



NWU Policy on Student Discipline

Reference number	7P/7.8.3
Accountable executive manager	Registrar
Policy owner	Manager: Student Judicial Services
Responsible division	Student Judicial Services
Status	Reviewed
Approved by	Council
Date of approval	26 September 2019
Amendments	2019
Date of amendments	26 September 2019
Review date	September 2023
Web address of this policy	http://www.nwu.ac.za/content/policy_rules
Address on the policy data base	K:\HSC\2. Management\2.1.3 Policy management\Beleide\New folder (2)\7P-7.8.3_ Student Disciplinary_e.docx

NWU POLICY ON STUDENT DISCIPLINE

Against the background of the dream to be an internationally recognised university in Africa, distinguished for engaged scholarship, social responsiveness and an ethic of care, the council of the North-West University (NWU) has adopted this policy and set of rules on student conduct and discipline on 26 September 2019.

1 Interpretation and application

- 1.1 This policy must be interpreted and applied in a manner consistent with the –
- 1.1.1 Constitution of the Republic of South Africa, 1996;
 - 1.1.2 Higher Education Act, 101 of 1997;
 - 1.1.3 Promotion of Administrative Justice Act, 3 of 2000, and the
 - 1.1.4 Statute of the North-West University (2017) (“the Statute”).
- 1.2 All rules relating to student discipline made by competent authorities of the NWU must be interpreted and applied in a manner consistent with this policy:

2 Definitions

In this policy –

“**academic conduct**” refers to student conduct referred to in paragraph 72(c) of the Statute and conduct related to academic integrity as defined and regulated by the NWU Policy on Academic Integrity;

“**non-academic conduct**” refers to student conduct referred to in paragraph 72 (a), (b), (d) or (e) of the Statute, and as indicated in paragraphs 3.1.2.2, 3.2.4 and 3.3.4 of the Manual on Student Discipline.

3 Purpose and scope

- 3.1 This policy gives effect to paragraphs 71-76 of the Statute.
- 3.2 All disciplinary rules and procedures contemplated in paragraphs 71(1) and 73(2) of the Statute must conform to and be applied in accordance with the provisions of this policy.

4 Policy statement

It is the policy of the NWU that –

- 4.1 the procedures related to the maintenance of student discipline must be fair, transparent and effective;
- 4.2 the academic, behavioural and residence conduct of every student and the student community as a whole must reflect the values of the NWU and promote the goals of engaged scholarship, social responsiveness and an ethic of care;
- 4.3 all disciplinary procedures must conform to the requirements of natural justice, and
- 4.4 student discipline must be implemented with a view to educate, to deter, to correct, to reconcile where possible, to maintain good order and promote stability within the university community.

5 Manual for student discipline

- 5.1 The vice-chancellor must publish a manual for student discipline (“the Manual”) after consultation with the senate and the SRC.
- 5.2 The vice-chancellor must establish the following disciplinary bodies to deal with student conduct, and in regard of which, the authority, composition and procedures of each are regulated in the Manual, taking into account the provisions of paragraph 72 of the Statute:
- 5.2.1 NWU Disciplinary Hearing Committee;

5.2.2 SRC and SCC Disciplinary Hearing Committees, including patroned societies and committees;

5.2.3 Residence Disciplinary Hearing Committees.

5.3 In circumstances where disciplinary action is required that does not clearly fall within the remit of a body established in terms of 5.2, or falls within the remit of two or more of those bodies, the vice-chancellor, as chief disciplinary officer, may establish an *ad hoc* disciplinary body to deal with the particular disciplinary matter.

5.4 The Manual must provide for the composition of four review bodies, each for the categories of disciplinary bodies established in terms of paragraphs 5.2 and 5.3 to which a student found guilty of misconduct may in terms of paragraph 76 of the Statute appeal for a final review of the finding and sanction of the disciplinary body concerned.

5.5 The Manual must provide clear guidance to the members of disciplinary bodies regarding –

5.5.1 the requirements of natural justice;

5.5.2 the purpose and nature of student discipline;

5.5.3 the appropriate procedure that the body must follow in order to obtain and verify the relevant facts;

5.5.4 the burden and standard of proof required for making a finding,

5.5.5 the sanctions that may be recommended to the Vice-Chancellor or his/her delegate to be imposed, or imposed by the body on a student found guilty of misconduct, and

5.5.6 the review procedure relevant to the particular disciplinary hearing committee.

6 Sanctions for misconduct

6.1 Where a disciplinary body considers it advisable that a sanction greater than that which it may impose in terms of paragraph 5.5.5 should be considered, the body may submit a motivated recommendation to that effect to the vice-chancellor, who may then appoint an *ad hoc* disciplinary body to finalise the matter.

6.2 A student on whom a sanction is imposed in accordance with this policy is bound to comply therewith, failing which the student's admission to the university and registration as a student may be terminated by the vice-chancellor.

NWU MANUAL FOR STUDENT DISCIPLINE

1 GUIDELINES FOR DISCIPLINARY ACTION

1.1 **Basic principles**

- 1.1.1 A student of the North-West University, whether on the premises of the university or not at the time of an alleged act of misconduct, is subject to the disciplinary rules and procedures of the university (para 71(1) of the Statute).
- 1.1.2 Every student and employee of the NWU must be responsive to the well-being of the employees, students and the wider community through optimal interaction, capacity building and sound management practices (preamble of the Statute).
- 1.1.3 Disciplinary processes of the NWU do not have the character of criminal or civil litigation, but are required to follow the prescripts of *just administrative action*, which includes lawfulness, reasonableness and fairness.
- 1.1.4 A student appearing before a disciplinary body has the right to attend the hearing and to defend him-/herself, and to be assisted by another person.
- 1.1.5 In all instances where the outcome of disciplinary action is decided upon, the person or body concerned must give reasons for the action.

