue the proceedings and refer the matter to another appropriate forum to be dealt with anew, should it emerge that –
 - 6.3.1 such a referral would be in the best interest of the student charged with misconduct, and/or the relevant Residence, and/or the University or otherwise in the interest of justice;
 - 6.3.2 the charge(s) before the RDC fall outside the jurisdiction of the RDC; or
 - 6.3.3 there are other compelling reasons for such a referral.
- 6.4 In the event of a decision to refer the matter to another forum in accordance with paragraph 6.3, the Chairperson of the RDC shall inform the Dean of Students who in turn shall be responsible for referring the matter to the next appropriate forum.

7. JURISDICTION OF THE RESIDENCE DISCIPLINARY COMMITTEE

- 7.1 The RDC shall have no jurisdiction in respect of any matter referred to the Registrar by the Head of Residences in terms of paragraph 5.
- 7.2 The RDC's disciplinary powers are limited to violations of or non-compliance with –
 - 7.2.1 the Disciplinary Code for Students: University of Zululand Residences;
 - 7.2.2 the house rules of a particular Residence;
 - 7.2.3 the provisions of the accommodation contract between the student and the University;
 - 7.2.4 instructions or directives issued by the Head of Residences or the Head of the particular Residence;
 - 7.2.5 policies, procedures or protocols applicable to a particular Residence or Residences in general.
- 7.3 If a resident student violates any provision referred to in paragraphs 7.2.1 to 7.2.5, and such violation also amounts to misconduct as contemplated in the Code, the RDC may exercise concurrent jurisdiction, provided that –
 - 7.3.1 the RDC's disciplinary powers are adequate to impose an appropriate disciplinary measure in the particular instance, taking into account factors such as the nature and severity of the alleged misconduct, the complexity of the matter, etc.;
 - 7.3.2 allegations of misconduct against HC members and the repeated misconduct of a resident student, shall be referred to the Disciplinary Committee (Students);
 - 7.3.3 the alleged misconduct does not justify the suspension of the student from a Residence, as contemplated in paragraph 5;
- 7.4 Should the RDC, during the course of any RDC hearing, conclude that –
 - 7.4.1 the specific matter, taking into account all relevant factors, exceeds its disciplinary powers;

- 7.4.2 the alleged transgression amounts to misconduct that justifies the suspension of the student from a Residence as contemplated in paragraph 5;
the matter must be referred to the Registrar for action in accordance with the Code.
- 7.5 All matters pertaining to the unauthorised entrance to and the occupation of residence facilities must be referred to the Registrar for action in accordance with the Code.

8. POWERS AND DUTIES OF THE RESIDENCE DISCIPLINARY COMMITTEE (RDC)

- 8.1 The RDC is competent to impose any one, or a combination of, the following disciplinary measures:
 - 8.1.1 A fine not exceeding the amount determined by the Council of the University from time to time;
 - 8.1.2 A written warning or final written warning;
 - 8.1.3 Relieving a student from any official position on any Residence committee or similar body, with due observance of the fact that the RDC has no jurisdiction to adjudicate complaints against members of the serving HC;
 - 8.1.4 Suspending the student from participating in some or all activities of the Residence, for a specified period of time not exceeding 3 (three) months with due observance of the seriousness of the misconduct, the disciplinary record of the student in the Residence and the particular circumstances of the case;
 - 8.1.5 Ordering the student to pay an amount equalling the amount of the actual damage caused by the student and/or to re-reimburse any other party for damages suffered as a consequence of the student's actions;
 - 8.1.6 Referring the matter in accordance with paragraph 7.4 to the Disciplinary Committee(Students);
 - 8.1.7 Instructing the student to perform community service within, or for the benefit of the particular Residence, for a period not exceeding 50 (fifty) hours with due observance of the seriousness of the misconduct, the disciplinary record of the student in the Residence and the particular circumstances of the case.
- 8.2 The provisions of paragraph 8.1 must be read in conjunction with the Disciplinary Guidelines: Residences attached to the Residence Code as Annexure A1.
- 8.3 Any conduct of a student that amounts to a failure to observe or act in fulfilment of disciplinary measure(s) imposed by the RDC, shall constitute misconduct which must be referred to the Disciplinary Committee (Students) for adjudication, and such conduct may, depending on the circumstances, justify suspension of a student from a Residence by the Disciplinary Committee (Students).
- 8.4 All residence students are subject to the Residence Code and to the authority of the RDC and the failure or refusal of any such student to subject himself or herself to this Residence Code or the authority of the RDC, shall constitute misconduct which must be referred to the Disciplinary Committee (Students) for adjudication and such conduct may, depending on the circumstances, justify suspension of a student from a Residence by the Disciplinary Committee (Students).
- 8.5 The RDC shall ensure that a complete written record is kept of all cases adjudicated by the RDC, indicating the misconduct, the finding of the RDC (i.e. whether the

