

13 Discipline Committee – the procedure of the hearing

- 13.1 The Discipline Committee shall have the right to regulate its own process, provided that it does not act in a manner contrary to the principles of natural justice, or in breach of or contrary to the provisions of this statute.
- 13.2 The Discipline Committee shall not be bound by the rules of evidence and may hear any evidence presented as is just and equitable in the circumstances. All evidence considered shall be given the appropriate weight and relevance.
- 13.3 A guideline to the appropriate procedure is set out in Schedule A (refer to page 637). This is a guide only and shall not be read so strictly or narrowly as to inhibit the ability of the Disciplinary Committee to regulate its own proceedings.
- 13.4 At the conclusion of the Hearing, the Committee shall reach a decision as to whether on the balance of probabilities there has been a breach of discipline.
- 13.5 If it is decided that a breach has not been proved then the complaint shall be dismissed.
- 13.6 If it is decided that a breach/s has been proved then the Committee shall make a decision as to:
 - (a) the nature of the breach;
 - (b) the penalty to be imposed.
- 13.7 In reaching a decision it is preferable that the Committee be unanimous. If, however, that is not possible then the decision of the majority will be the decision of the Committee.
- 13.8 A decision may be delivered initially orally (at the discretion of the Committee) but shall also be notified in writing.
- 13.9 The written decision of the Discipline Committee shall set out the details of the decision itself and the reason/s for that decision.
- 13.10 A copy of the written decision shall be provided to the student, the complainant, the Vice-Chancellor, and to any other person or persons that the committee considers appropriate. Further, the Discipline Committee may, if it considers it appropriate, resolve that all or part of its decision remain confidential to the student, the complainant and the Vice-Chancellor.
- 13.11 The student and the complainant shall have the right to appeal the decision reached by the Discipline Committee in accordance with the appeal provisions set out at Section 15. They shall be notified of such right at the time the decision is sent to them.

14 Discipline Committee powers

- 14.1 The Discipline Committee shall have the power:
- (a) to impose on any student who does not observe the provisions of this Statute; or the conditions (if any) attached to his or her attendance at classes; or who otherwise commits any breach of University discipline; any one or more of the following penalties as it thinks fit:
 - (i) such sum by way of restitution as may be appropriate for any damage caused;
 - (ii) a fine not exceeding \$500.00;
 - (iii) a suspension from attendance at the University or any of its classes for such period as it thinks fit and/or until such conditions that it thinks fit have been met;
 - (iv) a suspension from attendance at any test or examination;
 - (v) a limitation or prohibition on his or her attendance at any class or classes at the University or his or her use or enjoyment of any the facilities of the University;
 - (vi) expulsion from the University;
 - (vii) any other remedy it sees fit including the requirement for an apology, performance of community service, attendance at counselling, or other non-monetary restitution.
 - (b) Where the student fails to pay monies owing by way of fine or restitution or fails to satisfy the requirements of the penalty imposed on the student, the failure shall be referred to the Administrative Secretary who shall refer the matter to the Vice-Chancellor.
 - (c) The Vice-Chancellor may direct that until all monies have been paid, or the requirements of the penalty have been satisfied:
 - (i) the student be prohibited from sitting examinations;
 - (ii) examination results may be withheld;
 - (iii) award of any certificate, diploma, degree that the student is entitled to be deferred;
 - (iv) he or she be suspended;
 - (v) he or she not be permitted to re-enrol at the University.
 - (vi) The student shall be notified in writing of such direction.

15 Appeals

- 15.1 Any party to a complaint (being either the student or the complainant) or a student who has not been permitted to enrol or had their enrolment cancelled at the University or in a particular course of training or study at the University pursuant to Section 4.1 may, within (14) days of the decision of the Discipline Committee or the Vice-Chancellor, appeal the decision by giving notice to the Vice-Chancellor in writing, provided that:
- (a) the complainant shall only be able to appeal the appropriateness or reasonableness of the penalty.
 - (b) the student shall only be able to appeal on the grounds that:
 - (i) that the penalty was inappropriate or unreasonable; or
 - (ii) that the Discipline Committee or Vice-Chancellor failed to meet the principles of natural justice; or
 - (iii) that fresh evidence has arisen that was not reasonably available at the time of the hearing and that if taken into account it is likely to alter the decision of the Committee or Vice-Chancellor.
- 15.2 The notice of appeal must set out:
- (a) The decision or particular part of the decision that is being appealed.
 - (b) The grounds of appeal, which shall be specified with such particularity as to give full advice to the Adjudicator and the other party of the issues involved.
- 15.3 An Appeal Panel shall be set up by the Vice-Chancellor of people who will be drawn upon to act as adjudicators who will hear and decide the appeals filed in accordance with the provisions of this Statute.
- 15.4 The Vice-Chancellor shall:
- (a) Appoint an adjudicator from the Appeal Panel to hear the Appeal.
 - (b) Give the notice of appeal together with the name of the adjudicator to the Administrative Secretary who shall:
 - (i) Notify the parties of the date, time and place of the hearing of the appeal, such date to be within 10 working days of the receipt of the notice of appeal;
 - (ii) Where there is a record of the Discipline Committee hearing, provide a copy of that record with the notice of appeal.
 - (iii) Notify the parties of:
 - (aa) The consequences of not appearing at the hearing;
 - (bb) Any documents or evidence relevant to the appeal including statements from witnesses and documents referred to or relied on unless it would compromise the safety of the Complainant or be against the public interest;
 - (cc) An explanation of the process that will be followed;
 - (dd) The right to representation for both parties;

- (ee) A request that any documentary or other information to be submitted by the Appellant or any other party be given to the Administrative Secretary at least two (2) days prior to the hearing so that it can be distributed and considered.
- 15.5 The adjudicator shall hear and determine the appeal in such manner as he or she thinks proper, having regard to the principles of natural justice. Provided that the Appeal hearing will not operate by way of a rehearing of the complaint.
- 15.6 The adjudicator shall have the power to:
- (a) Send the complaint or penalty back to the Discipline Committee to be reconsidered.
 - (b) Change, reduce, or increase the penalties imposed by the Discipline Committee.
 - (c) Dismiss the appeal and uphold the decision of the Discipline Committee.
- 15.7 The decision of the Adjudicator shall be in writing and shall set out the reason/s for the decision. It shall be sent to all relevant parties.

16 General provisions

- 16.1 All fines paid to the University under the Discipline Statute shall be used for such benevolent or charitable purposes which benefit the students and for which purpose the Discipline Committee, after consultation with Vice-Chancellor, may from time to time determine. Those purposes may include general hardship.

The University shall fully indemnify the Vice-Chancellor and his/her nominee, the Administrative Secretary, a mediator, members of the Discipline Committee and an Adjudicator against any personal liability arising out of the exercise of their functions under the Discipline Statute.