



RHODES UNIVERSITY
Grahamstown • 6110 • South Africa

STAFF DISCIPLINARY CODE & PROCEDURE

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DEFINITIONS

“**CCMA**” means the Commission for Conciliation, Mediation and Arbitration as established in terms of Section 112 of the LRA.

“**Code of Good Practice: Dismissal**” means the Code of Good Practice: Dismissal as provided for under Schedule 8 of the LRA.

“**Days**” mean working days and exclude any public holidays, Saturdays and Sundays and the period from the 15th December to the 15th January (both days inclusive).

“**Employee**” means all staff as defined by the Labour Relations Act 66 of 1995 (as amended) employed by the University excluding post grades 18 to 25 and Deans.

“**Employer**” means Rhodes University as recognised by the Higher Education Act No 101 of 1997 as amended.

“**Full-time Shop Steward**” means an employee appointed by the members of the Union and its Branch Executive Committee, who is released from normal job responsibilities in order to execute the agreed responsibilities and in accordance with the LRA. This employee is paid by the University.

“**Management**” means a senior manager of the institution who directly or indirectly oversees and regulates the activities of an employee of the University and who is duly authorised by the University to act as a manager or a management representative.

“**Line Manager**” means first line manager or supervisor of an incumbent in a post.

“**Higher level manager**” divisional/faculty head who has overall responsibility and to whom a line manager reports to.

“**Legal representative**” means a person who is legally trained.

“**Misconduct**” means improper and/ or unacceptable behaviour by an employee, which falls below the standards that might be expected or reasonably be expected of an employee, leading to such an employee’s failure to adhere to the rules and policies of the University. Such employee’s behaviour is normally deliberate and not as a result of circumstances beyond the control of the employee.

“**Shop Steward**” means an employee elected to the position of the shop steward in accordance with the Constitution of the Union.

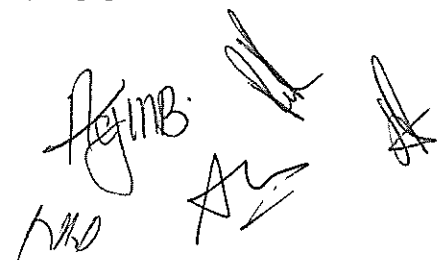
“**Trade Union**” means an association of employees whose principal purpose is to regulate relations between employees and employers, including any employers’ organisations.

“**Trade Union Representative**” means a member of a trade union elected to represent employees in the work place.

“**Union Official**” means a person employed by the Union.

“**University**” means the employer, Rhodes University.

“**Workplace**” means any place or places where the employees of the University engage in work.

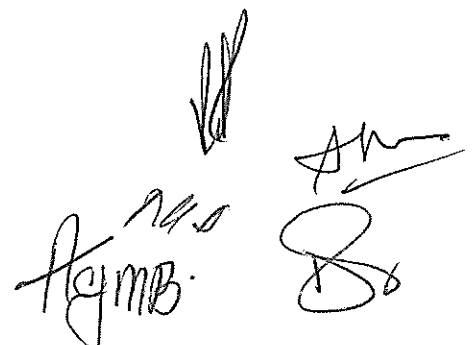
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“Employee Relations Office” refers to office designated within the HR Division dealing with all employee relations matters.

