**Human Resources Division:**

**Protocol Governing the Suspension of Staff**

**As Part of the Disciplinary Process**

1. **Purpose of this document**

The purpose of this document is to provide clarity on what is meant by the term suspension, different forms of suspension, and the procedure followed when suspending a staff member.

1. **What is a suspension?**

A suspension is a process where an employer will instruct a staff member to not come to work for a certain period of time or to not come to work until further notice. The employment relationship is not terminated in that the employee is still employed and has not receive notice of dismissal.

There are mainly three reasons why the University may suspend an employee:

(i) The staff member may be suspended as a disciplinary sanction (punitive suspension) following a disciplinary hearing. As such suspension is the outcome or penalty of being found guilty in a disciplinary hearing. This is typically used for level 3 offences which typically result in dismissal but where the Chairperson because of mitigating reasons (e.g. past conduct and service of the employee) has decided to not dismiss the staff member;

(ii) The staff member may be suspended as a preventative action (precautionary) pending a disciplinary hearing. This is done to ensure that evidence needed for the hearing is not tampered with and/or that other employees (in some cases these may be witnesses) are not intimidated;

(iii) The staff member may be suspended as a preventative action (precautionary) pending a disciplinary hearing in order to protect the employer’s property or for safety reasons.

1. **Punitive suspension or Suspension without Pay**

According to the University’s disciplinary procedure, point 5.1.12, a suspension can be imposed on a staff member as a disciplinary sanction/outcome of a level 3 hearing (most serious offences for which staff may be dismissed if found guilty). This decision to suspend rather than dismiss a staff member is determined by the Chairperson of the level 3 disciplinary hearing.

Punitive suspension is also called suspension without pay. Pay in this regard includes the total remuneration for the employee including

* All cash elements of the person’s salary e.g. basic salary, allowances of any kind – housing, standby, scarcity
* Employer contribution to any benefit schemes e.g. medical aid, retirement schemes, group life

**Also included are:**

* The portion of the service bonus for the period of the suspension. Where a staff member is on suspension in birthday month when the service bonus is due, s/he will only receive the bonus in the next month upon his/her return to work.

The staff member may elect to continue to contribute towards the benefits but then is liable for the total contribution thereof.

Where suspension is for a month, but not from the 1st to the 31st of the month e.g. 15th of February to 15th of March, then the person will receive a pro-rata salary at the end of month one and a further pro-rata salary at the end of month two.

1. **Procedure for punitive suspension**

The procedure is as follows:

4.1 After receiving a report from Chairperson of the Disciplinary Board that the outcome is suspension without pay, the Director: HR or designate, will communicate this to the relevant Head of Department/Manager (hereafter referred to as manager). The suspension will be with immediate effect;

* 1. The HR Generalist for that work area will provide a remuneration schedule to the employee indicating all the components of remuneration. This will include the employer’s contribution to the pension/provident scheme, medical aid (if relevant), and group life;
  2. The HR Generalist will also provide the staff member with a letter indicating:
     + the sanction as a result of the disciplinary hearing
     + the period of the suspension
     + any conditions of the suspension
     + the implications on the staff member’s remuneration and in particular of stopping contributions to the medical aid
     + the options for the staff member to continue to contribute to the benefit schemes.
  3. The decision of the staff regarding the benefit schemes must be in writing and will be implemented by the HR Generalist.

1. **Preventative Suspension**

**5.1 Preventative-Suspension pending a disciplinary hearing**

Preventative suspension may occur pending a disciplinary hearing where the employer is of the view that the accused staff member’s presence at work will interfere with the disciplinary investigation. This could include tampering with evidence and/or intimidation of witnesses. The preventative suspension just like any other suspension should be fair. In this suspension, the staff member because they have not yet been found guilty of any transgression (as there has been no disciplinary hearing or outcome) will still be paid by the employer. For the preventative suspension to be fair, there should be a prima facie[[1]](#footnote-1) case that the staff member has committed the alleged misconduct.