1.2 **The purpose and nature of student discipline**

- 1.2.1 The NWU has its own identity, institutional culture and ethos based on its unity and values in pursuit of fostering engaged and caring staff and students by ethics in all endeavours, academic integrity, academic freedom and freedom of scientific research, responsibility, accountability, fairness and transparency as well as by embracing diversity (preamble of the Statute), all of which need to be promoted and protected, where necessary by taking disciplinary action.
- 1.2.2 Being as an educational institution, the NWU must exercise and enforce discipline in a manner consistent with educational goals.
- 1.2.3 The university community being diverse, multi-dimensional and complex, the maintenance of sound discipline is an essential responsibility of the management of the NWU.
- 1.2.4 Disciplinary action must be fair, compassionate, consistent and must balance the rights of implicated students, complainants, the rights of the University and the wider community.

1.3 **The requirements of natural justice and fair procedural processes**

“Natural justice” is an expression that underpins the characteristics of procedural fairness, which essentially entails –

- 1.3.1 *audi alteram partem*, which literally means “hear the other side”, and requires, in the interests of fairness, that every participating party in disciplinary proceedings must be given a reasonable opportunity to make representations;
- 1.3.2 (usually) following more than one procedural stage, e.g. investigation, preliminary action (such as provisional suspension in serious cases), orderly collection and consideration of evidence and making known a motivated finding and decision; and
- 1.3.3 impartial decision-making, which strives to assure impartiality in the decision-making process, meaning that no person may judge a case in which such a person has an interest.

1.4 **Procedure for obtaining and verifying the relevant facts**

The following elements should form part of every instance of disciplinary action taken on behalf of the NWU:

- 1.4.1 investigation of the discovered, reported or suspected misconduct (determination of the allegations or facts) by a person or structure of the NWU other than the disciplinary body of the discovered, reported or suspected misconduct;
- 1.4.2 determination by the responsible manager of who should represent the NWU in the disciplinary hearing and which functionary or disciplinary body would be the appropriate instance to deal with the matter;
- 1.4.3 reference of the alleged misconduct to the relevant disciplinary body and convening the disciplinary hearing
- 1.4.4 the disciplinary hearing, comprising –
 - 1.4.4.1 receipt of a statement by the representative of the NWU of the misconduct which the student is alleged to have committed;
 - 1.4.4.2 establishing the facts of the case by all relevant means, including consideration by the disciplinary body of visual, written, oral and any other relevant evidence adduced by the representative of the NWU, as well as from the student(s) concerned;
 - 1.4.4.3 affording the student(s) concerned a reasonable opportunity to ask questions of witnesses and interrogate the evidence of the misconduct presented by the representative of the NWU;

- 1.4.4.4 affording the representative of the NWU a reasonable opportunity to ask questions of the implicated student(s) in the instance that he/she/they gave evidence and from witnesses and interrogate the evidence presented by the students and witnesses concerned;
- 1.4.4.5 affording the representative of the NWU and the student(s) concerned an opportunity to make final oral submissions to the disciplinary hearing about the alleged misconduct;
- 1.4.4.6 after hearing the presentation and interrogation of all the available evidence, considering, in the absence of the student(s) and their representative concerned, the reliability of the evidence and making findings regarding the proven facts (where the disciplinary body is composed of three or more members, findings supported by a majority of the members are binding);
- 1.4.4.7 announcing the findings of the disciplinary body to the student(s) concerned;
- 1.4.4.8 in the event of a finding of proven misconduct, allowing the student(s) and the representative of the NWU to make representations regarding possible sanctions;
- 1.4.4.9 after considering representations regarding possible sanctions in the absence of the student(s) and their representative concerned, announcing the sanctions and explaining their implications;
- 1.4.4.10 the writing of a brief report on the hearing, findings and sanctions for submission to the vice-chancellor.

1.5 The burden and standard of proof required for making a finding

- 1.5.1 The burden to adduce and prove misconduct before a disciplinary body lies with the university.
- 1.5.2 To present evidence before a disciplinary body, a person or functionary representing the NWU must appear before a disciplinary body, duly appointed or appearing in an *ex officio capacity*.
- 1.5.3 A disciplinary body must, in order to accept evidence presented before it, be convinced on a balance of probabilities of the facts upon which the finding is based.

1.6 Format of findings and reports, and record-keeping of proceedings

- 1.6.1 Findings and reports of all the undermentioned disciplinary bodies are documented in a report of which the format is prescribed by the Manager Student Judicial Services.
- 1.6.2 The Student Judicial Services Department is the custodian of the record-keeping of all proceedings of student judicial matters that must be done in accordance with the university's record-management policy.

1.7 Delegation by the Vice-Chancellor

- 1.7.1 The Vice-Chancellor, who is the chief disciplinary officer in regard to matter related to student discipline, has the authority to delegate operational matters as he/she deems appropriate to a member of the University Management Committee, but remains responsible for and must review and confirm the exercise and performance of the functions so delegated.
- 1.7.2 The Vice-Chancellor may provide guidelines on how such functions should be performed and discretions exercised.

2 PROCEDURE FOR THE REPORTING AND INVESTIGATIONS OF ALLEGED INSTANCES OF MISCONDUCT

- 2.1 The following procedure is followed for the reporting of alleged instances of misconduct as defined in 3.1.2:
 - 2.1.1 The reporting of all incidents of a non-academic nature is to be done to the relevant Campus Protection Services Department.
The relevant manager of the said campus' Protection Services Department appoints an investigation officer to investigate the matter in accordance with procedures agreed upon within Protection Services.
 - 2.1.2 The reporting of all incidents of an academic nature is to be done to the relevant Campus Student Judicial Officer.
The Manager Student Judicial Services appoints an investigation officer for the purpose of the investigation of a particular case, and will, if the need arises, involve other internal and/or external technical experts to assist with the said investigation.
- 2.2 The following procedure is followed for investigations:
 - 2.2.1 The investigation officers mentioned in 2.1.1 and 2.1.2 compile an investigation report and submit such to the Manager of the Student Judicial Services Department.
 - 2.2.2 The Manager Student Judicial Services Department appoints a pro forma prosecutor and makes a determination on whether to proceed with a disciplinary hearing that is to be conducted in accordance with the stipulations in 3 below.
Such determination is made after consideration of the nature of the alleged misconduct, the behaviour of the implicated student, taking into account the circumstances under which an incident occurred, as well as the effect thereof on the general good order and discipline at the university.
- 2.3 Considerations for precautionary suspensions
 - 2.3.1 Subject to 2.3.2, the Vice-Chancellor or the UMC member duly delegated by the Vice-Chancellor as per 1.7 may provisionally prohibit a student against whom a charge is being investigated, or who has been sanctioned and who has requested a review of the sanction, for a period determined by the Vice-Chancellor or his/her delegate, from entering any premises of the university or any part thereof, or to exercise a right or privilege that a student may have.

