

WITS
UNIVERSITY



Rules for

STUDENT DISCIPLINE

A.	PREAMBLE	1
B.	DEFINITION.....	1
C.	THE RULES.....	2
1.	RESTRICTIONS ON ACTIVITIES (GENERAL).....	2
2.	RESTRICTIONS ON ACTIVITIES (RESIDENCE LIFE).....	2
3.	AD HOC INQUIRY BY THE VICE-CHANCELLOR OR A DEPUTY VICE- CHANCELLOR OR A DEAN OR THE HEAD OF CAMPUS HOUSING AND RESIDENCE LIFE	3
4.	DISCIPLINARY POWERS OF THE STUDENTS' REPRESENTATIVE COUNCIL..	4
5.	THE STUDENT DISCIPLINE COMMITTEE	5
6.	PROCEDURE AND EVIDENCE BEFORE THE STUDENT DISCIPLINE COMMITTEE.....	6
7.	APPEALS AND REVIEWS.....	8
8.	WITHHOLDING OF EXAMINATION RESULTS/CONFIRMATION OF A DEGREE ...	10
9.	AMENDMENT OF MONETARY PENALTIES	10
10.	WITHDRAWAL OF CHARGES.....	10
11.	DELEGATION OF VICE-CHANCELLOR'S POWERS	10
12.	HINDERING OR OBSTRUCTING OF PROCEEDINGS	10
13.	REMISSION OF FEES	10
14.	PAYMENT OF FINES OR PERFORMANCE OF SOME OTHER ACT	11
15.	SUSPENSION OF PUNISHMENT AND PAYMENT OF FINES BY INSTALMENTS	11
16.	RECORDS.....	11
17.	APPLICATION OF RULES.....	11

A. PREAMBLE

- 1) The Constitution and its Bill of Rights form the cornerstone of South Africa's Constitutional democracy. These Rules for Student Discipline ("Rules") are underpinned by the principles enshrined therein.
- 2) In the spirit of serving the public good and in furthering education, the University has committed itself to use its Rules primarily as an educative process and not primarily for punitive purposes.
- 3) Those people appointed by the University to implement and interpret these Rules must do so in accordance with the over-arching principles set out below. The Purpose of these Rules is to outline the various powers vested in officials of the University and external persons to whom powers of student discipline are delegated by Council. The Rules shall, at all times, be interpreted in accordance with the following overarching principles:
 - a) the principles of natural justice must be observed;
 - b) the principle of consistency as an element of fairness and equity must be applied to ensure that like cases are treated alike; and
 - c) the primary goal of any sanction allowable hereunder is to educate and rehabilitate rather than solely to punish.
- 4) Wherever the Rules refer to the Vice-Chancellor or Deputy Vice-Chancellor, such reference shall include any person nominated by the Vice-Chancellor or Deputy Vice-Chancellor to perform the nominating Vice-Chancellor's or Deputy Vice-Chancellor's duties hereunder on their behalf.

B. DEFINITIONS

- 1) **'Notice'**

Except as otherwise provided expressly in these rules or as the context demands, notice shall mean written notice and shall be effected either by personal service or by post to the address furnished by the student to the University or to the student's legal representative, if there be one.
- 2) **'Misconduct'**

Misconduct comprises behaviour within the precincts of the University or associated with the University which without just excuse;

 - a) constitutes a breach of any statute, regulation or rule of the University; or
 - b) constitutes a failure or refusal to comply with any punishment or order imposed or made under these rules; or
 - c) constitutes a failure or refusal to obey a lawful order; or
 - d) constitutes conduct that tends to bring the University or any part of it or a member of its staff or a student or any part of its student body into contempt or disrepute; or
 - e) interferes with the governance and proper administration of the University; or
 - f) interferes with the conditions necessary for teaching, learning or research.
- 3) **'Student Privileges'**

Student privileges include being or continuing to be or becoming an officer, office-bearer or member of any student council, sub-council, society, club or other organisation or body, whether cultural, sporting or otherwise; participating directly or indirectly in the election of any officer or office-bearer of or in the management of the affairs of any such council, sub-council, society, club, organisation or body; representing or playing for the University in any sporting, cultural or other activity; attending or participating in any student function or activity, whether cultural, sporting or otherwise; using all or specified library facilities; bringing a motor vehicle into the precincts of the University or any other place under the control of the University; and wearing University colours, blazers, ties, badges or other insignia. Deprivation of student privileges shall not include expulsion from a University residence; denial of access to examination results; exclusion from the University for a stated period; expulsion from the University; and withholding or disallowing the conferment of a degree, diploma or licentiate or the award of a certificate.

