

**RHODES UNIVERSITY
STUDENT DISCIPLINARY CODE**

Policy Particulars

DATE OF APPROVAL BY RELEVANT COMMITTEE STRUCTURES

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POLICY LEVEL: COUNCIL

**RESPONSIBILITY: REGISTRAR'S DIVISION
IMPLEMENTATION & MONITORING: OFFICE OF THE VICE-CHANCELLOR;
COUNCIL and REGISTRARS DIVISION**

REPORTING STRUCTURE: DISCIPLINARY COMMITTEE > SENATE > COUNCIL

1. APPLICATION OF RULES

1.1 In common with other communities of like size and complexity, the University has rules which contribute to the smooth and harmonious running of the institution.

1.2 If the University identifies a risk and it is in the best interest of the University community to do so, the University may act in terms of these interests in order to avert the risk.

1.3 The rules and procedures in this Student Disciplinary Code apply to every student of the University regardless of whether the alleged conduct in question takes place on or off campus. Where the alleged conduct has taken place off campus, there must be a sufficient link between the alleged conduct in question and the University and/or it must be reasonably likely to bring the University into disrepute. All policies and procedures governing students must be consistent with this Code. In the case of any

inconsistency with this Code, the Code prevails. The headings in this Code are for ease of reference only and do not have any relevance to the **interpretation** of the clauses contained herein.

1.3.1 All disciplinary proceedings are confidential except as provided by this code.

1.4 A student shall not contravene:

- (a) Any of the rules set out in Rule 4 of this Code.
- (b) Any rule of the Halls of residence of the University.
- (c) Any rule of the Oppidan Union; or
- (d) Any rule of the SRC or the Sports Council.

A contravention of any of these rules shall be deemed a disciplinary offence.

1.5 The Higher Disciplinary Authority has jurisdiction over all offences which contravene the rules as set out in this Code.

1.6 The Lower Disciplinary Authorities have jurisdiction over all offences which contravene the rules as set out in this Code unless there is a possibility of a sanction greater than 75 hours compulsory service, or the equivalent fine, in which event the Prosecutor/s must be consulted for a decision as to which disciplinary authority shall hear the matter.

1.7 An Oppidan Hall Warden shall have jurisdiction over all Oppidan students.

1.8 A Hall/House Warden shall have jurisdiction over:

- (a) All students resident in the Hall/House concerned; and
- (b) All other students who commit any disciplinary offence referred to in Rule 4 in any of the constituent houses of the Hall, the dining halls or the precincts which form part of the Hall. If there is concurrent jurisdiction, the Hall Warden of the Hall where the alleged offence occurred shall exercise jurisdiction unless there is agreement to the contrary.

1.9 A Hall Warden shall have jurisdiction over all students in another Hall where:

- (a) the student's Hall Warden cannot hear a matter because s/he has an interest in the matter and
- (b) in order to ensure a separation of power
- (c) the student's Hall Warden appoints another Hall Warden to hear the case. This will only apply where the Hall Warden does not exercise his/her discretion to convene a Hall Disciplinary Panel.

1.10 A House Warden shall have jurisdiction over all students in another House (from within the Hall or another Hall) where:

- (a) the student's Hall Warden cannot hear a matter because s/he has an interest in the matter and
- (b) in order to ensure a separation of powers
- (c) the student's Hall Warden appoints another House Warden to hear the case. This will only apply where the Hall Warden does not exercise his/her discretion to convene a Hall Disciplinary Panel.

1.11 The Library, Information & Technology Services Division and Sports Council have jurisdiction over all offences contained in the Library Use and Conduct Code, the IT Facilities Use and Conduct Code and the Sports Council rules respectively unless there is a possibility of a sanction greater than 75 hours compulsory service, or an equivalent fine, in which event the Prosecutor/s must be consulted for a decision as to which disciplinary authority shall hear the matter.

1.12 The Campus Protection Unit has jurisdiction over all offences contained in Rule 4.7 as set out in this Code unless there is a possibility of a sanction greater than 75 hours compulsory service, or an equivalent fine, in which event the Prosecutor/s must be consulted for a decision as to which disciplinary authority shall hear the matter.

1.13 The SRC has jurisdiction over all offences contained in its rules provided that as soon as it determines to take action, it shall immediately report the matter to the Prosecutor/s who may decide to refer the matter to any other disciplinary authority, in which case s/he shall immediately inform the SRC of the decision. The SRC Disciplinary Committee shall thereupon cease to have jurisdiction in the matter.

1.14 The burden of proof in all disciplinary matters is on a balance of probabilities.

1.15 A student who is convicted of any crime in a court of law shall be rebuttably presumed to have committed the crime(s) of which they have been found guilty.

2. DEFINITIONS

In this Disciplinary Code, unless the context otherwise clearly indicates:

Affirmation means a solemn declaration in lieu of an oath.

Advisor means a person representing an accused student at a disciplinary hearing before a Lower Disciplinary Authority. An advisor must be a registered student of the University. No accused student may be represented at a Lower Disciplinary Hearing by a person who is qualified to practise as an attorney or advocate whether or not that person is admitted to practise as such or practises as such in the ordinary course. Should the Advisor be a law student, an Assistant Prosecutor may be appointed to represent the University as a presenter at the Lower Disciplinary Hearing.

Appeal means an appeal as contemplated in Section 8.

Assistant Prosecutor means a suitably qualified person appointed by the Vice-Chancellor – for such a period as the Vice-Chancellor may periodically determine – to assist the Prosecutor/s in investigating and assessing contraventions of this Code and represent the University before a Proctor or a Disciplinary Appeal Committee. The Assistant Prosecutor is usually appointed from within the ranks of law students.

Competent verdict means any verdict that is provided for in Chapter 26 of the Criminal Procedure Act 51 of 1977 (as amended).

Compulsory service means any appropriate service as determined by the Registrar or a Hall/House Warden as the case may be.

Common cause means any fact or issue that is not in dispute.

Days means days within official university terms as set out in the Rhodes University Calendar to the exclusion of Saturdays, Sundays and public holidays unless the Vice-Chancellor, in consultation with the Prosecutor/s, directs that a hearing be commenced or continued outside official University dates, or the accused student agrees thereto

Digs means accommodation in Grahamstown which is not a residence, occupied by a student, with or without his/her parents or guardians.

Disciplinary authority means any Board, Committee or person authorised to hold a disciplinary hearing, or any person required to carry out an investigation to determine whether or not a student should appear at a disciplinary hearing to answer a charge of committing a disciplinary offence.

Disciplinary Board means a panel of three suitably qualified people appointed in the discretion of the Vice-Chancellor, (or his/her delegate), one of whom shall be designated Chairperson, to hear matters deemed by the Vice-Chancellor (or his/her delegate) to be of a serious nature, including but not limited to sexual offences.

Disciplinary Appeal Committee means a panel of three people appointed by the Vice-Chancellor (or his/her delegate), one of whom shall be the designated chairperson, to hear matters on appeal from a Proctor or from a lower disciplinary authority.

Disciplinary Committee means the sub-committee of Senate charged with overseeing disciplinary matters.

Fine means a sum of money payable by a student as a sanction by a student in exceptional circumstances.

Hall Disciplinary Panel means a panel convened in exceptional circumstances at the discretion of the Hall Warden. The Panel shall consist of at least one Hall Warden, one Senior / Head Student, one House Warden, one Fellow, and one Hall SRC representative. The panel is to be chaired by either a Hall Warden, a Warden or a Hall Fellow.

Hate Speech means any utterance – verbal, written, published, advocated or communicated in person – directed towards any person that could reasonably be construed to be demonstrate a clear intention to:

- (a) Be hurtful
- (b) Be harmful or incite harm
- (c) Promote or propagate hatred

The grounds of discrimination are as follows: race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth; or any other discrimination-based grounds which

- (i) Causes or perpetuates systematic disadvantage
- (ii) Undermines human dignity
- (iii) Adversely affects equal enjoyment of a person's rights and freedoms in a serious manner.

Visiting means no visitors are permitted in a university residence between midnight and 7.30 daily, without the express permission of the warden.

Jurisdiction period means any period during which a student can be held accountable for his/her conduct and includes but is not limited to the following:

- (a) Attendance at a Summer School or an Orientation Week Programme or any similar period of attendance at the University, however described.
- (b) The time when a registered student is in Grahamstown for a supplementary examination or for any other reason linked to the University and its functions.
- (c) The time when any previously registered student has returned to or remained in Grahamstown, and who thereafter registers again and, specifically, a person in this category who is present in Grahamstown during the Orientation Week.
- (d) The time when any registered student, whilst out of Grahamstown, is representing the University at any academic, club, cultural, sporting, society or other official University function or activity.
- (e) Any other time by agreement with the accused student.
- (f) The University retains jurisdiction to prosecute a person for a disciplinary offence, to finality, and in accordance with the Code if that person is still a 'student' in terms of the Code when disciplinary proceedings are instituted (this will include when notice of a hearing has been served on the student) The aforementioned jurisdiction period will include the exercise of the right of appeal in terms of the Code.

No-Contact Order means an absolute prohibition from making contact directly or indirectly, with the named person(s) in any way including but not limited to contact in person, by mail, by telephone, by electronic media or by or through any other medium or person, unless the Vice-Chancellor, Proctor presiding over a disciplinary hearing, or Disciplinary Board determines otherwise.