1. PREAMBLE

The University and the Trade Unions recognise that: -

- 1.1 All policies and procedures governing staff must be consistent with this Code. In the case of any inconsistency, this Code prevails. The headings in this Code are for ease of reference to the interpretation of the clauses contained herein.
- 1.2 It is the obligation of employees to abide by acceptable rules of conduct and to discharge their duties faithfully and diligently and the role of management is to ensure that they do so in the best interests of the University.
- 1.3 Disciplinary action may be instituted against an employee who is alleged to be guilty of misconduct in terms of this Disciplinary Code and Procedure. Issues pertaining to incapacity either on the grounds of ill-health or poor performance shall be governed by appropriate University Policy, in the absence of which, Schedule 8 Code of Good Practice: Dismissal at Section 9, 10 and 11 as contained in the LRA shall prevail.
- 1.4 All sexual harassment cases shall be handled in terms of the Code of Good Practice on the Handling of Sexual Harassment Cases as contained in the Labour Relations Act 66 of 1995, as amended.
- 1.5 The Disciplinary Code and Procedure sets out a schedule of various offences with recommended sanctions which shall constitute only a guideline which the University will attempt to follow and apply as far as is reasonably possible.
- 1.6 The Disciplinary Code and Procedure distinguishes between misconduct that will be the subject of progressive discipline and misconduct that is of such a serious nature that it makes a continued employment relationship intolerable, thereby requiring application of a disciplinary procedure which may lead to dismissal.
- 1.7 It is not possible or practical to include an exhaustive list of every conceivable offence in a Disciplinary Code and Procedure. The Disciplinary Code and Procedure therefore lists the more common types of offences. Accordingly, the omission of any offence from this Disciplinary Code and Procedure shall not prohibit the University from instituting disciplinary action against an employee for any misconduct not listed in this Disciplinary Code and Procedure.
- 1.8 A very serious offence is regarded as misconduct of such a serious nature that it fundamentally breaches the employment relationship between the employee and the University. In the event that an employee commits such a serious offence, the University may dismiss the employee after due process in terms of this Disciplinary Code and Procedure is followed.
- 1.9 Less serious misconduct may be subjected to the informal or formal progressive disciplinary action set out in this Disciplinary Code and Procedure.



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2. POLICY DETAILS

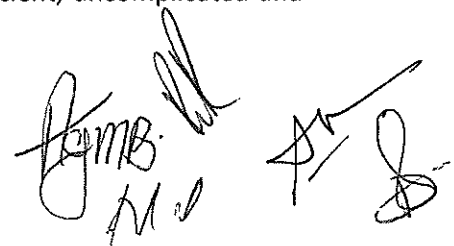
2.1 Policy Statement

- 2.1.1 The University expects that all its employees shall be treated with dignity and respect and shall be afforded the fundamental rights enshrined in the Constitution of the Republic of South Africa, 1996.
- 2.1.2 The University expects satisfactory conduct, performance, adherence and regular attendance from all its employees whilst performing their duties in accordance with their contracts of employment.
- 2.1.3 The parties acknowledge that disciplinary rules and procedures are necessary to uphold and promote discipline and fairness and to ensure that all employees maintain the standards of conduct and discipline expected of them, which will enable the University to operate effectively.
- 2.1.4 This Disciplinary Code and Procedure is an aid to managing the standard of conduct (other than incapacity) and indicates the level of discipline expected of University employees. It further sets out the disciplinary procedures that deal with employees who have allegedly committed misconduct.

2.2 Purpose

The purpose of this Disciplinary Code and Procedure is to:

- 2.2.1 Establish a fair and uniform procedure for managing employee discipline and to replace and repudiate all existing staff disciplinary procedures and related policies.
- 2.2.2 Inform all employees of the standards of conduct expected of them in the workplace and what corrective actions or measures may be taken in the event of non-adherence to such standards of conduct.
- 2.2.3 Set and maintain standards of conduct within the University which will ensure that all employees are treated consistently, equally and fairly.
- 2.2.4 Assist and encourage all employees to achieve and maintain satisfactory standards of conduct and performance.
- 2.2.5 Preserve and support productive relations in the University by maintaining and promoting acceptable interactions, conduct and mutual respect between all employees and between the University and employees.
- 2.2.6 Ensure that all levels of employees share a common understanding of what misconduct and discipline entail.
- 2.2.7 Prevent and correct all types of misconduct as well as providing a guideline relating to sanctions for misconduct.
- 2.2.8 Provide employees and the University with an efficient, uncomplicated and fair process for the application of discipline; and

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2.2.9 Ensure prompt, consistent and fair treatment of all employees and to assist in enabling both the employee and the University to be clear about the expectations of both parties.