C. THE RULES

1. RESTRICTIONS ON ACTIVITIES (GENERAL)

- 1) If the Vice-Chancellor is of the opinion that a student may be guilty of Misconduct, (s)he , if (s)he considers it to be in the best interests of the University, has the power (subject to the provisions of paragraph C(1)(2) to order the student, for such a period as (s)he may consider fit (but no later than the conclusion of any disciplinary proceedings that may be brought against such student in terms of these rules), to do one, or more, or all of the following:
 - a) refrain from attending lectures and classes on any premises occupied by the University or conducted by the University at any place;
 - b) refrain from participating in any activity of the University;
 - c) refrain from entering the precincts of the University or any place under its control, or any part of such precincts or place;
 - d) vacate any University residence or any part of any structure under the control of the University;
 - e) refrain from entering any University residence or any part of any structure under the control of the University;
 - f) refrain from bringing any motor vehicle, motor cycle or other conveyance on to the precincts of the University or any other place which may be under the control of the University; and
 - g) refrain from performing any act specified by the Vice-Chancellor that relates to the subject of the allegation.
- 2) The Vice-Chancellor shall not make any order contemplated by paragraph 1) of this rule unless (s)he has—
 - a) informed the student in person or by written notice sent by post or delivered to the address furnished by the student to the University of any order that (s)he proposes to make in terms of paragraph 1) and his or her reason or reasons for proposing to make it;
 - b) allowed the student a fair opportunity to controvert that reason or those reasons in person or by submitting written representations to the Vice-Chancellor; and
 - c) given due regard to anything that may have been said or done by the student, in terms of paragraph 2) (b), to controvert any reason or reasons for the making of such an order:

Provided that it shall not be incumbent on the Vice-Chancellor, before making such an order, to give such information, or to allow such an opportunity, to the student, if the student, despite all reasonable efforts by the University to ascertain his or her whereabouts, cannot be found, in which event the giving of the order shall be effected by sending it by post to the address furnished by the student to the University.
- 3) Any order made in terms of paragraph 1) shall lapse if disciplinary proceedings have not been commenced in terms of these rules within 45 days of its having been made.

2 RESTRICTIONS ON ACTIVITIES (RESIDENCE LIFE)

- 1) If the Dean of Students, or the Residence Hall Coordinator or the Resident Assistant of a residence is of the opinion that a student may be guilty of misconduct, as defined in these rules, (s)he shall, if (s)he considers it to be in the best interests of the University, have the power (subject to the provisions of paragraph 2) of this rule) to order any student to do one, or more, or all of the following:
 - a) vacate that residence;
 - b) refrain from entering that residence;
 - c) refrain from interfering or communicating with any student who may be resident in that residence.

- 2)
 - a) The Dean of Students, or the Residence Hall Coordinator or the Resident Assistant of a residence shall notify the Vice-Chancellor of any order made in terms of paragraph 1) by not later than 72 hours after it has been made. If the Vice-Chancellor does not make an order in terms of rule 1 of these rules within seven days of receiving such notification, any order made in terms of rule 2 of these rules shall forthwith lapse. Any order made by the Vice-Chancellor in terms of rule 1 of these rules shall supersede the order made in terms of this rule.
 - b) The Dean of Students, or the Residence Hall Coordinator or the Resident Assistant of a residence shall not make an order contemplated by paragraph 1) of this rule unless (s)he has –
 - (i) informed the house committee of that residence, if there is one, by written notice delivered to the Chairperson or Secretary of the house committee, of any order s/he proposes to make in terms of paragraph 1) and his or her reasons for proposing it;
 - (ii) informed the student in person or by written notice sent by post or delivered to the address furnished by the student to the University of any order that (s)he proposes to make in terms of paragraph 1) and his or her reason or reasons for proposing to make it;
 - (iii) allowed the student a fair opportunity to controvert that reason or those reasons in person or by submitting written representations to the Dean of Students or the Residence Hall Coordinator or the Resident Assistant; and
 - (iv) given due regard to anything that may have been said or done by the student, in terms of paragraph 2(b)(ii), to controvert any reason or reasons for the making of such an order:

Provided that it shall not be incumbent on the Dean of Students, or the Residence Hall Coordinator or the Resident Assistant of a residence, before making such an order, to give such information, or to allow such an opportunity to the student, if the student, despite all reasonable efforts by the Dean of Students, or the Residence Hall Coordinator or the Resident Assistant to ascertain his or her whereabouts, cannot be found, in which event the giving of the order shall be effected by sending it by post to the address furnished by the student to the University.