Oppidan means a student living in 'digs'.

Person with legal qualifications means a person who is a legal practitioner or a person who has an LLB degree or a postgraduate qualification in law.

Presenter means a person in the Lower Disciplinary Authority who investigates and presents a case on behalf of the Hall/House. The status of the presenter may vary from case to case and will normally follow line authority. For example, a Sub-Warden would present to a Warden and a Warden would present to a Hall Warden. In circumstances where there would be a conflict of interest for a Hall Warden to adjudicate a matter, a Hall Warden may then present the case to another Hall Warden.

Proctor means a suitably qualified person appointed by the Vice-Chancellor, for such a period as the Vice-Chancellor may from time to time determine, to preside at a disciplinary hearing.

Prosecutor means a suitably qualified person, appointed by the Vice-Chancellor for such a period as the Vice-Chancellor may from time to time determine, to investigate and assess contraventions of this Code and represent the University before a Proctor or a Disciplinary Appeal Board and to make written representations to a Disciplinary Appeal Committee.

Public nuisance means any act, omission or condition on any premises, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of the public.

Representative means a person representing a student at a disciplinary hearing before a Proctor, or a Disciplinary Board. A representative may be a SRC Defence Counsellor, a member of the University staff, a registered student of the University, an attorney or advocate.

Residence means a building belonging to or leased by the University housing students either on or off the campus, but excluding digs.

Search and seizure A Hall/House warden (excluding the Oppidan Warden) who is lawfully in charge of a University premises, or a Prosecutor/s, or the Campus Protection Unit, or the Vice-Chancellor or his/her nominee, who reasonably suspects the breach of any law or any breach of this Code may enter such University premises for the purpose of searching the premises and any student thereon. Such search and seizure must be carried out in terms of the **Protocol for search and seizure on Rhodes University campus**.

Settled by Mediation means that the parties to the mediation have reached an agreement that is reduced to writing and signed by both parties.

Student means the following persons:

- (a) Any person who is registered as a student at the University.
- (b) Any person who has been accepted by the University with a view to his/her becoming a registered student.
- (c) Any person who has left the University where the question of the propriety of a degree improperly obtained, or of conduct during an examination, is in issue.
- (d) Any person contemplated in (a) to (c) above when disciplinary proceedings are instituted (this will include when notice of a hearing has been served on that person) until disciplinary proceedings (including any appeal proceedings) are finalised.

Suspension in the context of a sanction means a temporary or permanent postponement of the implementation of the sanction subject to a condition. Suspension in the context of the Vice-Chancellor's powers means in terms of Rule 5.1 (a) that a student may be ordered not to attend classes, and/or participate in any other University activities, and/or remain in residence (if applicable), and / or set foot on campus, pending a final decision in a disciplinary matter or criminal prosecution.

3. MEDIATION

3.1 Any student who has been the victim of any form of harassment (sexual, racial, gender-based, religious etc.), defamation, or other offensive verbal behaviour, may elect to have the complaint settled by mediation rather than at a disciplinary hearing. At the discretion of the Prosecutor/s any other suitable matter may be referred, in writing, to mediation.

3.2 Mediation shall not be an option in matters which are (in the discretion of the Vice-Chancellor/or his/her delegate) of a serious nature.

3.3 Any student complaining of the type of behaviour set out in 3.1 above (hereafter called the complainant) may approach the Director: Student Affairs. The Director: Student Affairs or his/her designate, may, if the complainant so requests, assist the student in making contact with an appropriate counsellor to assist such student.

3.4 If no counselling is undertaken or if, after counselling, the complainant desires mediation, then the Director: Student Affairs shall contact the person/s who allegedly harassed, defamed or behaved offensively (hereafter called the respondent/s) and enquire of him/her/them whether they wish to settle the issue by mediation.

3.5 Where mediation is desired and agreed to by all parties, a suitably trained and qualified person will be appointed to mediate the dispute.

3.6 As mediation is a voluntary process, if at any time either the complainant/s or the respondent/s wish to withdraw from the mediation process, the process shall cease.

3.7 Where the parties do not agree to mediation, or the mediation is unsuccessful, the complainant/s may request to proceed by means of a disciplinary hearing in which case s/he/they must refer the matter to a Prosecutor/s.

3.8 Where the dispute is settled by mediation, the complainant/s will waive his/her/their right to request to proceed with disciplinary action.

3.9 The mediation process shall be privileged, confidential, and no information disclosed during such process shall be disclosed or be admissible at any subsequent disciplinary hearing.

4. DISCIPLINARY OFFENCES

4.1. A disciplinary offence is behaviour which, without justification

- (a) Unlawfully infringes another person's human rights as contained in the Bill of Rights, Chapter 2 of the Constitution, 1996.

- (b) Is an offence in terms of South African Law (common law or statutory law), including any regulations, instructions or protocols promulgated in terms thereof, and such act is prejudicial, or potentially prejudicial, to any member of the University Community.
- (c) Materially interferes with the safety, security or well-being of any member of the University community.
- (d) Materially interferes with the governance and proper administration of the University.
- (e) Materially interferes with the conditions necessary for teaching, learning, research or community service.
- (f) Materially interferes with the maintenance of order and discipline at the University.

Without restricting the generality of Rule 4.1 the following are examples of disciplinary offences if committed during the jurisdictional period:

4.2 A student must comply with any lawful notice, instruction, request, order, direction or sanction issued in terms of this Code. A written mediated agreement has the same status as a lawful notice. Breach of a written mediated agreement is a disciplinary offence. The breach of a no-contact order is a disciplinary offence.

4.3 A student may not commit any common law crime. As far as common law crimes are concerned, the provisions of Section 2 of the Criminal Law Amendment Act 1 of 1988 shall apply.

4.4 A student is bound by the Disaster Management Act 57 of 2002, and its regulations. The offences sections shall be applicable as disciplinary offences.

4.5 A student may not contravene the offence sections of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007.

4.6 A student may not commit *furtum usus* (unlawful use or removal of the property of another person without their permission but without any intention to steal e.g. borrowing of another person's clothing without permission) of another's property.

4.7

(a) A student possessing a motor vehicle or motor cycle in Grahamstown must register it with the Student Bureau when registering as a student each year, and supply the make, registration number, and the student's address. In the event of a student acquiring possession of a vehicle in Grahamstown after registration, s/he must register it with the Student Bureau within 72 hours of acquiring it.

(b) A student may not park a vehicle in any area in the precincts of the University reserved for other purposes.

(c) A student is bound by the provisions of the National Road Traffic Act 93 of 1996, and its regulations, as amended, with the necessary changes, to all roads on the campus of the University.

(d) A student charged with certain offences under Rule 4.7 may elect to admit their guilt in accordance with an admission of guilt penalties as laid down from time to time by the Disciplinary Committee.

4.8

(a) A student may not contravene the offences sections of the Liquor Act 27 of 1989.

(b) A student may not contravene the offences sections of the Drugs and Drug Trafficking Act 140 of 1992, as read with the Protocol for Students on the Use of Illicit Drugs.

(c) A student may not consume alcohol on any part of the University property without the written permission of the Vice-Chancellor, or such other person to whom the Vice-Chancellor has in writing delegated the authority to control the possession of or use of alcohol.

(d) A student may not be under the influence of alcohol or drugs where this interferes with the rights of other persons or their property.

(e) A student may not be in possession of any glass bottles and glasses containing liquor and soft drinks whilst on any part of the campus that has been designated by the Registrar to be a glass free area.

4.9

(a) A student may not contravene section 2 of the Makana Local Municipality Prevention of Public Nuisances By-Law as published in the Provincial Gazette no.1991 dated 10 October 2008.

(b) A student may not at any time make an unreasonably loud noise. Sound systems shall be turned off at 22h00 on Mondays, Tuesdays, Wednesdays, Thursdays and Sundays and at 24h00 on Fridays and Saturdays. This rule applies equally to students in residence and in 'digs'.

(c) A student may not use abusive or threatening language that is audible beyond the precincts of a digs or a residence.

(d) A student may not remove motor vehicle registration number plates, street signs, street numbers, hotel names, doctor's name plates or any other similar property without the authority of the lawful owner or occupant.

4.10

(a) A student may not contravene the offence sections of the Firearms Control Act 60 of 2000, the Dangerous Weapons Act 71 of 1968 and the Explosives Act 26 of 1956.

(b) A student may not bring a firearm (including an air-rifle and air-gun) or use a firearm on any part of the University property without the permission of the Vice-Chancellor.

4.11

A student may not be violent or disorderly.

4.12

- (a) A student may not contravene the Acceptable Use Policy or IT Facilities Use and Conduct Code as published by the Information & Technology Services Division as read with the relevant legislation.
- (b) A student may not contravene the Policy for Advertising on Campus by Students and Student Organisations.