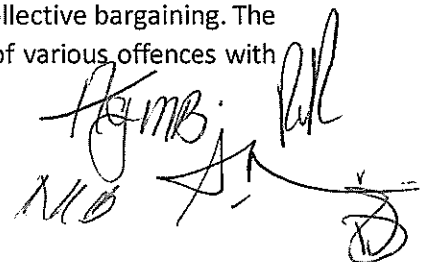
2.3 Governing Principles

Rhodes University strives to give effect to the following principles: -

- 2.3.1 An employee who lodges a complaint will not be prejudiced in the employee's employment relationship with the University;
- 2.3.2 Employees should be free to report misconduct of co-employees to the University;
- 2.3.3 The University will strive to treat disciplinary matters as confidential;
- 2.3.4 No employee will be disciplined for a reason relating to misconduct without having had the benefit of a disciplinary procedure in terms of this Disciplinary Code and Procedure;
- 2.3.5 Every effort will be made to conclude disciplinary processes within a reasonable timeframe. Ideally, and with due regard for the complexity of the matters and barring situations beyond the University's control, once the disciplinary process has commenced (excluding the investigative process) it shall be concluded within sixty calendar (60) days.
- 2.3.6 Employees will be afforded a fair and equal opportunity to be heard and to exercise their rights as stated in this Disciplinary Code and Procedure.
- 2.3.7 Disciplinary action: -
 - a) Is generally aimed at being progressive and corrective in nature and not punitive.
 - b) Will be resolved and concluded as promptly as reasonably possible.
 - c) Will not seek to imitate formal court proceedings.
 - d) Requires all parties to adhere to fair procedures.
- 2.3.8 There shall be a separation of powers in all formal discipline related matters. In order to ensure a separation of powers, the person chairing the hearing shall not be the same person who investigates and/or presents the case.
- 2.3.9 The principles of natural justice, equity and fairness should be adhered to in the handling of disciplinary matters.

2.4 Scope and Application

- 2.4.1 The Disciplinary Code and Procedure is a product of collective bargaining. The Disciplinary Code and Procedure sets out a schedule of various offences with

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recommended sanctions which shall constitute only a guideline which the University will attempt to follow and apply as far as is reasonably possible; and

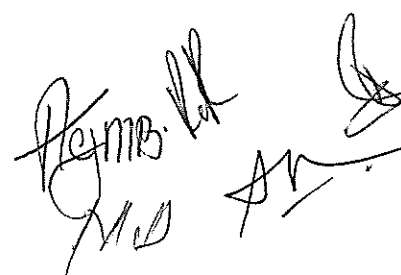
- 2.4.2 The Disciplinary Code and Procedure applies equally to all employees as defined by the LRA, excluding post grades 18 to 25 and Deans. Disciplinary matters for grades 18 to 25 and Deans will be handled in accordance with the Labour Relations Act, No. 66 of 1995 (as amended).
- 2.4.3 Senior employees (posts grades 18 to 25 and Deans) play both leadership and strategic roles at Rhodes University. As such, their conduct and performance must be beyond reproach. For this reason, they are subject to a higher standard of discipline than other employees. The Labour Relations Act governs them directly.

2.5 Relevant Legislation

- 2.5.1 The Constitution of the Republic of South Africa, 1996;
- 2.5.2 The Labour Relations Act 66 of 1995 (hereinafter "the LRA") as amended;
- 2.5.3 Basic Conditions of Employment Act 75 of 1997 (hereinafter "the BCEA") as amended;
- 2.5.4 The Employment Equity Act 55 of 1998 (hereinafter "the EEA" as amended);
- 2.5.5 Promotion of Administrative Justice Act 3 of 2000 (hereinafter "PAJA") as amended;
- 2.5.6 The Occupational Health and Safety Act 55 of 1993 (hereinafter "OHSA") as amended;
- 2.5.7 The Protected Disclosures Act 26 of 2000;
- 2.5.8 The Code of Good Practice contained in Schedule 8 of the LRA, insofar as it relates to discipline; and
- 2.5.9 Any other applicable employment legislation.