3. AD HOC INQUIRY BY THE VICE-CHANCELLOR OR A DEPUTY VICE-CHANCELLOR OR A DEAN OR THE HEAD OF CAMPUS HOUSING AND RESIDENCE LIFE

- 1) The Vice-Chancellor or, at his or her request, any Deputy Vice-Chancellor, any Dean or the Head of Campus Housing and Residence Life (hereinafter the “Person conducting the inquiry”) may conduct an inquiry into an allegation of misconduct and, in conducting this inquiry, may summon to his or her aid a member of or two members of the University staff and, where (s)he considers it appropriate, a student representative or two or more student representatives:

Provided that, where the Person conducting the inquiry summons such a person or such persons to his or her aid, any decision made, and any sentence imposed, in terms of paragraph 3) of this Rule, shall be made and imposed by the Person conducting the inquiry, as the case may be, alone.
- 2) A summary inquiry under this Rule 3 must occur within 5 days of the student being formally charged.
- 3) If a student who has been given notice to appear at an inquiry in terms of paragraph 1) of this rule fails to attend the inquiry, the Person conducting the inquiry may proceed in the student’s absence.
- 4) If, at the conclusion of any inquiry in terms of paragraph 1) of this Rule at which the student concerned has been acquainted with the substance of the allegations and information against him or her and been given a fair opportunity to controvert it and to state his or her case, the Person conducting the inquiry is of the opinion that the conduct of the student constitutes misconduct, (s)he may impose one or more of the following punishments:
 - a) a warning;
 - b) a reprimand;

- c) a fine not exceeding R800 on each charge subject to a cumulative maximum of R2 400 where the student has been found guilty on more than two charges;
- d) deprivation of all or specified student privileges indefinitely, or for a stated period, or until compliance with stated conditions;
- e) exclusion from a University residence for a stated period or until compliance with stated conditions;
- f) permanent expulsion from a University residence;
- g) a prohibition upon entering any University residence.

Provided that any of the above sentences may, at the sole discretion of the Person conducting the inquiry, be suspended on condition of compliance with certain conditions.

- 5) The Person conducting the inquiry may order that any or all of the following details of the outcome of the inquiry be published within the University: the name of the student, the University residence (if any) in which (s)he resides, his or her faculty, the finding on the charge in question and the punishment.
- 6) If the Person conducting the inquiry considers that the matter which is the subject of the inquiry in terms of this rule is more fitting for disposal by the Student Discipline Committee or by any other committee, body or person charged with disciplinary powers in terms of these rules, (s)he shall refer the matter to the Student Discipline Committee or that other committee, body or person for proceedings de novo in terms of these rules.

4. DISCIPLINARY POWERS OF THE STUDENTS' REPRESENTATIVE COUNCIL

- 1) The Vice-Chancellor, without depriving himself or herself of any right, power, or jurisdiction with which (s)he would otherwise be vested, may direct that a particular allegation of misconduct or allegations of misconduct of a specified class or classes shall be disposed of after summary inquiry by the Students' Representative Council (hereinafter called the SRC). At any such inquiry the student concerned shall be acquainted with the substance of the allegations and information against him or her and be given a fair opportunity to controvert it and to state his or her case. The decision of the majority of the members of the SRC conducting such an inquiry shall be the decision of the SRC.
- 2) The Vice-Chancellor may at any time terminate the inquiry by the SRC and take such action de novo under these rules as (s)he may consider fit.
- 3) If at the conclusion of any such inquiry the SRC is of the opinion that the student is guilty of misconduct, it may recommend to the Vice-Chancellor the imposition of one or more of the following punishments:
 - a) a warning;
 - b) a reprimand;
 - c) a fine not exceeding R100 on each charge subject to a cumulative maximum of R200 where the student has been found guilty on more than one charge;
 - d) deprivation of all or specified student privileges for a stated period.
- 4) The SRC shall in all cases, within seven days, report the outcome of its inquiry to the Vice-Chancellor in writing.
- 5) The Vice-Chancellor may confirm the recommendations of the SRC in all respects or alter the finding or diminish the punishment imposed. (S)He may also reject the recommendations of the SRC in their entirety and refer the matter for proceedings de novo in terms of these rules.
- 6) The Vice-Chancellor may order that any or all of the following details of the outcome of the inquiry be published within the University: the name of the student, the University residence (if any) in which (s)he resides, his or her faculty, the finding on the charge in question and the punishment.