- 2.3.2 The precautionary suspension contemplated in 2.3.1 needs to be informed by consideration of the following factors regarding the continued presence of the student who is under investigation:
 - 2.3.2.1 The nature of the alleged offence;
 - 2.3.2.2 Whether such presence poses a threat to the order and discipline of the NWU;
 - 2.3.2.3 Whether such presence poses a real or potential danger to the mental or physical well-being of the student under investigation, fellow students, other members at the NWU, or members of the public;
 - 2.3.2.4 Whether such presence poses a real or potential risk of damage to the property of the University;
 - 2.3.2.5 Whether such presence poses a real or potential risk of interference with the evidence or witnesses; or
 - 2.3.2.6 Any other relevant factor.
- 2.3.3 The precautionary suspension contemplated in 2.3.1 may last until such time that–
 - 2.3.3.1 the student makes a representation to the Vice-Chancellor or his/her delegate, within two days from receipt of the precautionary suspension (48 hours), indicating reasons why the precautionary suspension should be uplifted;
 - 2.3.3.2 the disciplinary hearing pronounces the student to be guilty or not guilty, or
 - 2.3.3.3 the outcome of a request for review committee has been finalised by the review/appeal committee as contemplated in 3.1.8.4.
- 2.3.4 The representation contemplated in 2.3.3.1 shall be responded to by the Vice-Chancellor or his/her delegate within a period of three (3) days from the date of receipt.

3 RULES AND PROCEDURES FOR DISCIPLINARY BODIES ESTABLISHED BY THE VICE-CHANCELLOR IN TERMS OF PARA 73(2) OF THE NWU STATUTE

3.1 NWU Disciplinary Hearing Committee

3.1.1 Composition

The Vice-Chancellor establishes an NWU Disciplinary Hearing Committee with the following composition, and in regard of which due sensitivity to race, gender, disability needs to be observed in the composition thereof:

Chairperson	An admitted attorney and/or advocate practising as such and who has been appointed by the Vice-Chancellor or a member of the University Management Committee duly delegated by the Vice-Chancellor
The chairperson is assisted by the following members:	Cases related to alleged <u>academic misconduct</u> : Two permanently employed academic employees with at least the rank of senior lecturer.
	Cases related to alleged <u>misconduct of a non-academic nature</u> : One permanently employed academic employee with at least the rank of senior lecturer, together with a support employee with at least the rank of manager.

- 3.1.1.1 A member of the hearing committee who has an interest in the matter must declare the interest and recuse him-/herself from the proceedings.
- 3.1.1.2 The pro forma prosecutor appointed by the Manager Student Judicial Services in accordance with 2.2.2 above does not participate in the decision-making of the disciplinary hearing committee.
- 3.1.1.3 The Manager Student Judicial Services will appoint a secretary to record the proceedings.
- 3.1.2 **Misconduct that may be considered by the NWU Disciplinary Hearing Committee**
 - 3.1.2.1 In accordance with Paragraph 72 of the Statute, a student commits misconduct if–
 - 3.1.2.1.1 the conduct of the student is detrimental or may be detrimental to the good name, order, discipline or performance of the university;
 - 3.1.2.1.2 the student contravenes the statute, the rules, the constitution or the rules of a body within the university, or the law;
 - 3.1.2.1.3 the academic conduct of the student is dishonest;
 - 3.1.2.1.4 the student harasses or treats another person or group of persons violently or with hostility; or
 - 3.1.2.1.5 the student damages property or assets of the university.
 - 3.1.2.2 Without derogating from the generality of 3.1.2.1, the following constitute instances of misconduct:
 - 3.1.2.2.1 Conduct aimed at disrupting the lawful activities of the university in relation to the teaching and learning, research and community engagement activities of the university;
 - 3.1.2.2.2 Entering or occupying or attempts at entering or occupying university or university controlled premises without permission;