2.6 Roles and Responsibilities

- 2.6.1 The enforcement of discipline remains the responsibility and is within the control of management and/or any person employed in a supervisory or managerial capacity and who is duly authorized.
- 2.6.2 With the assistance of HR, the role of the Line Manager /Higher level Manager is to: -
 - 2.6.2.1 Ensure that all staff in the relevant area have an understanding of the Disciplinary Code and Procedure;
 - 2.6.2.2 Ensure the fair and consistent implementation and application of the Disciplinary Code and Procedure and its provisions;
 - 2.6.2.3 Monitor adherence to the relevant policies and processes, including dealing with any non-compliance by supervisors or managers reporting to him/her; and
 - 2.6.2.4 Seek advice from the ER Office/HR Division regarding matters on the interpretation and the application of the Disciplinary Code and Procedure.



2.6.3 With the assistance of HR, the role of the Union/employee representative is to: -

2.6.3.1 Ensure that officials and office bearers of the Union have a comprehensive understanding of the policy and processes;

2.6.3.2 Encourage members of the Union to adhere to the policy and processes;

2.6.3.3 Report any concerns that they or the Trade Unions' members may have in relation to the subject matter of this Disciplinary Code and Procedure to the HR Division/ER Office.

2.6.4 Role of the HR Division/ER Office is to: -

2.6.4.1 Ensure that all staff have a comprehensive understanding of the Disciplinary Code and Procedure and its processes;

2.6.4.2 Maintain consistent application of the Disciplinary Code and Procedure by managers and supervisors;

2.6.4.3 Provide support and guidance to all staff where necessary;

2.6.4.4 Consult with managers and staff if there are any queries or concerns;

2.6.4.5 Endeavour to keep line managers and employees informed of the progress and/or outcomes of investigations and/or disciplinary matters;

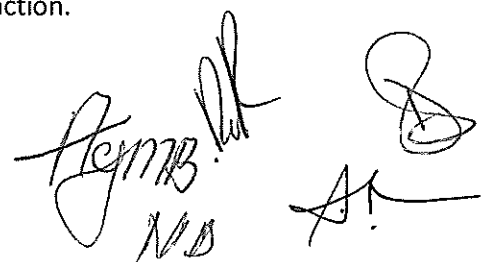
2.6.4.6 Ensure compliance with relevant legislation and the Disciplinary Code and Procedure; and

2.6.4.7 In the event of allegations of misconduct having been made against the employee, to keep the employee's line manager reasonably informed of the process and the University's final position in relation to those allegations. In the event of the employee being engaged in relation to the allegations and/or otherwise being made aware of the allegations to likewise keep the employee reasonably informed of the process and the University's final position in relation to those allegations.

3. DISCIPLINARY PROCEDURE

3.1 The Disciplinary Process

3.1.1 It is the philosophy of the University to make every effort to deal with minor incidents of misconduct at an early stage through corrective counselling, informal discussion and supervision between the employee and his/her immediate line manager. The formal disciplinary process should therefore only be used where informal corrective action has failed or the misconduct is serious enough to warrant a formal disciplinary action.

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3.1.2 Disciplinary proceedings against trade union representatives are subject to the provisions contemplated in the recognition agreements between the University and the Trade Unions. In the absence of such agreements, the provisions of Schedule 8(4) of the LRA will dictate the relevant process to be followed.