5. THE STUDENT DISCIPLINE COMMITTEE

1) The Vice-Chancellor may direct that any allegation of misconduct may be heard by the Student Discipline Committee.

2) **Composition**

Insofar as there is a possibility that the sentence imposed against a student who is found guilty of misconduct may include exclusion from the University for a period of one year or more (not suspended) or a fine exceeding R6000 or deprivation of the privilege of membership in the Student Representative Council the Student Discipline Committee shall, for the purpose of hearing such matter, be composed of the following persons:

- a) a Chairperson who shall be an attorney or an advocate, or a person who has the necessary qualifications to be admitted as an attorney or advocate, of the High Court of South Africa, of not less than five years of appropriate experience and whose appointment shall be approved by the University's adviser on student discipline in consultation with the chairperson of Council, a professor or associate professor of Law, any of whom may be retired, or a retired judge, appointed by the Vice-Chancellor.
- b) one or two members selected by the Vice-Chancellor from the members of the Senate;
- c) a member selected by the Vice-Chancellor from a panel of four students nominated annually by the Students' Representative Council within one month of the taking of office of that Council:

Provided that a student charged may, by notice in writing delivered to the Registrar not later than 48 hours before the commencement of the hearing, object to student membership of the committee, in which event the committee shall comprise only the members in sub-paragraphs a) and b);

Provided further that, where at least two members other than the student member (whose membership is objected to by the accused student) are present, the Chairperson may in his or her absolute discretion decline to adjourn the hearing and instead direct that the hearing take place or continue before the members who are present, in which event the Committee for the hearing of the matter shall consist of such members only;

Provided further that the hearing shall not take place or continue in the absence of the Chairperson.

In the case whereby the potential punishment which can be imposed by the Student Discipline Committee is less than one year exclusion from the University but potentially greater than the possible punishments listed in Rule 3(4), the Vice-Chancellor may appoint an attorney of not less than five years' standing, an advocate, a judge, a Dean of a faculty, a professor or associate professor of law or any of the above who has retired to act in lieu of the Student Discipline Committee and, *mutatis mutandis*, to carry out all the functions and exercise all its powers of a Chairperson. None of the above shall be a member of Council.

3) Postponement of a hearing by the Student Disciplinary Committee should not exceed a period of 10 working days unless an application is made to the Committee at the hearing to grant an extended period of postponement.

4) **Pre-hearing Conference**

Unless a pre-hearing conference appears unnecessary, the Chairperson shall, at any time before the hearing, direct that the University's representative and the Student and/or his/her representative meet to consider, among other matters:

- a) the simplification and clarification of issues;
- b) the stipulation of facts not in dispute;
- c) obtaining admissions of particular documents;
- d) the production and discovery of documents;
- e) witnesses to be called by either side.

In the case where the Chairperson does not consider a pre-hearing conference necessary, it may still occur by agreement between the University representative and the Student and/or his/her representative.

After concluding a pre-hearing conference, the University representative shall issue a record of the agreement reached at the pre-hearing conference which shall be signed by the Student and/or his/her representative.

5) **Sentence**

The punishments which the Student Discipline Committee shall have power to impose shall be one or more of the following in respect of each charge on which the student has been found guilty of misconduct:

- a) A warning;
- b) a reprimand;
- c) a fine not exceeding R3 000,00, subject to a cumulative maximum of R6 000,00 where the student has been found guilty on more than one charge;
- d) deprivation of all or specified student privileges indefinitely, or for a stated period, or until compliance with stated conditions;
- e) exclusion from a University residence for a stated period or until compliance with stated conditions;
- f) permanent expulsion from a University residence;
- g) disqualification from entry to examinations or cancellation of examination results or both;
- h) exclusion from the University for a stated period or until compliance with stated conditions;
- i) permanent expulsion from the University;
- j) withholding or disallowing the conferment of a degree, diploma or licentiate, or the award of a certificate;
- k) the cancellation of credit obtained in any course or part of a course;
- l) service to the University for a stated number of hours not exceeding 200 hours.