4.13

- (a) A student shall notify the Student Bureau of their contact details i.e. home address, address in Grahamstown, e-mail address and cell phone number. In the event of a student moving residences or digs, s/he must notify the Student Bureau of his/her new address within seven days.
- (b) A student must identify him/herself by producing a student card or any other satisfactory form of identification upon request by any member of the University staff. Such power shall only be exercised where the staff member seeking the information has reasonable cause to believe that the student has committed a disciplinary offence, or that the student in question is in a position to give information about the commission of a disciplinary offence. Failure by a student in these circumstances to answer promptly and truthfully and provide satisfactory identification will be regarded as a serious breach of discipline.
- (c) A student may not damage or deface any property of the University or any property whatsoever within the precincts of the University.
- (d) A student may not intentionally interfere with any Rhodes University emergency equipment (emergency assistance buttons, fire-extinguishers, cameras and telephones, etc.).
- (e) A student may not put up a poster on any surface not specifically designated or reserved for putting up of posters.
- (f) A student may not occupy or use any portion of the University premises otherwise than in accordance with the Rules and Regulations of the University or in any manner contrary to the purposes for which such premises have been intended to be used by the University or for which they are, in fact, normally used.

4.14

- (a) A student shall obey all lawful instructions given by any member of the University staff concerning his/her conduct, including an order to proceed immediately to, and remain at, his/her place of residence or the Campus Protection Unit office.
- (b) A student shall obey a lawful instruction by the Prosecutor/s to furnish information to him/her or to appear before any disciplinary authority provided:
 - (i) that any student appearing before the Prosecutor shall be cautioned that she/he need not answer any question the answer to which is likely to expose him/her to a disciplinary hearing.
 - (ii) that an accused student appearing before the Prosecutor shall not be compelled to furnish him/her with a written statement. An accused student may, however, furnish the Prosecutor with a written statement if s/he freely chooses to do so.

4.15

- (a) A student may not take into an examination/test venue, or have in their possession whilst in such a venue, any cell phone, book, memoranda, notes, papers or other materials whatsoever, except answer books or such other books, or other materials as shall have been supplied by the Examinations Officer or authorised by the examiners.
- (b) A student may neither aid/attempt to aid another candidate during an examination/test, nor obtain/attempt to obtain aid from another candidate. A student may not communicate or attempt to communicate in any way with any other candidate during an examination/test.
- (c) Absence without authority: The incident of a student being absent without authority will be dealt with as an academic matter.
- (d) Instances of plagiarism will be dealt with in terms of the University Plagiarism Policy. All students are required to familiarise themselves with and comply with this policy.
- (e) Every member of the academic staff shall have the right to exclude from class any student guilty of misconduct or insubordination in such class. If the exclusion is for more than one lecture or other class meeting it shall be reported in writing to the Head of the Department concerned. The HOD may, after an enquiry where the student/s concerned have been given the right to explain his/her/their alleged misconduct, confirm or vary the order of exclusion. If the order of exclusion is for more than two weeks, it must be reported, in writing, by the Head of the Department to the Dean of that Faculty. After considering the Head of Department's report, the Dean of the Faculty may confirm or vary the order, or refer the matter to the Prosecutor/s.

4.16

- (a) While a student may receive visitors in a University student residence (this includes balconies, verandas and common rooms) no visitors are permitted in a University student residence between 24h00 (midnight) and 07h30 daily, without the express permission of the warden. All visitors to any residence must be escorted at all times and hosts are responsible for their guests' conduct during this time.
- (b) In application of the above rules, there are residence rules applicable to each hall of residence. Students are required to familiarize themselves with their own residence rules and to ensure that the friends partners who visit them in the residence are aware of the relevant Hall or House rules.

4.17

- (a) A student may not initiate, raid, or coerce another student, with or without the consent of the participants.
- (b) A student may not be present in a residence of which he/she is not a member, without being in compliance of the rules of the University.
- (c) A student may not engage in conduct which interferes or is likely to interfere with teaching, studying, research, lectures, meetings, or other events at the University, any constituent part of the University, an associated research institute, the administration of the University, or of any other of the normal processes and activities of the University.

- (d) A student may not interfere, even by omission, with the governance and proper administration of the University.
- (e) A student may not engage in conduct which obstructs or interferes with an officer, member, employee, and any other student in the performance of his/her lawful duties.

4.18

- (a) A student may not engage in any conduct which is offensive to and/or defamatory of any staff member, student, or member of the public.
- (b) A student may not be insubordinate towards any member of the University staff.
- (c) A student may not utter, distribute, display, show, screen or project disparaging, discriminatory, and derogatory material based on a person's race, cultural identity, gender or sexual orientation – this includes hate speech.
- (d) A student may not engage in conduct likely to bring the University, or any part of it, into contempt or disrepute
- (e) A student may not engage in any form of harassment or discrimination.

4.19

- (a) A student may not intimidate, interfere with, or harass potential University witnesses.
- (b) A student may not deliberately mislead a Prosecutor or University official in an attempt to affect the outcome of disciplinary action during an investigation.
- (c) A student may neither deliberately nor negligently respond untruthfully to any relevant and lawful question put to him/her in the course of a disciplinary hearing or by a Prosecutor during an investigation into an alleged disciplinary offence.
- (d) A student may neither hinder nor obstruct the hearing of any disciplinary proceedings or fail to obey an instruction given by the person chairing or conducting the proceedings.
- (e) A student may not fail to attend a disciplinary hearing. During a hearing, a student must remain in attendance until excused.
- (f) If a student fails to attend a disciplinary hearing and the person chairing/conducting the proceedings is satisfied that service of the notice had been effected – in terms of rule 7.3 and that all reasonable attempts to contact the student have been made, then the disciplinary hearing shall proceed in his/her absence.
- (g) A student may not intentionally:
 - i) Insult any person lawfully present at a disciplinary hearing during its sitting.
 - ii) Interrupt the proceedings or otherwise misbehave during a hearing.

A student who contravenes this rule is liable to exclusion from the hearing and to immediate punishment on condition that s/he is first given an opportunity to either explain or to apologise.

4.20 A student may not conspire with or aid and abet anybody in committing an offence.

4.21 A student may not contravene the Library Use and Conduct Code.

4.22 A student may not contravene Rule 1.3.1 subject to the recognition of his/her rights in terms of South African law.

4.23 Voluntary intoxication caused by any substance to the extent that a person lacks intention or capacity is not a defence to any offence in this Code.

5. DISCIPLINARY AUTHORITIES

5.1 The Vice-Chancellor

The Vice-Chancellor is the Chief Disciplinary Authority of the University and has the following powers:

- (a) S/he may take interim action against any student as s/he in his/her discretion may consider desirable in the case of any apparent disciplinary offence by the student. In exercising this power, the Vice-Chancellor may suspend the student concerned from attendance at classes and/or from participation in any other activities of the University pending a final decision in the matter. In suspending the student, the Vice-Chancellor or his/her designate shall allow the student to make an oral representation against suspension.
- (b) S/he may delegate all or any of his/her powers in connection with student discipline to a Deputy Vice-Chancellor or any other person.
- (c) Any additional powers, functions and/or privileges as assigned to the Vice-Chancellor by council, as contemplated in section 7(6) of the Rhodes University Statute.
- (d) Notwithstanding the terms of the appointment of the University Prosecutor/s and Proctor/s, the Vice-Chancellor shall be entitled, at any time, to relieve any of them of the powers entrusted to them herein, and may thereafter appoint another person/s in their stead, subject in all cases to the provisions of the Labour Relations Act 66 of 1995, as amended.
- (e) The Vice-Chancellor shall, when exercising disciplinary powers, have jurisdiction over all students, shall be entitled to preside at any disciplinary hearings (alone or, in his/her discretion, with two suitably qualified assessors) and shall have the power to impose the same sanction as any disciplinary authority may impose.
- (f) The Vice-Chancellor or the Director: Office of the Vice-Chancellor may determine to withhold examination results of any student, in respect of whom an investigation by a Prosecutor is pending, until any proceedings resulting from the investigation have been completed or withdrawn.
- (g) The Vice-Chancellor has the power to exercise clemency. This power shall only be invoked once all internal remedies have been exhausted. Clemency should only be granted in exceptional circumstances after a thorough investigation.
- (h) The Vice-Chancellor (or person designated to perform this function by the Vice-Chancellor) may issue a no-contact order. Such an order may be on such terms and on such conditions and for such period of time as the Vice-Chancellor (or person designated by the Vice-Chancellor) may in his/her discretion consider desirable. A no-contact order may be issued whether or

not a student has lodged a formal complaint against a student in respect of an alleged breach of this Code. Before making such an order the Vice-Chancellor (or the person designated by the Vice-Chancellor) shall allow oral representations in person from the student against whom the order is sought and the university prosecutor as to whether or not a no-contact order is to be issued. The maximum period of a no contact order is six months unless exceptional circumstances exist. Unless the Vice-Chancellor determines otherwise when issuing a no contact order, the order shall constitute an absolute prohibition from making contact, directly or indirectly, with the named person(s) in any way including but not limited to contact in person, by mail, by telephone, by electronic media or by or through any other medium or person. Any student against whom a no-contact order has been issued, may, before the expiration date of the order, approach the Vice-Chancellor (or the person designated by the Vice-Chancellor) with a request to rescind the order on the basis that exceptional circumstances exist that warrant rescission. A hearing, similar to that which preceded the issuing of the order will be held to allow both representations, in person, by both the student and the prosecution, before the decision as to rescission of the order is made.

5.2 The Acting Vice-Chancellor

When the Vice-Chancellor is absent from the University, the Acting Vice-Chancellor (or if no acting appointment has been made, the Deputy Vice-Chancellor: Academic and Student Affairs) shall take over the disciplinary powers vested in the Vice-Chancellor.