- 3.1.2.2.3 Acting in a misleading manner or making false statements to any staff member or functionary of the university;
- 3.1.2.2.4 Failing to comply with lawful instructions by a member of staff or a functionary of the university;
- 3.1.2.2.5 Failing to assist in or obstructing the investigation of any disciplinary matter at the university;
- 3.1.2.2.6 Bringing a dangerous weapon or illegal substance or explosive onto any premises of the university;
- 3.1.2.2.7 Permitting another student or person to utilise their student card or other identification device for any purpose, or using another student's student card or identification device for any purpose;
- 3.1.2.2.8 Failing to comply with an order of court or an order of any disciplinary hearing of the university;
- 3.1.2.2.9 Impeding or attempting to impede the freedom of movement of another member of the university, visitors or contractors or members of the public generally on university or university-controlled premises;
- 3.1.2.2.10 Unlawfully infringing on the rights of another person;
- 3.1.2.2.11 Possessing, using, distributing or selling any illegal substance or prohibited drugs on any university or university-controlled premises or on any official university tour or excursion;
- 3.1.2.2.12 Possessing, using distributing or selling alcohol on university or university-controlled premises contrary to university rules in this regard;
- 3.1.2.2.13 Instances where the academic conduct of the student is dishonest, as described in the Policy on Academic Integrity;
- 3.1.2.2.14 Harassing or treating another person or group of persons violently or with hostility;
- 3.1.2.2.15 Using words or engages in conduct that constitutes hate speech;
- 3.1.2.2.16 Engaging in the sexual harassment of another person;
- 3.1.2.2.17 Engaging in the gender-based violence of another person;
- 3.1.2.2.18 Engaging in initiation practices, whereby students are subject, with or without their consent, to rituals and/or words, and/or conduct to obtain or maintain membership of the university, a body or a residence, which undermines the student's dignity, which endangers their physical or mental health, and which contradicts the values of the university;
- 3.1.2.2.19 Damaging the property or assets of the university;
- 3.1.2.2.20 Stealing or attempting to steal university property or that of another person;
- 3.1.2.2.21 Damaging property of the university or that of another person;
- 3.1.2.2.22 Using property of the university or of another person without permission;
- 3.1.2.2.23 Using emergency equipment of the university when not necessary.
- 3.1.3 **Procedure for hearings of the NWU Disciplinary Hearing Committee**
- 3.1.3.1 All hearings of the NWU Disciplinary Hearing Committee take place in accordance with the NWU Policy on Student Discipline and paragraph 1 of these Guidelines for Disciplinary Action.
- 3.1.3.2 Hearings take place at any of the campuses of the NWU or at such other places as may be determined by the chairperson.
- 3.1.3.3 Any student called to appear at the NWU Disciplinary Hearing Committee has the right to be present at proceedings during which the charges against such a student would be heard and to present his/her own evidence; however, failure by a student to be personally present at such a disciplinary hearing would not preclude the hearing from continuing.
- 3.1.3.4 A student who has been called to appear at the NWU Disciplinary Hearing Committee receives written notice thereof at least five (5) days prior to the disciplinary hearing, excluding Saturdays, Sundays or public holidays.
- 3.1.3.5 The notice must specify the charges against the student in sufficient detail to enable the student to prepare for the disciplinary hearing.
- 3.1.3.6 The notice of disciplinary hearing, with due mention of the charges against the student, is sent via electronic mail to the e-mail address of record, or handed to the student personally.
A notice sent to the student via e-mail to the e-mail address of record as contained in the official records of the university, will be deemed received within 24 hours.
- 3.1.3.7 The disciplinary hearing committee may carry out its activities on a day as determined jointly between the Manager Student Judicial Services and the chairperson.
- 3.1.3.8 The chairperson of the disciplinary hearing committee determines the time at which the activities will commence.
- 3.1.3.9 The chairperson of the disciplinary hearing committee determines the hours during which the hearing committee will carry out its activities.
- 3.1.3.10 A hearing committee may adjourn its activities or postpone them to another day or days, depending on the demands of the conditions of the case, provided that a request to postpone a hearing will only be considered if there are good reasons for such request, and at the sole discretion of the hearing committee.
Where it would cause undue delay, the non-availability of a specific person assisting the student or a legal representative does not constitute good reason.

- 3.1.3.11 A student has the right to attend a disciplinary hearing and to defend him-/herself, or to be assisted by another person. However, the right to legal representation is not automatic.
- a) A student must apply formally three (3) days in advance of the hearing to be allowed legal representation at the hearing, and the chairperson has a discretion to grant or refuse such an application, with due regard to the following considerations:
- the circumstances of the particular case;
 - the nature of the charges brought;
 - the complexity of the matter;
 - the potential seriousness of the consequences of an adverse finding; and
 - any other relevant factors
- 3.1.3.12 At the commencement of the hearing, the chairperson must confirm that the committee is constituted in accordance with the relevant provisions of the NWU Statute, the NWU Policy on Student Discipline and the NWU Manual for Student Discipline.
- 3.1.3.13 After the disciplinary hearing committee has been constituted (in the absence of the implicated student, his/her representative, any witnesses and any other person who is not a member of the hearing committee), the chairperson makes decisions on the procedures the committee intends following, the venue or venues and times of the session in accordance with the provisions referred to in 3.1.3.1. However, no discussion takes place or reference is made to the merits of the case, the credibility and reliability of witnesses or the student, or of possible penalties.
- 3.1.3.14 The chairperson, in the presence of the implicated student, announces that the hearing committee will conduct a hearing with regard to the alleged misconduct and explains the procedure to be followed during the hearing.
- 3.1.3.15 After the steps contemplated in 3.1.3.13 and 3.1.3.14 have been completed, the student is informed verbally of the alleged misconduct that is the subject of the hearing, and the student is requested to plead guilty or not guilty.
Questions aimed at clarifying the admission or denial as contemplated above, may be put to the student by the hearing committee.
- 3.1.3.16 If the charge is a criminal offence of which the student has already been found guilty by a court of law, a copy of the conviction by that court, after the student has been identified as the person named in the record, is *prima facie* proof that the student did commit the contemplated offence. Notwithstanding the above, the student has the right to present evidence that he or she was erroneously convicted.
- 3.1.3.17 If the student pleads guilty to the alleged misconduct and the hearing committee accepts the plea, after satisfying itself that the student understands the nature of the proscribed conduct and the consequences of pleading guilty, the hearing committee may find the student guilty and reach a conclusion on an appropriate sanction. The committee must take into account the student's personal circumstances, the nature, seriousness and the facts of the misconduct, the interests of the University and of the complainant, as well as the aims of the disciplinary measure. The committee also considers submissions regarding the student's previous official academic and disciplinary records, which have been acknowledged by the student.
- 3.1.3.18 If the student pleads not guilty to the alleged misconduct, the hearing committee hears evidence presented by the pro forma prosecutor and thereafter the student. Evidence may, at the discretion of the hearing committee, be received and considered by way of statements, including documentary and physical evidence.
- 3.1.3.19 The hearing committee may call and question witnesses, and recall and question witnesses who have already given evidence.
- 3.1.3.20 The hearing committee grants the pro forma prosecutor and the student or his/her representative a reasonable and fair opportunity to pose questions to each witness.
- 3.1.3.21 After the hearing committee has heard the evidence on behalf of the student, the chairperson grants the student or his or her representative as well as the pro forma prosecutor the opportunity to argue the matter of whether the charge has been proven or not.
- 3.1.3.22 After all parties have closed their cases, the hearing of evidence and possible cross-examination, and all parties have closed their cases, the committee (in the absence of the student, his/her representative, any witnesses and any member who is not a member of the committee) discusses the merits of the case.
- 3.1.3.23 After the completion of the proceedings contemplated in 3.1.3.21, 3.1.3.22 and 3.1.3.23, the hearing committee resolves, and in accordance with 1.5, whether or not the student is guilty of the misconduct.
- 3.1.3.24 The chairperson announces the decision of the hearing committee, and also provides reasons for the decision to the student.
- 3.1.3.25 Should the implicated student be found guilty, the chairperson offers the student and his/her representative as well as the pro forma prosecutor the opportunity to make additional