student was found guilty or not) as well as detail of the disciplinary measure(s) imposed by the RDC.

9. PROCEDURE AT RESIDENCE DISCIPLINARY COMMITTEE HEARINGS

- 9.1 Residence-related complaints against a residence student shall be reported to the HC member for discipline of the Residence and/or the Head of the Residence.
- 9.2 A notice to appear at a disciplinary hearing must be in the format prescribed by the Residence management structures. The notice must specify the date, time and venue of the disciplinary hearing and provide sufficient detail of the charge(s) against the student (identifying the specific incident involving the student or the alleged conduct of the student) to enable the student to understand the exact nature of the charge(s) against him or her and to prepare him- or herself for the appearance before the RDC.
- 9.3 A student shall be given at least 2 (two) working days advance notice of the disciplinary hearing.
- 9.4 The proceedings at a disciplinary hearing shall at all times comply with the rules of natural justice (affording the student the opportunity to be heard) and good administrative practice (upholding substantive and procedural fairness).
- 9.5 The disciplinary enquiry shall be of an inquisitorial nature. The Chairperson of the RDC and its members shall by way of questioning of the student and/or any witness called by any party and/or by considering any other allowable form of evidence, establish the factual situation and, for purposes of aggravation or mitigation, the circumstances pertaining to the alleged incident and/or behaviour of the student. The HC member for discipline shall assist the RDC with regard to logistical and administrative matters and may, with the permission of the Chairperson of the RDC, suggest possible lines of questioning.
- 9.6 A student may only be found guilty of a charge against him or her if the RDC is on a balance of probabilities of the opinion that the student had committed the alleged misconduct.
- 9.7 A verdict of the RDC is determined by a majority vote of the RDC members and, in the event of the votes being divided equally, the Chairperson of the RDC shall have the casting vote.
- 9.8 The Chairperson of the RDC shall, as soon as possible after the conclusion of the disciplinary enquiry, record the verdict of the RDC (i.e. guilty or not guilty), its finding on an appropriate disciplinary measure(s) and the reasons for its conclusion(s). The Chairperson shall make the necessary arrangements for the conclusion(s) of the RDC to be conveyed to the student.

10. APPEAL PROCEDURE

- 10.1 A student found guilty of misconduct by the RDC may lodge an appeal against the finding and/or disciplinary measure(s) imposed on him or her.
- 10.2 The appeal must be lodged with the Dean of Students, provided that –
 - 10.2.1 the appeal is submitted within 5 (five) working days after the conclusions of the RDC have been conveyed to the student; and