5.3 The Director: Office of the Vice-Chancellor

The Director: Office of the Vice-Chancellor shall oversee student discipline at the University and may request updates on all matters involving student discipline at all levels and communicate such updates to the Vice-Chancellor.

5.4 The Registrar

The Registrar shall be responsible for the overall administration of the student disciplinary system and shall be responsible for, but not limited to, the following:

- (a) Maintaining a central hard copy repository of all documents relating to the Higher Disciplinary Authorities.
- (b) Making available case precedents to both the Prosecutor/s and the accused and his/her representative. Such precedents must remain in the Registrar's office given their confidential nature.
- (c) Endorsing academic transcripts where directed by a Proctor.
- (d) Exclusion of a student where directed by a Proctor.
- (e) Recording the outcomes of cases on the University Student Discipline Database (Protea).
- (f) Posting outcomes of each Higher Disciplinary case on the designated official University notice board outside the Student Bureau, unless otherwise advised by the Proctor or Director: Office of the Vice-Chancellor.
- (g) Posting the June and November case summaries as produced by the Prosecutor/s on the designated official University notice board outside the Student Bureau.
- (h) Enforcing and monitoring only the sanctions of compulsory service ordered by the Higher Disciplinary Authorities.
- (i) Withholding examination results where a student has not completed compulsory service in the stipulated time.
- (j) Refusing re-admission to residence at the beginning of a new academic year where a student has not completed compulsory service in the stipulated time.
- (k) Overseeing the progress made by each convicted student as regards their compulsory service and/or payment of compensation orders and/or fines ordered by the higher disciplinary authorities.
- (l) Convening a Disciplinary Appeal Committee and a Disciplinary Board.
- (m) Collating and distributing documents to be placed before a Disciplinary Appeal Committee and a Disciplinary Board.
- (n) Providing administrative assistance if and when requested by the Prosecutor/s.
- (o) Recording the acquisition of vehicles by students after registration in terms of Rule 4.7.
- (p) Ensuring that the latest version of this Code appears in the Calendar and on all electronic platforms of the University.

5.5 Director: Student Affairs

The Director: Student Affairs has no disciplinary jurisdiction, but is responsible for the following:

- (a) Posting the June and November case summaries (as produced by the Prosecutor/s) on designated official University notice boards.
- (b) Providing a written update (June and November) of cases to the Director: Office of the Vice-Chancellor of the progress made with each case dealt with by the Lower Disciplinary Authorities. This update will be posted by the Director: Student Affairs on designated official University notice boards and electronic notice boards with the names of the parties deleted and reported on at the Disciplinary Committee.
- (c) Drafting an annual trends analysis of Lower Disciplinary cases in order to identify areas of concern and to ensure consistency of sanctions.
- (d) Communicating any incident report that may involve discipline at the higher level, to the Prosecutor/s within 48 hours. These incident reports should **not** include statements as these will be gathered by the Prosecutor/s. Such incident reports should contain the following:
 - (i) A description of the incident, including the date, time and place.

- (ii) The names, student numbers, and contact cell-phone numbers of the affected persons and potential witnesses.
- (e) Liaising with Hall Wardens to ensure that the Hall Administrators are enforcing and monitoring all sanctions of compulsory service and fines ordered by a Lower Disciplinary Authority.

5.6 Campus Protection Unit

The Head: Campus Protection Unit shall be responsible for the following:

- (a) Receiving incident reports and ensuring that they are hand-delivered to the Prosecutor/s **within 48 hours** (it is vitally important that this time frame is adhered to). These incident reports should **not** include statements as these will be gathered by the Prosecutor/s. Such incident reports should contain the following:
 - (i) A description of the incident, including the date, time and place;
 - (ii) The names, student numbers and contact cell-phone numbers of the affected persons and potential witnesses;
- (b) Serving charge sheets where requested to do so by the Prosecutor/s. The charge sheets must be served **within 48 hours** and a return of service must be delivered to the Prosecutor/s immediately following the service.

6. HIGHER DISCIPLINARY AUTHORITIES

6.1 The Proctor

- (a) A Proctor shall have jurisdiction over all students and in respect to all disciplinary offences set out in this Code.
- (b) If, during a hearing before a Proctor, s/he becomes unable to continue to serve and it appears that s/he will be unable to resume participation within a reasonable time, the proceedings may be terminated and new proceedings commenced *de novo* before another Proctor.
- (c) A Proctor may, at any time after the accused student has pleaded in terms of Rule 7.9 and before the proceedings are finalised (either by a finding of not-guilty or by the imposition of sanction in the case of a guilty finding), if there is reason to believe that there are grounds for a no-contact order, or if a no-contact order is requested by any of the parties involved, authorise that a hearing as contemplated in Rule 5.1(h) take place.

6.2. Disciplinary Board

- (a) A Disciplinary Board means a panel of three people appointed by the Vice-Chancellor, one whom shall be the designated Chairperson.
- (b) A Disciplinary Board shall have jurisdiction over all students and over all offences of a serious nature, including but not limited to sexual offences as set out in this Code.
- (c) If, during a hearing before a Disciplinary Board, any member of the Board becomes unable to continue to serve, and it appears that the Board member will be unable to resume participation within a reasonable time, the proceedings may continue with the remaining Board members, or be terminated and new proceedings commenced *de novo* before another Board. This decision will be made by the Chairperson of the Board.
- (d) The decision to prosecute a matter as a sexual offence shall be determined by the Prosecutor/s.

6.3 The Prosecutor

- (a) The Vice-Chancellor, in consultation with the Prosecutor/s, may appoint Assistant Prosecutors to assist the Prosecutor/s. The Vice-Chancellor may, at his/her discretion, appoint any suitably qualified person to act as an Assistant Prosecutor.
- (b) The Prosecutor/s and Assistant Prosecutors shall have the power to investigate any alleged disciplinary offence which is reported, that they are referred to, or of which they become aware. In conducting an investigation, the Prosecutors have the authority to request assistance from any University Official, if so required. If it appears that a student has committed a disciplinary offence they may, at their discretion, convene a hearing.
- (c) The Prosecutor/s may, in assessing a case, put the allegation to the student prior to the student being charged with a disciplinary offence. The student must be warned and cautioned that s/he is under no obligation to make any statement whatsoever, but if s/he does, then it should be a voluntary statement in writing which may then be handed in as evidence.
- (d) The Prosecutor/s shall have the power to terminate or suspend proceedings already commenced before any of the lower disciplinary authorities referred to in this Code on condition that there are reasonable grounds for doing so and that the rights of the accused are not unduly compromised.
- (e) The Prosecutor/s shall provide a written update in June and November of each year to the Director: Office of the Vice-Chancellor and the Registrar of the progress made in each case they have dealt with. The Registrar will post these updates on the official University notice board outside the Student Bureau.
- (f) The Assistant Prosecutors shall draft a case summary for each case with the names of the parties deleted for the Registrar to post on the designated official University notice board.
- (g) The Prosecutor/s may direct that a case be heard by a Lower Disciplinary Authority.
- (h) At the Prosecutor/s discretion a plea bargain discussion may occur prior to the commencement of a hearing before a Proctor or Disciplinary Board.

7. PROCEDURE IN HEARINGS BEFORE A PROCTOR OR DISCIPLINARY BOARD

7.1 A student appearing before a Proctor or Disciplinary Board may be assisted by any member of the University staff, any registered student of the University, other than a student summoned to answer charges in the same proceedings, or an attorney or advocate, provided that such representation shall be at his/her own cost. A person assisting a student by virtue of this provision will be referred to as their representative.

7.2 Where the Prosecutor/s is/are satisfied that there is a *prima facie* case against a student, and in the case of an offence that has occurred off campus that it is a matter that should be dealt with by this Code, s/he should draw up a notice setting out:

- (i) The disciplinary offence/s allegedly committed, or any alternative disciplinary offence/s.
- (ii) The date, time, and place of the offence/s.
- (iii) The person/s against whom the offence/s was/were allegedly committed, if any, and any other relevant details sufficient to inform the accused student of the charge/s s/he will be responding to.
- (iv) The date, time, and place of the hearing.

7.3 The notice must be served on the student in person in the first instance by the Prosecutor/s, their nominee, or a member of the Campus Protection Unit. In the case of an Oppidan student, the notice must be served on the student in person in the first instance by the Prosecutor/s, their nominee, a member of the Campus Protection Unit, or an Oppidan Warden. The notice must be served on the accused at least five days before the date of the hearing. Should the student not be located in person in the first instance, the notice may be served by the Prosecutor/s or their nominee via email to the student's official Rhodes University email address. The student shall then be deemed to be served.

(a) In the event that a student is not in attendance in Grahamstown, the notice may be served by the Prosecutor/s or their nominee by email to the student's official Rhodes email address.

7.4 An accused student will be entitled to receive a bundle of the documents, witness statements and/or affidavits, photographs and/or details of any electronic evidence the Prosecutor intends to use at least five days prior to the hearing. In the case of electronic evidence, arrangements will be made for the accused to access such evidence at least three days prior to the hearing. A bundle shall also be provided to the Proctor or Disciplinary Board. Witness statements relating to evidence in aggravation of sanction need not be provided.

7.5 The person serving the notice must inform the Prosecutor/s in writing as to when, how, where, and to whom the notice was served.

7.6 The Prosecutor/s shall have the right to direct that any student attends and gives evidence and remains in attendance until excused from a disciplinary hearing.