The committee may suspend any punishment that it imposes (other than a warning or a reprimand) on such condition or conditions as it considers fit.

6. PROCEDURE AND EVIDENCE BEFORE THE STUDENT DISCIPLINE COMMITTEE

- 1) A student to be charged before the Student Discipline Committee shall be given not less than ten days' written notice of the misconduct with which (s)he is charged and of the place and time of the hearing of the matter. Such notice shall be handed to him or her or be sent by post or delivered to the address furnished by the student to the University.
- 2) A student who has been given notice shall be obliged to attend the hearing of the matter, but if (s)he fails to attend the hearing, the Committee may proceed in his or her absence. In such event, however, it shall consider any written representations that (s)he may have submitted in his or her defense or in mitigation of punishment.
- 3) A student who has not been given proper notice may waive compliance with this requirement.
- 4) In the case where a student charged before the Committee is a minor, such student shall be entitled to be accompanied by his or her parents or his or her legal guardian.
- 5) A student charged before the Committee shall be entitled to be represented by a member of the academic staff in the Faculty of Law or by a student registered for the degree of LLB. Taking into account the seriousness or complexity of the charges, any person may act as the representative of the student and conduct his or her defense on his or her behalf if the Chairperson so permits.
- 6) In the case where a student faces a potential punishment which may exceed exclusion from the University for a period of one year or more (not suspended) or a fine exceeding R6000 or deprivation of the privilege of membership in the Student Representative Council, the Student may, at his or her own cost, be represented by an attorney or counsel or both.

- 7) If a student wishes to be represented by an attorney or counsel (s)he shall lodge an application with the Director: Legal Services for permission to be so represented. The Director: Legal Services shall, taking into account the seriousness, complexity and any other relevant consideration respond to such application within twenty-four hours of the application being lodged with her/him. The Vice-Chancellor may appoint a member of the staff of the University, a candidate attorney, an attorney or counsel or both to present the University's case against the student.
- 8) All the proceedings of the hearing will be recorded and archived. Recordings of the hearing proceedings will be available upon request. The University is not obligated to provide written transcripts of the hearing proceedings.
- 9) At the beginning of the hearing the charge or charges against the student shall be put to him or her by the chairperson or any person presenting the case against the student in terms of this rule. The student shall be asked how (s)he pleads to each charge. In pleading to any charge, the student may, if (s)he wishes, add an explanation in elaboration of his or her plea. Should the student fail or refuse to plead to any charge against him, (s)he shall be deemed to have pleaded not guilty.
- 10)
 - a) If the student pleads guilty, the chairperson shall question the student with reference to the alleged facts as outlined by him or her or by the person presenting the case against the student (if there be such a person) in order to ascertain whether the student admits the allegations in the charge to which (s)he has pleaded guilty, and shall, if satisfied that the student is guilty of the misconduct to which (s)he has pleaded guilty, find him or her guilty: Provided that if the student's version of the facts differs materially from the case outlined to him, the chairperson may enter a plea of not guilty or, with the agreement of the person presenting the case against the student (if there be such a person) find the student guilty on the student's version.
 - b) If the chairperson is in doubt whether the student is guilty, (s)he shall record a plea of not guilty.
- 11) If the student pleads not guilty, the committee shall receive evidence relating to the charge or charges against the student. Such evidence may take the form of oral testimony or written statements or other documentary or real evidence: Provided that written statements (other than voluntary statements by the student himself) shall not be received in evidence where the truth of their content is in dispute and the chairperson considers it would be unfair to receive them.
 Subject to the provisions of paragraph 13, where oral testimony is received, it shall be led by the person appointed to present the case against the student or, failing him, by the chairperson. Members of the committee and the student charged may be permitted by the chairperson to put questions to any witness who gives such testimony.
- 12) The student shall be entitled to a copy of any written statement received in evidence and to inspect any other documentary or real evidence so received.
- 13) Subject to the provisions of paragraph 13, the student shall likewise have the right to produce or lead evidence or give evidence himself or herself in his or her defense. The person appointed to present the case against the student (if there be such a person) and members of the committee, may be permitted by the chairperson to put questions to any witness called by the student and, if the student himself or herself gives evidence, also to put questions to him or her.
- 14) The chairperson shall alone decide any question of law or procedure or admissibility of evidence (including the manner or form in which it be admitted) or whether any matter is a question of law or procedure or admissibility of evidence. In deciding any question of procedure or admissibility of evidence, (s)he shall not be bound by the formal rules of criminal procedure or evidence but shall follow the dictates of fairness, justice and relevance, and shall be entitled to apply any rule of criminal procedure or evidence if (s)he considers it necessary or desirable to give effect to those dictates.
- 15) On conclusion of the evidence, the person appointed to present the case against the student (if there be such a person) and the student or his or her representative shall be entitled to address the committee, after which the committee shall consider whether the student has been proved guilty of misconduct.
- 16) If all or a majority of its members are of the opinion that the student has been proved guilty of misconduct, the committee shall find him or her guilty and shall inform him or her of its finding.