3.2 Informal Disciplinary Procedure

3.2.1 Cases of minor misconduct should be dealt with by the line manager. The line manager should use a corrective counselling approach aimed at correcting inappropriate conduct and/or behaviour and discussing ways to improve. This approach requires line managers to be supportive, to understand legitimate reasons (if any) for the inappropriate conduct and/or behaviour and where possible to advise and assist the employee with the aim of improving the conduct and/or behaviour. The employee is expected to acknowledge the need to change and to cooperate and make an effort to change his/her conduct and/or behaviour. It is not necessary to keep a record of this informal corrective discussion. If one has been written, it has to be shared between the line manager and the employee.

3.3 Formal Disciplinary Procedure

3.3.1 A formal disciplinary process will be invoked in instances of allegations of a misconduct that is sufficiently serious and cannot be addressed through an informal disciplinary procedure or in instances where an informal disciplinary procedure has failed to address the problematic misconduct or some aspects of it persist.

Depending on the circumstances and/or the seriousness of the misconduct, the Disciplinary Code and Procedure distinguishes between Level 1, Level 2 and Level 3 misconduct. A disciplinary sanction to be imposed will depend on the facts of the case and the level of the offence. The appropriate sanction may vary from a formal verbal warning to a dismissal. Serious misconduct may lead to a dismissal.

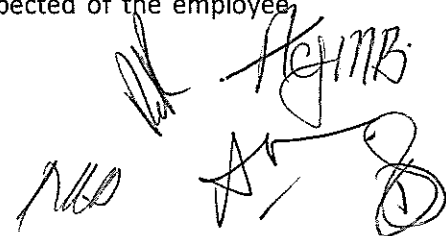
3.4 Level 1 – May lead to a formal verbal warning

A Level 1 offence is a conduct that is regarded as warranting disciplinary action. Examples of Level 1 offences can be found in Appendix 1 on pages 18 and 19 (numbers 39 to 46). Note Appendix 1 is a guideline and is not an exhaustive list of offences.

3.4.1 In the case of a formal verbal warning as provided for in Level 1, the line manager must consult the relevant Senior HR Practitioner, who will fulfil an advisory role prior to the commencement of a disciplinary action.

3.4.2 The line manager shall, in writing, inform the employee of the alleged unsatisfactory conduct and advise him/her of a meeting to be held to discuss the employee's alleged conduct.

3.4.3 The line manager shall, in this discussion with the employee, ensure that the employee understands exactly what conduct is expected of the employee.

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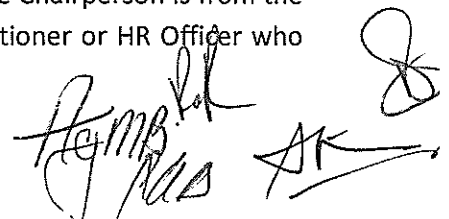
what the alleged misconduct was and afford the employee an opportunity to express his/her views.

- 3.4.4 The employee shall have the right to have a trade union representative or fellow employee present at the discussion but only for the purpose of observing what is discussed between the line manager and the employee.
- 3.4.5 Where a need to correct the employee's conduct is identified, the line manager shall explain to the employee what steps are required within an agreed timeframe and how the employee's conduct will be reviewed within the agreed period.
- 3.4.6 The line manager shall keep a record of the discussion and the formal verbal warning, which shall be provided to the employee.
- 3.4.7 The line manager and the employee or a witness shall sign the record of the discussion and confirmation of formal verbal warning, a copy of which shall be kept by the line manager.
- 3.4.8 The record of the verbal warning will form part of the employee's disciplinary record and will be valid for six (6) months.
- 3.4.9 The employee may refer the formal verbal warning to the Employee Relations Manager for review within five (5) days from the date that the warning was issued. The employee shall set out, in writing, the grounds on which he/she alleges that the formal verbal warning should be reviewed. The Employee Relations Manager will, informally, and without any need to meet with the parties, review the procedure, the finding and/or sanction and inform the parties within ten (10) days of the outcome of the review.
- 3.4.10 In the event that the employee is from HR, the employee may refer the formal verbal warning to the Vice-Chancellor for review within five (5) days from the date that the warning was issued. The Vice-Chancellor who shall have the power to delegate the review to any person she/he deems appropriate will, informally, and without any need to meet with the parties, review the procedure, the finding and/or the sanction and inform the parties within ten (10) days of the outcome of the review.