7.7 The Proctor may, for any good reason, postpone a hearing.

7.8 At a hearing, before a Proctor or Disciplinary Board, the reading of the charge, the plea, the evidence of all witnesses, any oral arguments and the reasons for both the judgment and sanction shall be digitally recorded.

7.9 The Prosecutor shall read the charge/s to the accused student only when all the parties are assembled before the Proctor or Disciplinary Board.

The accused student will be required to answer the charge/s (i.e. plead to the charge/s). S/he may:

- (a) Deny that s/he committed the offence (Not Guilty).
- (b) Admit that s/he committed the offence (Guilty).
- (c) Admit to a lesser offence (e.g. charged with assault with intent to commit grievous bodily harm but only admits common assault).
- (d) Allege that s/he has already been found guilty or not guilty of the disciplinary offence (i.e. the same set of facts).
- (e) Allege lack of mental capacity (should this be alleged the evidence to be led must include oral evidence of a psychiatric assessment to support this allegation).

7.10 Where a student admits a charge (pleads guilty), the Proctor or Chair of the Disciplinary Board shall question the student to ensure that the student's admission of the charge (plea of guilty) is a genuine and complete admission on the question of both fact and law.

7.11 Where the accused student is represented, his/her representative may hand in a written plea statement in lieu of the questioning mentioned above.

7.12 If the Proctor or Disciplinary Board is satisfied that the student's answer to the charge is a genuine and complete admission of the charge (a plea of guilty) with no defence, the student may be found guilty of the charge or a competent verdict, as the case may be, without any evidence being heard.

7.13 Where a student denies the charge (pleads not guilty), the Proctor or Chair of the Disciplinary Board may question the student to ascertain which of the allegations in the charge/s are in dispute. The student must, however, be informed that s/he is not obliged to answer any such questions. Where a student elects to answer questions and admits to any of the allegations in the charge/s, these charges will be regarded as proved.

7.14 Where a student denies the charge (pleads not guilty), the Prosecutor shall lead *viva voce* (oral) evidence in support of the charge. The Prosecutor may submit written statements from witnesses. These written statements may be received into evidence if their content is common cause and if the Proctor or Chair of the Disciplinary Board allows this.

7.15 Witnesses appearing before a Proctor or Disciplinary Board will be required to confirm that the evidence they are about to give is truthful.

7.16 Each witness will be examined, cross-examined, or re-examined (as the case may be) by only one person at a time – though not necessarily the same person for different witnesses.

7.17 An accused student shall have the right to remain silent or to give evidence on affirmation, provided that s/he is not compelled either way. Where the student is represented, his/her representative may lead the evidence on behalf of the defence. The student may then be cross-examined by the Prosecutor. After cross-examination, re-examination may follow.

7.18 An accused student will have the right to call witnesses. Should the accused elect to give evidence, his/her evidence must be heard before that of his/her witnesses.

7.19 A bundle of the documents, witness statements and/or affidavits, photographs and/or details of any electronic evidence which the defence intends to use at the hearing must be submitted to the Prosecutor/s at least three days prior to the hearing. A bundle shall also be provided to the Proctor or Disciplinary Board. Written statements may be received into evidence if their content is common cause and if the Proctor or Chair of the Disciplinary Board allows this.

7.20 The Proctor or the Disciplinary Board may question any witness, including the accused student, at any time while they are giving evidence. The proceedings may be conducted in either the accusatorial or the inquisitorial method; alternatively, a combination of both may be used.

7.21 The Proctor or Chair of the Disciplinary Board shall decide on any question of law, procedure, or the admissibility of evidence. In deciding any question of procedure not provided for in this Code, or on the admissibility of evidence, s/he will not be bound by the formal rules of criminal procedure or evidence applicable in any court of law. Instead, s/he will follow the dictates of fairness, natural justice and relevance, even if this includes the application of the rules of procedure and evidence applicable in courts of law.

7.22 The Proctor or Chair of the Disciplinary Board may call any witness not already called, or recall any witness who has already given evidence, if s/he believes that the evidence or further evidence of that witness is essential to the just decision of the case.

7.23 After all the evidence has been presented, the Prosecutor and the accused student or his/her representative shall have the right to give a closing argument regarding guilt or innocence of the accused to the Proctor or Disciplinary Board. This argument may be delivered orally or in writing, or both.

7.24 After the conclusion of the arguments, the Proctor or Chair of the Disciplinary Board shall there and then, or after time is taken to consider the verdict, give a judgment with reasons for the verdict, as to whether or not the accused is guilty of the charge/s, alternative charge/s, or a competent verdict. In a case before a Disciplinary Board a verdict shall be reached by way of a majority vote.

7.25 Where a student is found guilty of a disciplinary offence the Prosecutor and the student or his/her representative may lead evidence in aggravation or mitigation of sanction. Thereafter the Prosecutor and the student or his/her representative may address the Proctor or Disciplinary Board on what the sanction should be.

7.26 A Proctor or Disciplinary Board may, at any time after the accused student has pleaded in terms of Rule 7.9 and before the proceedings are finalised (either by a finding of not-guilty or by the imposition of sanction in the case of a guilty finding), if there is reason to believe that there are grounds for a no-contact order, or if a no-contact order is requested by any of the parties involved, refer the matter in terms of Rule 5.1 (h).

7.27 The Proctor or Disciplinary Board will there and then, or after time is taken to consider the sanction, give a judgment setting out the reasons for sanction and the sanction imposed.

7.28 A Proctor or Disciplinary Board shall have jurisdiction to impose any one or more of the following sanctions upon a student who has been found guilty of a disciplinary offence:

- (a) Deprivation of a degree improperly obtained.
- (b) Permanent exclusion from the University.
- (c) Exclusion from the University, its premises, and from participation in all University activities (which shall include all student activities) for a specified period.
- (d) Exclusion from a specific University residence or all residences.
- (e) Exclusion from attendance at certain classes and/or University examinations, either permanently or for a specified period.
- (f) Exclusion from participation in University activities or from such post or office in the University as may be specified, either permanently or for a specified period.
- (g) Imposition of a fine not exceeding 20 % of the Bachelor of Arts fee.
- (h) Payment of a sum of money required to compensate for any loss, damage, or expense caused to the University or to another person as a result of the offence.
- (i) A period of compulsory service.
- (j) Prohibition from driving or possessing a motor vehicle/motor cycle on campus. (Note: This sanction may only be imposed on a student who is found guilty of a disciplinary offence involving the use and/or driving of a motor vehicle/motorcycle).
- (k) Suspension of all or part of any of the above sanctions for a period of up to five years.
- (l) Endorsing the academic record of the student to the effect that the student's conduct has been unsatisfactory.
- (m) Any other appropriate sanction.

7.29 Where a student has been acquitted due to lack of mental capacity, the student may not remain at the University or return to the University without undergoing a full psychiatric assessment, the findings of which must confirm that the student is of sound mind.

7.30 In assessing the sanction to be imposed on a student who has been found guilty of a disciplinary offence, the Proctor or Disciplinary Board hearing the matter, shall regard the fact that the student was under the influence of alcohol or drugs at the time the offence was committed as an aggravating factor.

7.31 Where a student has been sanctioned in terms of this Code, the sanction shall come into effect immediately regardless of whether the student intends to take the matter on appeal, unless the Vice-Chancellor, on written application by the student, decides that there is good cause to suspend the implementation of the sanction pending the outcome of an appeal. The written application by the student shall set out fully all relevant facts and submissions that he or she wishes the Vice-Chancellor to consider in arriving at a decision in this regard.

7.32 If there is reason to believe that a condition upon which the whole or a portion of a suspended sanction rests has been breached, the student shall, on two days' notice, be required to attend an enquiry for the purpose of establishing whether or not an order should be made bringing the suspended sanction into operation.

7.33 If a student who has been directed to appear before a Proctor or Disciplinary Board fails to appear at the place, date, and time specified in the notice, fails to remain in attendance or to attend any adjourned proceedings, the Prosecutor shall make all reasonable attempts to locate the student. If the Proctor or Disciplinary Board is satisfied that all reasonable attempts have been made to contact the accused the hearing shall proceed in his/her absence.

7.34 If, during the course of a hearing before a Proctor or Disciplinary Board, it comes to the knowledge of a Prosecutor that a student appearing at such hearing may have committed any disciplinary offence/s other than, or in addition to, those with which s/he has been charged, the Prosecutor may charge the student concerned with such supplementary disciplinary offence/s and, provided that the provisions of this Code in relation to particulars and time to prepare are satisfied, the enquiry may then proceed. The evidence lead until that point will retain its full force and effect.

7.35 At any disciplinary hearing before a Proctor or Disciplinary Board, no person/s other than the Proctor, members of the Disciplinary Board, Prosecutor/s, Assistant Prosecutors, the accused and his/her representative, parent/s, legal guardian/s, counsellor or any person requested by the complainant may attend. The status of a parent, legal guardian, counsellor, or person requested by the complainant, is strictly that of an observer who may support the student and not in any way engage in the process. The Proctor or Chair of the Disciplinary Board retains the right to exclude any of these parties from a hearing on the grounds of inappropriate behaviour.

7.36 If a student appearing at a hearing before a Proctor or Disciplinary Board conducts him/herself in a manner which makes the continuance of the proceedings in his/her presence impossible or impractical, the Proctor or the Chair of the Disciplinary Board may, after warning the student of the consequences of such conduct, direct that s/he be removed. On such occasions, the proceedings will continue in his/her absence.