- 17) If the committee finds the student not guilty it may, if the student so requests, publish its finding in the University with or without disclosure of the name or faculty of the student.
- 18) If the student has been found guilty, the committee may call for or receive evidence relevant to punishment, including evidence of the student's record and general conduct at the University, and shall receive any evidence tendered by the student or his or her representative which, in the opinion of the chairperson, is relevant to punishment. Thereafter the student or his or her representative and the person appointed to present the case against the student (if there be such a person), shall be entitled to address the committee on punishment, after which the committee shall impose on the student concerned such punishment or punishments that the Student Discipline Committee has the power to impose, as the Student Discipline Committee may deem fit, and inform the student of its decision.
- 19) The committee shall, after hearing any representations which the student or his or her representative may wish to make and representations from the person appointed to present the case against the student (if there be such a person), make such order as to publication or otherwise of the disciplinary proceedings against the student including the student's name and of the punishment or punishments imposed on the student, as it considers fit and inform the student of the terms of its order.
Provided that any order made by the Committee regarding publication shall not derogate from the powers of a Dean of a Faculty set out in subparagraph 20 a) of this rule and the duties of the Registrars set out in subparagraph 20 b) of this rule.
- 20) The Committee shall submit a written report on the proceedings, the findings, and the punishment or punishments imposed to the Vice-Chancellor and a copy to the Deputy Vice-Chancellor: Academic, the Registrar, the Dean of the faculty in which the student is registered and Student Registry.
- 21) Where a student has been found guilty of misconduct by the Student Discipline Committee and on the strength of this finding the Student Discipline Committee has imposed any punishment on him or her which has the effect either of expelling him or her from the University or excluding him or her from it for a period of a year or more,
 - a) The Dean of the Faculty in which the student is registered may in his or her discretion inform any professional body to which the student has applied, or may apply for membership, of this misconduct.
 - b) The Registrar shall inform all tertiary educational institutions in the Republic of South Africa of this misconduct and the punishment, if any, imposed on the student.

7. APPEALS AND REVIEWS

- 1)
 - a) There shall be an Appeals and Review Committee.
 - b) The Appeals and Review Committee shall consist of a chairperson and two other members, appointed by Council from among the following persons, any of whom may be retired: attorneys or advocates of not less than five years' standing, judges, professors or associate professors of law from this or any other South African university.
 - c) The members of the Appeals and Review Committee shall be appointed ad hoc for the hearing of any appeal or review.
- 2) **APPEALS**
 - a) Except as provided in paragraph 2(b) of this rule, no appeal shall lie against any finding of guilt or punishment imposed on a student in terms of these rules.
 - b) A student shall be entitled as of right to appeal to the Appeals and Review Committee
 - (i) against any finding of guilt by the Student Discipline Committee on the strength of which the Student Discipline Committee has imposed any punishment which has the effect either of unconditionally expelling him or her from the University or of unconditionally excluding him or her from it for a period of a year or more;
 - (ii) against any punishment which has the effect either of unconditionally expelling him or her from the University or of unconditionally excluding him or her from it for a period of a year or more or depriving him or her of the privilege of membership in the Student Representative Council.