- submissions and/or to adduce evidence with regard to extenuating, aggravating and any other relevant circumstances.
- 3.1.3.26 The chairperson informs the student verbally or in writing of the hearing committee's recommended sanction and gives reasons for the said outcome. The chairperson also explains the sanction, and the opportunity to the student to review/ the decision, in terms of paragraph 76 of the Statute.
- 3.1.3.27 The hearing committee may order that the lodging of an appeal does not suspend the guilty finding or the recommended sanction to be imposed upon the student.
Such a request is to be put forward by the pro forma prosecutor to the disciplinary hearing committee for consideration. Upon consideration of all facts, the chairperson includes the outcome of the request in the pronouncement of the sanction.
- 3.1.4 **Sanctions that may be recommended by the NWU Disciplinary Hearing Committee to the Vice-Chancellor or his/her delegate**
- The NWU Disciplinary Hearing Committee has the competence to recommend any or a combination of the following sanctions to the Vice Chancellor or his/her delegate:
- 3.1.4.1 expulsion from the University;
- 3.1.4.2 suspension from the University for a period of time;
- 3.1.4.3 expulsion or suspension from a residence;
- 3.1.4.4 refusal of access to all or some of the buildings, premises, land or services of the University or admission only subject to specific conditions;
- 3.1.4.5 suspension from attending classes for a specific period, either totally or only in respect of specific course units;
- 3.1.4.6 refusal of admission to any examination or test occasion;
- 3.1.4.7 forfeiture of any marks already obtained and the cancellation of any module or course unit;
- 3.1.4.8 imposition of a fine, which may not exceed an amount equal to the fees payable by the student for the particular year;
- 3.1.4.9 the payment of a suitable amount to compensate for any damage, loss or costs caused by the student;
- 3.1.4.10 disallowing of specific privileges as a student, with or without conditions that are justifiable on educational grounds and acceptable within the institutional culture of the University;
- 3.1.4.11 imposition of any suspended penalty, combination of penalties or other penalty that, from the educational point of view and in accordance with the institutional culture and value set of the University, is reasonable and fair in the circumstances;
- 3.1.4.12 a severe admonition and caution;
- 3.1.4.13 referral to experts for psychological, pastoral or other diagnosis, therapy or aid;
- 3.1.4.14 remedial or other services that are deemed to be reasonable and justifiable under the circumstances from an educational perspective in line with the code of ethics of the University;
- 3.1.4.15 notification to all or specific other higher education institutions, appropriate occupational and/or professional bodies of the conviction and/or penalty;
- 3.1.4.16 endorsement of the student's academic record permanently or for a specific period of time;
- 3.1.4.17 community service; or
- 3.1.4.18 any other appropriate sanction.
- 3.1.4.19 The Vice-Chancellor or his/her delegate has the authority to accept on good cause shown, not to accept the recommendation of the NWU Disciplinary Hearing Committee.
- 3.1.4.20 In the event that the Vice-Chancellor or his/her delegate accepts the recommendation as regards the sanction of the NWU Disciplinary Hearing Committee as final.
- 3.1.4.21 In the event that the Vice-Chancellor or his/her delegate does not accept the recommendation of the NWU Disciplinary Hearing Committee, the Vice-Chancellor or his/her or delegate may impose an alternative sanction.
- 3.1.5 **Procedures for guilty pleading at summary proceedings**
- 3.1.5.1 A summary proceeding may take place in the following instances:
- 3.1.5.1.1 where the implicated student is a first offender
- 3.1.5.1.2 where he/she and pleads guilty at the outset of the proceedings where only the chairperson of the disciplinary hearing committee and the pro forma prosecutor need to be present.
- 3.1.5.2 The chairperson must satisfy him/herself that the implicated student fully understands the charges against him/her before accepting the plea of guilty.
- 3.1.5.3 Upon satisfaction of the above, the chairperson may resolve not to proceed with the hearing as per the normal procedure and continue with the process of sanctioning, which may not include expulsion as per 3.1.4.1 and 3.1.4.3.
- 3.1.6 **Procedures for plea and sanction agreements**
- 3.1.6.1 In the instance that the Manager Student Judicial Services may decide, in his/her position as *dominis litis*, that an implicated student is to enter into a plea and sanction agreement, the following process is followed:

- 3.1.6.1.1 Due consultation by the Manager Student Judicial Services or his/her delegate with the implicated student and his/her legal representative takes place as well as with the complainant in regard to all relevant matters; and
- 3.1.6.1.2 In the event that all parties agree to the plea and sanction agreement, the suggested agreement will be submitted to the hearing committee for its consideration
- 3.1.6.2 The hearing committee is not bound to the plea and sanction agreement and may accept or reject the agreement.
- 3.1.6.3 Should the hearing committee accept the plea and sanction agreement, it recommends the terms and conditions of such an agreement to the Vice-Chancellor or his/her delegate, whereafter the procedure provided in 3.1.4.19 to 3.1.4.21 is applicable.
- 3.1.6.4 Should the hearing committee reject the plea and penalty agreement; the matter must be referred to a disciplinary hearing at the soonest possible date thereafter.
- 3.1.6.5 The hearing committee referred to in 3.1.6.4 may consist of the same members who rejected the plea and sanction agreement.