**5.2 Preventative Suspension to protect the employer’s property or for safety reasons**

The staff member may be suspended if there is prima facie evidence that the accused’s presence or conduct is likely to lead to the damage to the employer’s property or may compromise the safety of other employees or students or visitors of the University. In this case, there is also suspension with pay.

**5.3 Who makes the decision to preventatively suspend an employee?**

Suspension can be recommended by the Director of Division in the case of support staff. If the staff member is an academic or a support staff member in a Faculty, it can be made by the Dean of that Faculty.

As preventative suspension may have adverse consequences to the prospects and reputation of the staff member, it is important for the managers to ensure that it is fair and is only implemented when indeed there is no other option.

Please note that fairness requires that:

1. Preventative suspension is not undertaken for level 1 or 2 offences;
2. There must already be prima facie evidence of a case against the employee that is leading to a disciplinary hearing;
3. That the employee’s presence at work may interfere with the disciplinary investigation OR may lead to damage to others or property;
4. Prior to suspending the staff member, the person is given an opportunity to state why s/he should not be suspended;
5. If the staff member is unhappy with the suspension, s/he has right to refer an unfair labour practice dispute to the CCMA.
6. **Procedure for preventative suspension**
   1. An immediate supervisor/manager after receiving information which is of serious nature and which may lead to a level 3 disciplinary hearing (level at which dismissal is the likely outcome if the staff member is found guilty) must check the reliability of the information and check if there is a strong case linking the staff member;
   2. The supervisor/manager must ensure that there is a strong reason to believe that the employee’s presence will compromise the investigation or that there is a threat to the property of the University or safety of others;
   3. If there is prima facie case, he/she must report this to his/her line manager with a recommendation for suspension including the reasons of why the University should suspend the employee;
   4. The direct line manager may support or reject the recommendation. If supported, the recommendation should be forwarded to either:
      1. The Director (support staff) if the line manager is not the Director; and
      2. The Dean (academic or support staff in academic departments).
   5. Where Director/Dean supports the suspension, this recommendation should be made to the Director: HR or to the appropriate person so designated, who will then arrange, on notice, for an urgent meeting with relevant Director/Dean, the relevant staff member concerned, as well as the staff member’s representative. Because of the potential threat that the staff member represents to the investigation process, alternatively the property of the University and/or others, the meeting will be held on relative short notice and no less than twenty four (24) hour’s written notice, the period of notice be determined on a case-by-case basis At this meeting, the employee will be:

* **advised of the reasons for holding the suspension hearing. It must be made clear to the employee that the employer's intention to suspend the employee is purely for purposes of ensuring the integrity of the investigation, alternatively the protection of the University and other persons within the University, and should not be viewed as being either a punitive suspension nor as an indication that the employer has predetermined the outcome of the investigation, alternatively disciplinary process;**
* **given an opportunity to make representations as to why he/she should not be suspended as well as to make suggestions regarding suitable alternatives to suspension;**
* **advised that the suspension will run for the duration of the investigation, and/or the disciplinary hearing;**
* **advised that if the investigation concludes that there is no evidence to proceed with disciplinary charges as against the employee, that the suspension will be uplifted;**
* **advised that the period of suspension will be on full pay provided that the employer reserves the right to suspend payment to the employee during the period of suspension, if the employer is of the view that either the investigation or the disciplinary hearing and its outcome are being unduly delayed as a direct result of the employee's actions or inactions to frustrate the process.**

**It is important to note during this process that it is not a hearing wherein the merits of the matter are to be debated, but rather the pros and the cons of suspending the employee.**

* 1. Having considered this input, the Dean/ Director then make a final decision;
  2. A suspension letter is then issued by the Dean/Director to the staff member. (The template of a suspension letter is available).

**Last updated: January 2013**

1. Prima facie is a legal term meaning that on first examination of the facts, there appears to be sufficient cause for the matter to be pursued. [↑](#footnote-ref-1)