- c) A student who wishes to appeal against a finding of guilt or a punishment (or both), in terms of rule 2 b), shall give notice to the Registrar of his or her intention to do so within 14 days of the Student Discipline Committee's having made any order imposing a punishment upon him or her which would entitle him or her as of right to appeal to the Appeals and Review Committee in terms of subparagraph 2 b).
- d) Any notice given in terms of paragraph c) shall be in writing and shall set out concisely the ground or grounds of appeal upon which the student relies.
- e) No appeal shall be heard by the Appeals and Review Committee unless the requirements of paragraphs c) and d) have been fully complied with: Provided that the chairperson of the Student Discipline Committee may, on good cause shown, condone any failure to comply with these requirements.
- f) If the student so requests, the University shall, within 7 days of such a request having been made to the Registrar, give the student access to the record (if there be a record) of his or her hearing before the Student Discipline Committee.
- g) A student may be represented by a member of the academic staff in the Faculty of Law or, at his or her own cost, by an attorney or counsel or both. The University may be represented in the same way. If the student wishes so to be represented, (s)he shall inform the Director: Legal, by notice in writing delivered to him or her no later than seventy-two hours before the time set for the hearing of the appeal, of his or her intention to be so represented.
- h) The Appeals and Review Committee shall not hear any appeal unless all its members are present and the decision of the majority shall be deemed to be the decision of the Committee: provided that if any member of the Committee dies or becomes incapacitated before the decision is reached the Committee shall be dissolved and a new Committee shall be appointed.
- i) The Appeals and Review Committee may call any witness who, and shall be entitled to receive any written evidence which, in its opinion, is necessary for the just determination of the appeal.
- j) (i) The Appeals and Review Committee shall have the power in any appeal brought in terms of sub-paragraph (b) of this rule to uphold, to set aside or alter the finding of guilt and to uphold, set aside or alter any punishment imposed by the Student Discipline Committee.
(ii) If the Appeals and Review Committee sets aside or alters any punishment it may itself impose such punishment as the Student Discipline Committee has the power to impose as the Appeals and Review Committee considers appropriate.
- k) In the event of the Appeals and Review Committee's imposing an increase in punishment, a student shall not have the power to withdraw his or her appeal.
- l) Any order imposing punishment on a student in terms of these Rules, and any order of suspension made under rule 1 of these rules, shall remain in force until any appeal brought by a student has been disposed of by the Appeals and Review Committee, provided that the Vice-Chancellor may, subject to the imposition of such conditions as (s)he may consider fit, suspend the operation of any such punishment or order.
- m) (i) The Vice-Chancellor or any person to whom such power has been delegated in terms of section 12 of these Rules may, within 28 days of a punishment having been imposed on a student by the Student Discipline Committee, appeal against the punishment imposed on the student.
(ii) The Vice-Chancellor, or any person to whom such power has been delegated in terms of section 12 of these Rules, shall give notice to the Registrar of his or her intention to appeal within the 28 day period referred to in sub-paragraph (i). The student shall be given notice of the appeal within 7 days of receipt of the notice of appeal by the Registrar.
(iii) Such notice shall be in writing and shall set out concisely the ground or grounds of appeal on which the Vice-Chancellor relies.
(iv) The provisions of subsections (e) to (l) of this rule shall *mutatis mutandis* apply in respect of such appeal.

3) **REVIEWS**

A student may have any disciplinary proceedings which may have been brought against him or her in terms of these Rules reviewed by the Appeals and Review Committee on the ground that there was a failure of natural justice or any other defect which in law vitiates the proceedings, in which event the provisions of this Rule relating to appeals shall *mutatis mutandis* apply.

8. WITHHOLDING OF EXAMINATION RESULTS/CONFERMENT OF A DEGREE

The Vice-Chancellor may order the withholding of the examination results of, or the conferment of a degree, diploma or licentiate on or the award of a certificate to a student against whom there is an allegation of misconduct until the final determination of a hearing in terms of these rules.

9. AMENDMENT OF MONETARY PENALTIES

The Vice-Chancellor may from time to time amend the monetary penalties specified in terms of these rules. Any such amendment shall be laid before the Council at the earliest opportunity. The Council may confirm, alter or set aside any such amendment, but where the Council alters or sets aside any such amendment, its validity up to the time of such alteration or setting aside shall not be affected.