3.1.7 **Procedures for alternative disciplinary procedures**

- 3.1.7.1 The Vice-Chancellor or his/her delegate may, where the circumstances and merits of a specific matter warrant such, refer the matter for mediation between the relevant parties, provided that both parties consent to the mediation.
- 3.1.7.2 The functionary who has referred the matter for mediation in accordance with 3.1.7.1, will determine the process of the mediation and may act as, or appoint a mediator and, where the circumstances and merits of a specific matter warrant such, appoint a mediator with specific knowledge or expertise.
- 3.1.7.3 Save if otherwise agreed between all involved parties, the costs of mediation, if any, will be borne by the student against whom disciplinary action was instituted.

3.1.8 **Procedures for requesting a review of a decision of the NWU Disciplinary Hearing Committee**

- 3.1.8.1 A student who has been sanctioned with misconduct, may request a review of or an appeal against the findings and sanction, or against both the findings and the sanction by the disciplinary body by lodging a review or an appeal.
- 3.1.8.2 A student may be assisted by another person in preparing such a request for review or/and appeal.
- 3.1.8.3 A written notice of the request for the review must be submitted to the office of the Registrar within five (5) days of the decision in regard of which the review is requested, excluding Saturdays, Sundays and public holidays, indicating whether it is aimed against the finding or sanction or both, and indicating the grounds on which the request for review is based.
- 3.1.8.4 When a notice as contemplated in paragraph 3.1.8.3 is received together with the report as contemplated in 1.6 of these Guidelines, the Registrar convenes a review or an appeal committee to consider the request for review or/and appeal, consisting of a member of council, a member of the senate and a member of the university management committee.

The committee needs to be constituted with due sensitivity to race, gender and disability.

The chairperson of the review/appeal committee should be a legal practitioner as provided for in the Legal Practice Act (2014) or a suitably qualified person with at least 10 years practical experience in law and higher education.

The chairperson of the appeal committee determines the procedure to be followed, provided that these adhere to the principles of natural justice are adhered to.

- 3.1.8.5 The review/appeal committee adjudicates on the review/appeal on the documents only, and parties are not present at meetings of the committee.
- 3.1.8.6 Persons who are members of the disciplinary body that heard a particular case, or who have been involved in a previous review or appeal of a particular case, or who had been involved in the charge or investigation of the said case shall not be members of the appeal committee.
- 3.1.8.7 The review/appeal committee may uphold or reject the application for review/appeal in whole or in part, and substitute the finding and sanction as it deems fit, or refer the matter back to the hearing committee.

3.1.9 **Continued liability for full fees**

In all cases of offences and subsequent disciplinary steps that might prevail in terms of the provisions of the Statute, the Policy and Guidelines, the temporary or permanent total or partial suspension of rights and privileges, intervention in, interruption or termination of studies or non-acceptance in a residence, the student concerned forfeits any claim to the repayment, reduction or waiver of monies that have been paid or are payable to the University.

3.1.10 Reporting to Senate and Council

Bi-annual reports on disciplinary affairs as per the statutory requirements are tabled at Senate and Council.

3.1.11 Application for readmission of a student who had been expelled

- 3.1.11.1 A student who had been expelled in terms of this policy and guidelines may bring an application to be readmitted to the University after a period of five (5) years after such sanction.
- 3.1.11.2 Such application shall not be considered as an application for setting aside of any previous conviction or sanction.
- 3.1.11.3 The application must be in writing, setting out in full the grounds on which the application is based and must be lodged with the office of the Registrar.
- 3.1.11.4 The application shall be heard by the Registrar and a panel of members appointed by the Registrar, consisting of a DVC, and one executive dean from a faculty different to that in which the student was originally enrolled.
- 3.1.11.5 The committee must forward the application to the Vice-Chancellor or his/her delegate for final approval, after it had been satisfied that the readmission is warranted under the circumstances.
- 3.1.11.6 In arriving at the decision, the committee shall consider the following factors:
 - 3.1.11.6.1 The nature and gravity of the offence,
 - 3.1.11.6.2 The duration of the expulsion,
 - 3.1.11.6.3 The views and attitude of the complainant and/or victim and any other interested party in relation to the application,
 - 3.1.11.6.4 The degree of remorse shown by the applicant,
 - 3.1.11.6.5 Any steps taken by the complainant such as counselling, therapy and training to rehabilitate himself/herself
 - 3.1.11.6.6 The conduct of the person after expulsion, and
 - 3.1.11.6.7 Any other relevant fact.
- 3.1.11.7 If the Vice-Chancellor or his/her delegate is satisfied with the above and grants the application in favour of the student, the effect will be to allow the student to study at the University and such application shall be dealt with in terms of Section 70 of the Statute of the University and the relevant sections on readmission in the General Academic Rules.

3.2 Organised Student Life: SRC Disciplinary Hearing Committee, SCC Disciplinary Hearing Committees and Patroned Societies' Disciplinary Hearing Committees

The Vice-Chancellor or his/her delegate annually establishes an SRC Disciplinary Hearing Committee and three SCC Disciplinary Hearing Committees, as well Patroned Societies' Disciplinary Hearing Committees.