- 10.2.2 the appeal is lodged in writing, specifying whether the student is appealing against the finding and/or the disciplinary measures imposed, as well as the grounds for the appeal.
- 10.3 The Dean of Students must inform the Chairperson of the RDC of the appeal and request a written response within a reasonable time from the Chairperson. The Dean of Students, after considering the grounds of appeal and the written response thereto prepared by the Chairperson of the RDC, shall confirm, alter or set aside any finding (if the student appealed against the finding) and shall be entitled to nullify, increase or reduce any disciplinary measure imposed (if the student appealed against the disciplinary measure imposed).
- 10.4 A student who continues to contest the outcome of the procedures contemplated in paragraphs 10.2 and 10.3, may request the referral of the matter to the Registrar for reconsideration, provided that the matter is so referred within 5 (five) working days after the Dean of Students' written decision had been conveyed to the student. The Registrar, after considering the matter on account of the evidence submitted to the RDC, the grounds for the appeal, the response of the Chairperson of the RDC, the ruling of the Dean of Students, the grounds for the referral and the response of the Dean of Students, may –
- 10.4.1 confirm, alter or set aside any finding;
 - 10.4.2 nullify, increase or reduce any disciplinary measure imposed; or
 - 10.4.3 make any other decision as the Registrar may deem appropriate.
- The decision of the Registrar concludes the internal processes pertaining to a disciplinary enquiry of the RDC.

11. RIGHTS OF AN ACCUSED STUDENT

- 11.1 A student appearing before the RDC shall be treated fairly and equally with due observance of the constitutional rights of the student and the principles of natural justice and fair administrative processes.
- 11.2 An accused student shall have the right to be assisted by a fellow student in preparing for, and handling his or her defence, at a disciplinary enquiry. The fellow student shall not be permitted to represent (act on behalf of) an accused student during a disciplinary enquiry.
- 11.3 An accused student shall be deemed innocent until his or her guilt is proven on a balance of probabilities at a disciplinary enquiry.

12. REPORTING OF DISCIPLINARY COMPLAINTS

- 12.1 Any student, member of staff, contractor of the University or member of the public may report alleged misconduct of a residence student to the HC member for discipline of the Residence and/or the relevant Head of the Residence and request that the matter be further investigated.
- 12.2 The HC member for discipline and the Head of the Residence may of their own accord lodge a disciplinary complaint against a student with the RDC.

ANNEXURE A1

13. DISCIPLINARY GUIDELINES: RESIDENCES

The guidelines set out below relate to possible transgressions and the proposed disciplinary measure to be imposed in respect thereof, but do not make provision for every conceivable transgression and should moreover not be construed as stipulating that a specific disciplinary measure as indicated below must be imposed when a particular transgression is committed. Discipline must therefore be applied with discretion, with due observance of the circumstances of every case and in accordance with the general spirit of this Residence Code.

TRANSGRESSION	GUIDELINE	
<p>1. Less Serious Misconduct</p> <p>“Petty transgressions”, including disturbance of the peace; swearing; transgressions of restroom/bathroom rules, recreational area/common room rules, foyer rules, or dining hall rules.</p>	<p>1st transgression</p> <p>2nd transgression</p> <p>3rd transgression</p>	<p>RDC hearing – written warning and/or maximum fine of RXX.</p> <p>RDC hearing – final written warning and/or maximum fine of RXX and/or letter addressed to parents / legal guardian.</p> <p>Referral to DCS – possible expulsion from particular Residence and/or all University Residences.</p>
<p>2. Medium-level Misconduct</p> <p>Examples: Conduct prejudicial to the good name, reputation and/or interests of the University and/or Residence; use of alcohol in unauthorised areas.</p>	<p>1st transgression</p> <p>2nd transgression</p>	<p>RDC session – final written warning and/or fine of RXX and/or letter addressed to parents/legal guardian.</p> <p>Referral to DCS – possible expulsion from particular Residence and/or all University Residences.</p>
<p>3. Serious Misconduct</p> <p>Examples: Assault; fighting, racism; dishonesty; violation of any safety and/or security measures; vandalism; victimisation; intimidation; permitting unauthorised visitors and/or visitors outside prescribed visiting times</p>	<p>1st transgression</p>	<p>Referral to DCS – possible expulsion from particular Residence and/or all University Residences.</p>