7.37 Within seven days of the imposition of a sanction by a Proctor or Disciplinary Board, the Proctor or Chair of the Disciplinary Board shall record the charge/s, plea/s, material facts found proved, including aggravating and mitigating circumstances, if any, the reasons for the verdict, the verdict, the sanction imposed, and the reasons for the imposition of the sanction, and forward such record to the Registrar, the Prosecutor/s and the convicted student and his/her representative. This document constitutes the record of the proceedings.

7.38 The record should be made available to the Prosecutor/s and any student summoned to appear before a Proctor, or his/her representative, so that it may be referred to as a precedent in future enquiries or be used by such student in the preparation of her/his defence.

7.39 If either the Proctor or the Director: Office of the Vice-Chancellor is of the view that the sensitivity of a particular case renders publication of the details undesirable, s/he may withhold or restrict publication.

7.40 If a student is not able to complete any compulsory service within the time specified by a Proctor or Disciplinary Board, written application for an extension of time shall be made to the Registrar. The Registrar, after consultation with a Prosecutor, may authorise an extension provided that he/she is satisfied that valid grounds exist.

8. APPEAL FROM A PROCTOR OR DISCIPLINARY BOARD

8.1 A student who has been found guilty and sanctioned by a Proctor or Disciplinary Board shall, have the right to appeal such decision. Such an appeal will be a 'wide appeal', which may incorporate grounds of appeal and/or review. This Rule must be read in conjunction with Rule 8.7.

8.2 The appeal will be decided by a Disciplinary Appeal Committee appointed by the Vice-Chancellor or his/her designate.

8.3 A student (or his/her representative) wishing to exercise the right of appeal shall, within five days of being sanctioned, advise the Registrar in writing that s/he wishes to have the case appealed. The request for appeal shall be accompanied by a deposit of an amount to be determined on an annual basis and payable to the Registrar, which shall serve as part payment for costs related to the appeal, which shall immediately become due and payable. The deposit shall only be refundable to the student in the event that the conviction is quashed.

8.4 At the request of the student (or his/her representative) the digital recording of the proceedings will be made available to a recognised transcription service. The full cost of the transcription of the entire digital recording shall be borne by the student. If the student wishes to rely on the recording in the appeal proceedings, s/he will be responsible for providing the members of the Disciplinary Appeal Committee and the Prosecutor/s with a transcription of the entire digital recording by an organisation or business that normally transcribes court records, at his/her own cost.

8.5 Within 5 days of the record being transcribed the student (or his/her representative) may submit written submissions (in regard to the appeal) to the Disciplinary Appeal Committee (and a copy provided to the Prosecutor/s).

8.6 Within 5 days of having received the written submissions of the student (or his/her representative), or within 5 days of the record being transcribed (should the student (or his/her representative) fail to submit written submissions) the Prosecutor/s may submit written submissions to the Disciplinary Appeal Committee (and a copy provided to the student or his/her representative).

8.7 Should the Prosecutor/s be of the view that the sanction imposed by a Proctor or Disciplinary Board is so lenient as to be unjust, s/he shall have the right to have the sanction appealed before a Disciplinary Appeal Committee.

8.8 The Disciplinary Appeal Committee shall decide the outcome of the appeal solely upon a consideration of the record and the written submissions of both parties. **No further evidence and/or submissions unless specifically requested by the Disciplinary Appeal Committee, shall be permitted.**

8.9 The Disciplinary Appeal Committee shall have the following powers:

- (a) To confirm, alter or reject the decision or find the student guilty on an alternative charge or competent verdict;
- (b) To confirm, reduce, increase, alter or set aside the sanction and replace it with an appropriate sanction; or
- (c) Generally to give such judgment or impose such sanction or make such order as the Disciplinary Appeal Committee deems fit.

8.10 The decision of the Disciplinary Appeal Committee shall be determined by a majority vote.

8.11 The Chairperson in consultation with the members of the Disciplinary Appeal Committee shall within seven days of having received written submissions by both parties (alternatively, should either party not make any written submissions, within 10 days of the record being transcribed) provide the student involved, the Prosecutor/s and the Registrar with a written report setting out the Disciplinary Appeal Committee's decision and the reasons for such decision.

9. LOWER DISCIPLINARY AUTHORITIES

Lower Disciplinary authorities include Assistant Wardens, Wardens, Hall Wardens, Oppidan Wardens, a Hall Disciplinary Panel, designated Library staff, designated Information Technology staff and designated Campus Protection Unit staff.

9.1 A member of a Lower Disciplinary Authority shall be disqualified from exercising any of the functions or powers conferred upon him/her by this Code in a disciplinary hearing, if s/he witnessed all or any of the conduct alleged to constitute the disciplinary offence, or is the complainant, or has a personal interest in the matter except in the circumstances outlined in 9.5 below.

9.2 There must be a separation of powers. The person chairing the hearing cannot be the person investigating and presenting the case in order to comply with the Constitution of the Republic of South Africa, and the rules of natural justice and fairness.

9.3 Hall/House Wardens shall not have jurisdiction over shoplifting.

9.4 No legal representation or person with legal qualifications will be permitted to represent a student appearing before a Lower Disciplinary Authority. A student appearing before such authority may, however, be accompanied by a Sub-Warden, or a Hall or House Senior/Head Student. Such person shall be referred to as the accused student's advisor. Should the student's advisor (as per the definition) be a law student, an Assistant Prosecutor may be appointed to represent the University at the Lower Disciplinary Hearing.

9.5 Any student in respect of whom a Hall/House Warden has jurisdiction shall have his/her hearing before the Hall/House Warden alone or in exceptional circumstances at the discretion of the Hall Warden, before a Hall Disciplinary Panel. A Hall Disciplinary Panel shall consist of at least one Hall Warden, one Senior / Head Student, one House Warden, one Fellow, and one Hall SRC representative. The panel is to be chaired by either a Hall Warden, a Warden or a Hall Fellow.

9.6 Students who are charged with certain disciplinary offences, which are agreed to from time to time by the Disciplinary Committee, may, rather than appearing before a Lower Disciplinary Authority, be permitted to admit their guilt in accordance with the admission of guilt sanctions as laid down from time to time by the Registrar after consultation with the Disciplinary Committee. It should be noted that there are five admissions of guilt sanction documents relating to offences falling within the jurisdiction of Oppidan Hall Wardens, Hall/House Wardens, the Library, Information & Technology Services Division and the Campus Protection Unit. In the case of an admission of guilt, separation of powers is not necessary. The student concerned will, however, always have the right to appear before the relevant disciplinary authority. S/he cannot be compelled to admit guilt. Any student issued with a notice that an admission of guilt sanction may be imposed in respect of a particular offence who elects to appear before a disciplinary authority rather than accept the sanction shall notify the Oppidan Warden, Hall/House Warden, Director: Library Services or Director: Information & Technology Services Division, or in the case of traffic offences the Head: Campus Protection Unit, in writing within seven days of being issued with such notice. If no such notice has been given, the relevant authority may, after a further seven days, impose the prescribed period of compulsory service or debit the student's fees account.

9.7 A Hall/House Warden or Hall Disciplinary Panel shall have jurisdiction over the following **students**:

- (a) all students resident in the Hall/House concerned;
- (b) all students who commit a disciplinary offence in any of the constituent houses of the Hall/House, the dining halls or the precincts which form part of the Hall/House. If there is concurrent jurisdiction, the Hall Warden of the Hall where the alleged offence occurred shall exercise jurisdiction unless there is agreement to the contrary;

- (c) In order to ensure a separation of powers as set out in Rule 9.2 above, a Hall Warden may hear a case emanating from any other Hall. This will only apply where the Hall Warden does not exercise his/her discretion to convene a Hall Disciplinary Panel.

9.8 The Oppidan Hall Warden shall have jurisdiction over all students who are not in residence. Where the alleged conduct has taken place off campus, there must both be a sufficient link between the alleged conduct in question and Rhodes University, and / or it must be reasonably likely to bring Rhodes University into disrepute. The Oppidan Hall Warden shall not have jurisdiction over shoplifting, domestic violence and contraventions off campus of the National Road Traffic Act 93 of 1996, and its regulations, as amended.

9.9 A Hall/House Warden or Hall Disciplinary Panel shall have jurisdiction over the following **offences**:

(a) All offences set out in Rule 4 unless there is a possibility that a sanction greater than that of the jurisdiction of a Hall/House Warden may be justified, in which case, the Prosecutor/s must be consulted for a decision as to which disciplinary authority shall hear the matter.

(b) A contravention of any Hall or House Rule.

9.10 A Hall/House Warden shall have the power to search and seize as set out in the definition section. Such search and seizure must be carried out in terms of the **Protocol for search and seizure on Rhodes University campus**, as read with the **Protocol for Students on the Use of Illicit Drugs**.

9.11 The Oppidan Hall Warden shall have jurisdiction over all offences set out in Rule 4 unless there is a possibility that a sanction greater than that of the jurisdiction of a Hall Warden may be justified, in which case, the Prosecutor/s must be consulted for a decision as to which disciplinary authority shall hear the matter;

9.12 The Hall Wardens and Oppidan Warden shall provide a written update at the end of each term of the cases in their Hall to the Director: Student Affairs of the progress made with each case dealt with by the Hall. The Director: Student Affairs shall collate all such reports and provide a written update in June and November of each year of Lower Disciplinary cases to the Director: Office of the Vice-Chancellor of the progress made with each case dealt with by the Lower Authorities.