3.2.1 Composition

Due sensitivity to race, gender, disability needs to be observed in the composition of the hearing committee, composed of the following members:

	SRC	SCC	SCC Portfolio dealing with patroned societies
<i>Chairperson:</i>	Deputy Chairperson of the SRC	Deputy Chairperson of the SCC	Deputy Chairperson of the relevant patroned society
<i>Standing members elected at the annual constituting meeting of the</i>	Three members of the SRC elected by the SRC	Three members of the SCC elected by the SCC	Three members of the relevant patroned society

<i>relevant student body</i>			
<i>NWU representation</i>	Executive Director Student Life	Campus Director Student Life	A senior employee from a relevant support department as nominated by the Campus Director Student Life

3.2.2 **Mandate of the SRC Disciplinary Hearing Committee, SCC Disciplinary Hearing Committees and Patroned Societies**

- 3.2.2.1 To develop, implement and oversee a code of student discipline for the organised student community in the particular environment;
- 3.2.2.2 To ensure sufficient liaison on matters related to student conduct with the Executive Director Student Life, the Campus Directors Student Life, and other structures relevant to the environment;
- 3.2.2.3 To liaise with the Student Judicial Services department in order to obtain training in areas relevant to student conduct and discipline;
- 3.2.2.4 To exercise discipline in accordance with its authority within the relevant organised student life environment;
- 3.2.2.5 To refer any transgression that fall outside its scope of authority (as per 3.2.4 below) to the Manager of the Student Judicial Services Department in order to consider the nature of alleged transgression for purposes of referral;

3.2.2.6 In the event that any Disciplinary Hearing Committee of the SRC, SCCs or of Patroned Societies exercise discipline over instances of misconduct that are considered of a serious nature, and over which they have no jurisdiction in terms of their mandate in 3.2.4, the Vice-Chancellor or his/her delegate, retains the authority to review and set aside such disciplinary process, and to refer the matter to the correct disciplinary body in order to start the process afresh.

3.2.3 **Procedure of the reporting, investigation and hearing of instances of alleged misconduct within the organised student life environment**

- 3.2.3.1 A written complaint is laid by submitting such on a prescribed form, with the deputy chairperson of the SRC for disciplinary matters related to the SRC (including matters related to its sub-committees), and with the deputy chairperson of the SCC for disciplinary matters related to SCC (including matters related to its sub-committees) or with a deputy chairperson of a relevant patroned society.
- 3.2.3.2 The relevant deputy chairperson (SRC, SCC, patroned society) collects relevant material for evidence purposes (i.e. statements by witnesses, footage, recordings, or the like).
- 3.2.3.3 The relevant deputy prepares a file for the consideration of the relevant disciplinary committee (SRC, SCC or patroned society).
- 3.2.3.4 The Disciplinary Committee of the SRC, the SCC or the relevant patroned society, in accordance with the principles laid down in paragraph 1 of these Guidelines, conducts the hearing, and reports accordingly on a quarterly basis to the Vice-Chancellor through the Office of the Executive Director Student Life.

3.2.4 **Misconduct that may be considered by the SRC, SCC or Patroned Societies' Disciplinary Hearing Committees**

- 3.2.4.1 Transgressions of rules of the SRC or SCCs or that of the relevant Patroned Society (i.e. neglect of duties, misuse of funds, non-attendance of meetings, non-adherence to meeting procedures, non-submission of documents, misuse of communication channels, bringing the good name of the relevant structure within organised student life into disrepute, and the like).
- 3.2.4.2 Interpersonal relationships within the relevant organised student life environment (issues of a minor nature).
- 3.2.4.3 Any other matters within the ambit of the relevant environment within organised student life.

3.2.5 **Sanctions that may be imposed by the SRC, SCC of Patroned Societies' Disciplinary Hearing Committees**

The SRC, SCC or Patroned Societies' Disciplinary Hearing Committees have the competence to impose any or a combination of the following sanctions:

- 3.2.5.1 Issuing written warnings;
- 3.2.5.2 Recommending improvement measures, and setting boundary conditions for such;
- 3.2.5.3 Imposing fines (as approved by Executive Director Student Life); and
- 3.2.5.4 Termination of membership of the particular structure.

3.2.6 Procedure for request for review/appeal against findings of the SRC, SCC or Patroned Societies' Disciplinary Committees

3.2.6.1 Review/appeal process relevant to findings of the SRC Disciplinary Hearing Committee:

3.2.6.1.1 In line with the process contemplated in 3.1.8, a student may request a review of or appeal the sanction or findings, or both the sanction and findings of the outcome of a disciplinary process by the SRC to the Vice-Chancellor or his/her delegate.

3.2.6.1.2 The Registrar must convene a committee constituted as follows and with due observance to race and gender diversity in the composition:

<i>Chairperson</i>	Vice-Chancellor or his/her delegate
<i>Other members:</i>	A member of the University Management Committee (UMC) and appointed by UMC (other than the member forming part of the hearing committee)
	Two members of the SRC not forming part of the Disciplinary Hearing Committee of the SRC

3.2.6.2 Review/appeal process relevant to findings of Disciplinary Hearing Committees of the SCC and Patroned Societies:

3.2.6.2.1 In line with the process contemplated in 3.1.8, a student may request a review/appeal against the sanction or findings, or both the sanction and findings of the outcome of a disciplinary process by the SCC or Patroned Societies' Disciplinary Committees to the DVC Campus Operations of the relevant campus.

3.2.6.2.2 The Registrar must convene a committee constituted as follows and with due observance to race and gender diversity in the composition:

<i>Chairperson</i>	Relevant DVC Campus Operations
<i>Other members</i>	A member of the relevant Campus Management Committee and appointed by the relevant Campus DVC
	Two members of the relevant SCC or the relevant Patroned Society not forming part of the Disciplinary Hearing Committee of the SCC or of the Patroned Society

3.2.6.2.3 The above committee considers the review/appeal, and make a recommendation to the Vice-Chancellor.

3.2.6.2.4 Thereafter, a process in accordance with 3.1.4.19 to 3.1.4.21 follows.

3.3 Residence life: Residence Disciplinary Hearing Committees

The Vice-Chancellor or his/her delegate annually establishes a Residence Disciplinary Committee for each of the residences.