10. WITHDRAWAL OF CHARGES

Subject to paragraph 13 of the Schedule to these rules:

- 1) The Vice-Chancellor may withdraw any charge which has been brought against a student in terms of these rules at any time before the student has been found guilty.
- 2) If the charge is withdrawn only after the student has pleaded or only after evidence has been received at the hearing, the withdrawal shall have the effect of an acquittal.
- 3) If the charge is withdrawn before the student has pleaded and before any evidence has been received at the hearing, the same or a different charge based on the same or similar evidence may be brought against the student at a later stage if the Vice-Chancellor so authorises in writing.

11. DELEGATION OF VICE-CHANCELLOR'S POWERS

The Vice-Chancellor may delegate any or all of his or her powers and functions in terms of these rules either generally or specifically to the Vice-Principal or to a Deputy Vice-Chancellor or to more than one or all of such officers, and may at any time revoke any such delegation

12. HINDERING OR OBSTRUCTING OF PROCEEDINGS

If a student or any other person hinders or obstructs the hearing of any disciplinary proceedings or fails to obey an instruction given by the person conducting or chairing the proceedings, such person may order his or her removal from the hearing and the proceedings may be continued and brought to a conclusion in his or her absence.

13. REMISSION OF FEES

A student shall not by reason of any action taken or punishment imposed in terms of these rules have a claim to repayment or remission of tuition or residence fees paid or payable to the University.

14. PAYMENT OF FINES OR PERFORMANCE OF SOME OTHER ACT

- 1) Whenever the punishment imposed on a student in terms of these rules consists of the payment of a fine or the performance of some other act the Vice-Chancellor may order the suspension of the student concerned from the University or the withholding of his or her examination results or of the conferment of a degree, diploma or licentiate on or the award of a certificate to the student concerned until the Vice-Chancellor is satisfied that the fine has been paid or act performed.
- 2) The Vice-Chancellor shall not issue any order in terms of paragraph 1) of this rule unless (s)he has
 - a) informed the student that (s)he proposes to issue an order in terms of sub-paragraph 1 of this rule, informed him or her of the particulars of the order and stated why he or she proposes to issue the order;
 - b) allowed the student a fair opportunity to make representations why the order should not be issued; and
 - c) given due regard to any such representations:
Provided that it shall not be incumbent on the Vice-Chancellor, before issuing an order in terms of this rule, to comply with this paragraph if the student, despite all reasonable efforts by the University to ascertain his or her whereabouts, cannot be found, in which event the issuing of an order shall be effected by sending notice of it by post to the address furnished by the student to the University.
- 3) The proceeds of any fine imposed in terms of these rules shall be paid into the general funds of the University.

15. SUSPENSION OF PUNISHMENT AND PAYMENT OF FINES BY INSTALMENTS

- 1) Any punishment imposed in terms of these rules may be suspended by the authority imposing it, on such terms and conditions as it may consider fit.
- 2) The authority which imposes a fine in terms of these rules, or the Vice-Chancellor, may grant permission for that fine to be paid in specified instalments.

16. RECORDS

Whenever a student has been charged with misconduct in terms of these rules and the charge has not been withdrawn before the student has pleaded, the finding of and the punishment imposed, if any, by any person or Committee in terms of these rules together with any report on the disciplinary proceedings made by that person or Committee shall be recorded on the student's file.

17. APPLICATION OF RULES

- 1) These rules shall apply to, and the term "student" in these rules shall include, any person who was at the time of the misconduct alleged against him or her subject to the student discipline of the University.
- 2) A person shall be subject to the student discipline of the University if (s)he –
 - a) is a registered student; or
 - b) is a pre-university bursary student; or
 - c) has been accepted by the University with a view to his or her becoming a registered student or a pre- university bursary student; or
 - d) has been admitted to a University residence or to other accommodation controlled by the University with a view to his or her becoming a registered student or a pre-university bursary student.

- 3) The period of registration of a student, who is not in the final year of study, extends from the date of registration in the one year to the last date of the registration period in the next year in which the student has to renew his or her registration. This applies if the student's registration is not cancelled or suspended at an earlier date. In the case of a student who is a final-year student the period of registration extends from the date of registration in the final year until the date of publication of the student's results for that year, unless the registration is cancelled or suspended at an earlier date.
-