10. PROCEDURE IN HEARINGS BEFORE LOWER DISCIPLINARY AUTHORITIES

10.1 Where a Warden is satisfied that a student has committed a disciplinary offence and the Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel has jurisdiction, s/he should:

(a) Draw up a notice setting out the disciplinary offence/s allegedly committed, the date, time and place of the offence/s, the person against whom the offence/s was/were allegedly committed (if any), the property in respect of which the offence/s were committed (if any), and any other relevant details sufficient to inform the accused student of the charge/s she/he has to meet. The notice must also set out the date, time, and place of the hearing.

(b) The notice must be served on the student in person.

(c) The notice must be served on the accused at least three days before the date of the hearing.

(d) The Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel may postpone the hearing if a valid reason is given.

(e) When all the parties are assembled the Hall/House Warden, Oppidan Warden or Chair of the Hall Disciplinary Panel shall read the charge/s to the accused student. The accused student will be required to answer the charge/s (i.e. plead to the charge/s). S/he may:

(i) Deny that s/he committed the offence – plead “not guilty”. Should the student plead “not guilty” it is at this point that a separation of power must be implemented.

(ii) Admit that s/he committed the offence – plead “guilty”.

(f) Where a student pleads guilty, the Hall/House Warden, Oppidan Warden or Chair of the Hall Disciplinary Panel shall question the student to ensure that the student’s plea includes all the relevant facts of the offence.

(g) If the Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel is satisfied that the student’s answer to the charge is a genuine and complete admission of the charge with no defence – pleads guilty –the student may be found guilty of the charge without any evidence being heard.

(h) Where a student denies the charge or pleads not guilty the Hall/House Warden, Oppidan Warden or Chair of the Hall Disciplinary Panel may question the student to ascertain which of the allegations in the charge/s are in dispute. The student must, however, be informed that s/he is not obliged to answer any of the questions posed to him/her. Where a student elects to answer questions and admits any of the allegations in the charge/s, they will be regarded as proved.

(i) Where a student denies the charge – pleads not guilty – the Presenter shall lead oral evidence in support of the charge.

(j) Witnesses appearing before a Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel will be required to affirm that the evidence they will give will be truthful.

(k) An accused student or his/her representative will have the right to cross-examine any witnesses called by the Presenter. Thereafter such witnesses may be re-examined by the Presenter. Each witness will be examined, cross-examined, or re-examined (as the case may be) by only one person at a time – though not necessarily the same person for different witnesses.

(l) An accused student shall have the right to remain silent or to give evidence on affirmation, provided that the student shall not be compelled to give evidence. Where the student is assisted / represented his/her advisor may lead the evidence on behalf of the accused. She/he may then be cross-examined by the Presenter. After cross-examination, re-examination may follow.

(m) An accused student will have the right to call witnesses. Should the accused elect to give evidence his/her evidence must be heard before that of his/her witnesses.

- (n) The Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel may ask questions of any witness, including the accused student, at any time whilst they are giving evidence.
- (o) After all the evidence has been led or presented, the Presenter and the accused student or his/her advisor shall have the right to make a final statement should they so wish.
- (p) Thereafter the Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel shall deliver a decision as to whether the accused student is found either guilty or not guilty of the charge/s.
- (q) Where a student is found guilty of a disciplinary offence/s, both the Presenter and the student or his/her advisor may present argument in aggravation or mitigation of sanction.
- (r) Thereafter the Presenter and the student or his/her advisor may address the Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel on what the sanction should be.
- (s) The Hall/House Warden or Hall Disciplinary Panel will give a decision setting out the reasons for sanction and the sanction imposed.
- (t) A Hall Warden or Hall Disciplinary Panel may impose the following sanctions:
 - (i) Exclusion from the Hall.
 - (ii) A fine not exceeding 10% of the Bachelor of Arts fee.
 - (iii) Compulsory service up to 75 (seventy five) hours.
 - (iv) Exclusion from participation in any Hall or House activity for a maximum of 1 (one) term.
 - (v) Exclusion from any post or office in the Hall, except that of Sub-Warden.
 - (vi) Suspension of all or part of any of the above sanctions for a period of up to 5 (five) years.
 - (vii) Payment of compensation to make good any loss, damage or expense caused to the University or to any other person as a result of the offence; and
 - (viii) Suspension of visiting rights for a period of time.
- (u) An Oppidan Warden may impose the following sanctions:
 - (i) A fine not exceeding 10% of the Bachelor of Arts fee.
 - (ii) Compulsory service up to 75 (seventy five) hours.
 - (iii) Exclusion from any post or office in the Hall, except that of Sub-Warden.
 - (iv) Suspension of all or part of any of the above sanctions for a period of up to 5 (five) years; and
 - (v) Payment of compensation to make good any loss, damage or expense caused to the University or to any other person as a result of the offence.

10.2 In assessing the sanction to be imposed on a student who has been found guilty of a disciplinary offence, the Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel hearing the matter shall regard the fact that the student was under the influence of alcohol/liquor/drugs at the time the offence was committed as an aggravating factor. As far as common law crimes are concerned, the provisions of Section 2 of the Criminal Law Amendment Act 1 of 1988 shall apply.

10.3 A House Warden or Assistant Warden may impose the following sanctions:

- (a) A fine not exceeding 5% of the Bachelor of Arts fee.
- (b) Compulsory service up to 50 (fifty) hours.
- (c) Suspension of all or part of any of the above sanctions for a period of up to 1 (one) year subject to a specified condition; and
- (d) Suspension of visiting rights for a period of time.

10.4 The Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel must inform the student that they have the right to take the matter on appeal as contemplated in Rule 8 (with the necessary changes as required by the context).

10.5 If a student who has been directed to appear before a Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel fails to appear at the place and on the date and at the time specified in the notice, or fails to remain in attendance, or to attend any adjourned proceedings, the Presenter shall make all reasonable attempts to locate the student. If the Hall/House Warden is satisfied that all reasonable attempts have been made to contact the accused the hearing shall proceed in his/her absence.

10.6 If, during the course of a hearing before a Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel, it comes to the knowledge of a Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel that a student appearing at such hearing may have committed any disciplinary offence/s other than, or in addition to, those with which she/he has been charged, the Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel may charge the student concerned with such supplementary disciplinary offence/s and, provided that the provisions of this Code in relation to particulars and time to prepare are satisfied, the enquiry may then proceed, the evidence led to that stage retaining its full force and effect.

10.7 The Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel shall have the right to direct that any student attends and gives evidence and remains in attendance until excused from a disciplinary hearing.

10.8 If a student appearing at a hearing before a Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel conducts him/herself in a manner which makes the continuance of the proceedings in his/her presence impossible or impractical, the Hall/House Warden, Oppidan Warden or Hall Disciplinary Panel may, after warning the student of the consequences of such conduct, direct that s/he be removed. On such occasions, the proceedings will continue in his/her absence.

10.9 Where a student has been sanctioned in terms of this Code, the sanction shall come into effect immediately regardless of whether the student intends to take the matter on appeal, unless the Vice-Chancellor, on written application by the student, decides that there is good cause to suspend the implementation of the sanction pending the outcome of an appeal. The written

application by the student shall set out fully all relevant facts and submissions that he or she wishes the Vice-Chancellor to consider in arriving at a decision in this regard.

11. SUB-WARDENING STAFF

Sub-Wardens may only administer admission of guilt sanctions as defined by the Registrar on an annual basis and for minor infringements of house rules, and in imposing such sanctions, shall not exceed 50% of the sanction that a House Warden or Assistant Warden may impose.

12. UNIVERSITY LIBRARY STAFF

(a) Library staff designated by the Director: Library Services shall have jurisdiction over all student library users in respect of any contravention of a rule contained in the Library Use and Conduct Code.

(b) There shall be a Library Disciplinary Committee consisting of two members of the Library staff appointed for this purpose by the Director: Library Services.

(c) Students who are charged with certain disciplinary offences, which are agreed to from time to time by the Disciplinary Committee, may be permitted to admit their guilt in accordance with the admission of guilt sanctions as laid down from time to time by the Registrar after consultation with the Disciplinary Committee, rather than appear before a Lower Disciplinary Authority. The student concerned will, however, always have the right to appear before the relevant disciplinary authority. S/he cannot be compelled to admit guilt. Any student issued with a notice that an admission of guilt sanction may be imposed in respect of a particular offence who elects to appear before a disciplinary authority rather than accept the sanction shall notify the Director: Library Services in writing within seven days of being issued with such notice. If no such notice has been given, the relevant authority may, after a further seven days, impose the prescribed period of compulsory service or debit the student's fees account.

(d) The procedure to be followed should a student elect to appear before a Lower Disciplinary Authority will be as set out in Rule 10 of this Code with the necessary changes.

(e) The Library Disciplinary Committee shall have the authority to impose the following penalty per offence:

(i) A fine not exceeding 10% of the Bachelor of Arts fee.

(ii) Compulsory service up to 75 (seventy five) hours.

(iii) Payment of compensation to make good any loss, damage or expense caused to the University or to any other person as a result of the offence.