3.3.1 Composition

Due sensitivity to race, gender, disability needs to be observed in the composition of the hearing committee, composed of the following members:

<i>Chairperson</i>	Campus Director Student Life, or his/her delegate
<i>Other members:</i>	The relevant house parent
	A senior support staff member nominated and appointed by the relevant Campus Director Student Life
	Two senior student members from other residences, who do not need to be house-committee members, appointed by the Campus Director Student Life.
	One senior student member from the relevant residence who does not need to be house-committee members, appointed by the relevant house parent.

3.3.2 Mandate of the Residence Disciplinary Hearing Committees

3.3.2.1 To align its student disciplinary to the prescripts of the NWU Residence Rules

3.3.2.2 To ensure sufficient liaison on matters related to student conduct with the house parent, and other structures relevant to the environment;

3.3.2.3 To liaise with the Student Judicial Services department at the respective campuses in order to obtain training in areas relevant to student conduct;

3.3.2.4 To exercise discipline in accordance with its authority within the relevant residence environment;

- 3.3.2.5 To refer any transgression that fall outside its scope of authority (as per 3.3.4 below) to the Manager of the Student Judicial Services Department to consider referral of the matter to another hearing committee or disposal of the matter in some other manner;
- 3.3.2.6 In the event that any of the Residence Disciplinary Committees exercise discipline over instances of misconduct that are considered of a serious nature, and over which they have no jurisdiction in terms of their mandate in 3.3.4, the Vice-Chancellor or his/her delegate, retains the authority to review and set aside such disciplinary process, and to refer the matter to the correct disciplinary body in order to start the process afresh.
- 3.3.3 **Procedure of the reporting, investigation and hearing for instances of alleged misconduct within the residence environment**
- 3.3.3.1 A complaint is laid with the deputy primarius/primaria who is responsible for student conduct and student discipline in written format.
- 3.3.3.2 The deputy primarius/primaria collects relevant material for evidence purposes (i.e. statements by witnesses, footage, recordings, etc.)
- 3.3.3.3 The deputy primarius/primaria prepares a file for the consideration of the Residence Disciplinary Committee.
- 3.3.3.4 The Residence Disciplinary Committee, in accordance with the principles laid down in paragraph 1 of these Guidelines, conducts the hearing, and reports accordingly on a quarterly basis to the vice-chancellor.
- 3.3.4 **Misconduct that may be considered by the Residence Disciplinary Hearing Committee**
- 3.3.4.1 Transgressions of residence rules (i.e. duties, clothing, tidiness, noise, attendance of residence meetings, parking, misuse of communication channels, visiting hours, drinking/smoking in non-designated areas, or the like).
- 3.3.4.2 Abuse of residence infrastructure (i.e. providing accommodation to non-residents, minor breakages, fire extinguishers, sliding in hallways, or the like).
- 3.3.4.3 Interpersonal relationships (issues of a minor nature).
- 3.3.4.4 **Sanctions that may be imposed by the Residence Disciplinary Hearing Committee**
Residence Disciplinary Hearing Committees have the competence to impose any or a combination of the following sanctions:
- 3.3.4.5 Issuing written warnings.
- 3.3.4.6 Recommending behavioural improvement measures.
- 3.3.4.7 Referring students for counselling.
- 3.3.4.8 Imposing fines appropriate to the transgression as approved by the Campus Director Student Life after consultation with the Executive Director Student Life.
- 3.3.4.9 Community service.
- 3.3.5 **Procedure for request for review or appeal against findings of the Residence Disciplinary Hearing Committee**
- 3.3.5.1 In line with the process contemplated in 3.1.8 above, a residence student may request a review of or appeal against the sanction or findings, or both the sanction and findings of the outcome of a disciplinary process by the Residence Disciplinary Committee to the Director Student Life of the relevant campus.
- 3.3.5.2 The Registrar must convene a committee constituted as follows and with due observance to race and gender diversity in the composition:

<i>Chairperson:</i>	Executive Director Student Life
<i>Other members:</i>	A house parent not from the residence where the appellant resides
	SCC member responsible for residence life

- 3.3.5.2.1 The above committee considers the appeal, and make a recommendation to the Campus DVC.
- 3.3.5.2.2 Thereafter, a process in accordance with 3.1.4.19 to 3.1.4.21 follows.

3.4 Ad hoc disciplinary hearing committee established in accordance with para 5.3 of the Policy on Student Discipline

- 3.4.1 **The establishment of an ad hoc disciplinary hearing committee**
In accordance with para 5.3 of the Policy, the Vice-Chancellor has the authority to establish an ad hoc disciplinary committee at his/her discretion in instances where disciplinary action is required that does not clearly fall within the remit of a body established in terms of 5.2, or that falls within the remit of two or more of those bodies.
- 3.4.2 **Mandate of an ad hoc disciplinary hearing committee**
- 3.4.2.1 The above-mentioned ad hoc disciplinary hearing committee obtains its mandate from the Vice-Chancellor as the chief disciplinary officer.
- 3.4.3 **Procedures of ad hoc disciplinary committees**

- 3.4.3.1 The proceedings of an ad hoc disciplinary hearing committee need to adhere to the prescripts of the NWU Disciplinary Hearing Committee, as per 3.1.3, 3.1.5 and 3.1.6.
- 3.4.4 **Sanctions that may be recommended by ad hoc disciplinary hearing committees**
- 3.4.4.1 Any or a combination of the sanctions mentioned in 3.1.4 may be recommended to the Vice-Chancellor or his/her delegate.
- 3.4.5 **Procedure for request for review of or appeal against findings of ad hoc disciplinary hearing committees**
- 3.4.5.1 In accordance with the process contemplated in 3.1.8, a student may request a review of or appeal the sanction or findings, or both the sanction and findings of the outcome of a disciplinary process by an ad hoc disciplinary hearing committee.

End

Original details: (10935746) K:\HSC\2. Management\2.1.3 Policy management\Beleide\New folder (2)\7P-7.8.3_Student Dicplinary_e.docm
18 October 2019