(f) The Director: Library Services shall provide a written update (June and November) of cases to the Director: Office of the Vice-Chancellor of the progress made with each case dealt with by the Library Disciplinary Committee. This update will be posted by the Director: Student Affairs on designated official University notice boards and electronic notice boards with the names of the parties deleted, and reported on at the Disciplinary Committee.

13. INFORMATION & TECHNOLOGY SERVICES DIVISION STAFF

(a) Information & Technology Services Division staff designated by the Director: Information & Technology Services Division shall have jurisdiction over all student computer users in respect of any contravention of a rule contained in the IT Facilities Use and Conduct Code.

(b) There shall be an Information & Technology Services Division Disciplinary Committee consisting of two members of the Information & Technology Services Division staff appointed for this purpose by the Director: Information & Technology Services Division.

(c) Students who are charged with certain disciplinary offences, which are agreed to from time to time by the Disciplinary Committee, may be permitted to admit their guilt in accordance with the admission of guilt sanctions as laid down from time to time by the Registrar after consultation with the Disciplinary Committee, rather than appear before a Lower Disciplinary Authority. The student concerned will, however, always have the right to appear before the relevant disciplinary authority. S/he cannot be compelled to admit guilt. Any student issued with a notice that an admission of guilt sanction may be imposed in respect of a particular offence who elects to appear before a disciplinary authority rather than accept the sanction shall notify the Director: Information & Technology Services Division in writing within seven days of being issued with such notice. If no such notice has been given, the relevant authority may, after a further seven days, impose the prescribed period of compulsory service or debit the student's fees account.

(d) The procedure to be followed should a student elect to appear before a Lower Disciplinary Authority will be as set out in Rule 10 of this Code with the necessary changes.

(e) The Information & Technology Services Division consisting of the Manager: Student Services and Manager: IT Operations, shall have the authority to impose the following penalty per offence:

(i) A fine not exceeding 10% of the Bachelor of Arts fee.

(ii) Compulsory service up to 75 (seventy five) hours.

(iii) Payment of compensation to make good any loss, damage or expense caused to the University or to any other

person as a result of the offence.

(f) The Director: Information & Technology Services Division or his/her nominee shall provide a written update (June and November) of cases to the Director: Office of the Vice-Chancellor of the progress made with each case dealt with by the Information & Technology Services Division. This update will be posted by the Director: Student Affairs on designated official notice boards and electronic notice boards with the names of the parties deleted, and reported on at the Disciplinary Committee.

(g) Copyright and Take Down Notices will be dealt with in the following way:

- (i) First Offence – Students will be notified by the Information & Technology Services Division of a warning and can accept guilt or ask to appear before a disciplinary authority.
- (ii) Second Offence – Students will be notified and sanctioned 40 hours of compulsory service administered by the Information & Technology Services Division. If a student declines to accept the admission of guilt, the student shall appear before a hearing.
- (iii) Third or any following Offence – Students will be handed over to the University Prosecutor/s by the Information & Technology Services Division.

14. CAMPUS PROTECTION UNIT

(a) Campus Protection staff designated by the Head: Campus Protection Unit shall have jurisdiction over all student vehicle users in respect of any contravention of a rule contained in Rule 4.7 of this Code.

(b) There shall be a Campus Protection Unit Disciplinary Committee consisting of the Head: Campus Protection Unit and two members of the Campus Protection Unit staff appointed for this purpose by the Head: Campus Protection Unit.

(c) Students who are charged with certain disciplinary offences, which are agreed to from time to time by the Disciplinary Committee, may be permitted to admit their guilt in accordance with the admission of guilt sanctions as laid down from time to time by the Registrar after consultation with the Disciplinary Committee, rather than appear before a Lower Disciplinary Authority. The student concerned will, however, always have the right to appear before the relevant disciplinary authority. S/he cannot be compelled to admit guilt. Any student issued with a notice that an admission of guilt sanction may be imposed in respect of a particular offence who elects to appear before a disciplinary authority rather than accept the sanction shall notify the Head: Campus Protection Unit in writing within seven days of being issued with such notice. If no such notice has been given, the relevant authority may, after a further seven days, impose the prescribed period of compulsory service or debit the student's fees account.

(d) The procedure to be followed should a student elect to appear before a Lower Disciplinary Authority will be as set out in Rule 10 of this Code with the necessary changes.

(e) The Campus Protection Unit Disciplinary Committee shall have the authority to impose the following penalty per offence:

- (i) A fine not exceeding 10% of the Bachelor of Arts fee.
- (ii) Compulsory service up to 75 (seventy five) hours.
- (iii) Payment of compensation to make good any loss, damage or expense caused to the University or to any other person as a result of the offence.

(f) The Head: Campus Protection Unit shall provide a written update (June and November) of cases to the Director: Office of the Vice-Chancellor of the progress made with each case dealt with by the Campus Protection Unit Disciplinary Committee. This update will be posted by the Director: Student Affairs on designated official notice boards and electronic notice boards with the names of the parties deleted and be reported on at the Disciplinary Committee.

15. APPEAL FROM A DECISION OF A HALL/HOUSE WARDEN, OPPIDAN WARDEN, LIBRARY DISCIPLINARY COMMITTEE, INFORMATION & TECHNOLOGY SERVICES DIVISION, CAMPUS PROTECTION UNIT DISCIPLINARY COMMITTEE, SRC DISCIPLINARY BOARD OR SPORTS COUNCIL DISCIPLINARY COMMITTEE

15.1 A student who has been found guilty and sanctioned by a Hall/House Warden, Oppidan Warden, Library Disciplinary Committee, Information & Technology Services Division Campus Protection Unit Disciplinary Committee, SRC Disciplinary Board or Sports Council Disciplinary Committee shall have the right to have such verdict and sanction appealed as contemplated in Rule 10.4 above.

15.2 A Prosecutor shall have the right to have a sanction imposed by a lower disciplinary authority appealed on the same grounds as set out in Rule 8 of this Code. The procedure that shall be followed, and the powers of the Disciplinary Appeal Committee, shall be as set out in Rule 8 of this Code.

16. THE SRC DISCIPLINARY BOARD

16.1 There shall be a Board of the above title consisting of as many members as the SRC shall by resolution from time to time determine.

16.2 This Board shall have the power to enquire into a disciplinary offence allegedly committed by a student at any function organized or controlled by the SRC, both on or off the University premises, provided that as soon as it determines to take such

action, it shall immediately report the matter to the Prosecutor/s who may decide to refer the matter to any other disciplinary authority, in which case s/he shall immediately inform the SRC of the decision. The SRC Disciplinary Board shall thereupon cease to have jurisdiction in the matter.

16.3 The Board shall have the following powers to penalize any student found by it to have committed a disciplinary offence:

- (a) imposition of a fine not exceeding 2.5% of the Bachelor of Arts fee or 35 hours of compulsory service.
- (b) exclusion from participation in SRC functions or facilities for a period not exceeding one term, or both.
- (c) payment of such sum of money as may be required to make good any loss, damage or expense caused to the University or to another person as a result of the offence.

16.4 The SRC Disciplinary Board must ensure that there is a separation of powers. The person chairing the hearing cannot be the person investigating and presenting the case, in order to ensure compliance with the rules of natural justice and constitutional rights and fairness. The procedure to be followed shall be the same as contained in Rule 10 as is relevant to the SRC Disciplinary Board.

16.5 A student who has been found guilty and sanctioned by the SRC Disciplinary Board shall have the same right of appeal as set out in Rule 15 and the procedure to be followed in Rule 15 shall apply.

17. THE SPORTS COUNCIL DISCIPLINARY COMMITTEE

17.1 There shall be a Committee of the above title consisting of the Chairperson of the Sports Council or deputy and two further members nominated by the Chairperson or the deputy from the members of the Student Sports Council. This Committee shall have the power to enquire into any disciplinary offence allegedly committed by a student where the breach alleged has been either:

- (a) of a rule of the Sports Council or any of its constituent clubs.
- (b) committed by students on University property set aside by the Council for student activities under the control of the Sports Council; or
- (c) committed by students elsewhere than on University property but while members of a University team or touring party are under the control of the Sports Council.

As soon as it determines to take disciplinary action, the Committee shall immediately report the matter to the Prosecutor/s who may decide to refer it to another disciplinary authority, in which case s/he shall immediately inform the Sports Council of the decision. The Sports Council Disciplinary Committee shall thereupon cease to have jurisdiction in the matter.

17.2 The Sports Council Disciplinary Committee shall have the following powers to penalize any student found by it to have breached a rule of the Sports Council or any of its constituent clubs:

- (a) suspension from participation in any sporting activity of the University either totally or in part for a period not exceeding one term.
- (b) imposition of a fine not exceeding 2.5% of the Bachelor of Arts fee or 35 hours of compulsory service.
- (c) order the payment of compensation to make good any loss, damage or expense caused to the University or to any other person as a result of the offence.

17.3 The Sports Council Disciplinary Committee must ensure that there is a separation of powers. The person chairing the hearing cannot be the person investigating and presenting the case, in order to ensure compliance with the rules of natural justice and constitutional rights and fairness. The procedure to be followed shall be the same as contained in Rule 10 as is relevant to the Sports Council Disciplinary Committee.

17.4 In the case of a student who has been found guilty and sanctioned by the Sports Council Disciplinary Committee, the same right of appeal and the same procedure set out in Rule 15 shall apply.