3.5 Level 2 – May lead to a written warning or final written warning

Examples of Level 2 offences can be found in Appendix 1 on pages 17 and 18 (numbers 24 to 38). Note Appendix 1 is a guideline and is not an exhaustive list of offences.

- 3.5.1 In cases of less serious misconduct (Level 2) or an accumulation of minor misconduct offences (Level 1) which a written warning or a final written warning is contemplated being issued to the employee, the University will invoke a Level 2 disciplinary process.
- 3.5.2 The employee shall receive a notice of the disciplinary hearing and the procedure to be followed for the disciplinary hearing is as is set out under the heading of "The Disciplinary Hearing".
- 3.5.3 The ER Office will identify and allocate a suitable Chairperson (line manager from another division/faculty). In the event that the Chairperson is from the HR Division then he/she shall not be the HR Practitioner or HR Officer who

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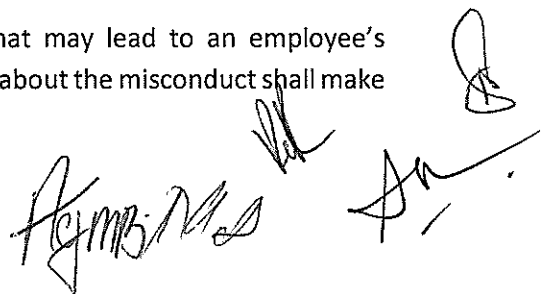
services the Division in which the employee is employed. The Chairperson to chair a disciplinary hearing should be one level higher/more senior than the accused employee.

- 3.5.4 The employee may be represented by any fellow employee or a trade union representative. The employee will in any event have the right to have a trade union representative present at the disciplinary hearing even if represented by another fellow employee.
- 3.5.5 The Chairperson has the authority to issue the employee with a written warning or final written warning.
- 3.5.6 The warning shall be issued to the employee in the presence of his/her representative.
- 3.5.7 Should an employee elect not to sign the warning, such warning shall nevertheless be regarded as valid, provided that a witness attests to such refusal to sign.
- 3.5.8 The employee's manager shall keep a record of the disciplinary enquiry and such warning and ensure that a copy thereof is forwarded to the Employee Relations Manager within five (5) days of issuing of the warning.
- 3.5.9 A warning issued to an employee will form part of the employee's disciplinary record and will be valid for a period of six (6) months from date of issue in the case of a written warning and twelve (12) months in the case of a final written warning.
- 3.5.10 The employee may refer the written warning or final written warning to the Employee Relations Manager for review within five (5) days from the date that the warning was issued. The employee shall set out the grounds on which he/she alleges the written or final written warning should be reviewed. The Employee Relations Manager will, informally, and without any need to meet with the parties, review the procedure, the finding and/or the sanction and inform the parties within ten (10) days of the outcome of the review.
- 3.5.11 In the event that the employee is from HR, the employee may refer the written warning or final written warning to the Vice-Chancellor for review within five (5) days from the date that the written warning or final written warning was issued. The Vice-Chancellor who shall have the power to delegate the review to any person she/he deems appropriate will, informally, and without any need to meet with the parties, review the procedure, the finding and/or the sanction and inform the parties within ten (10) days of the outcome of the review.

3.6 Level 3 – May lead to a Dismissal or Suspension without pay

Examples of Level 3 offences can be found in Appendix 1 on pages 15, 16 and 17 (numbers 1 to 23). Note Appendix 1 is a guideline and is not an exhaustive list of offences.

- 3.6.1 In the event of an alleged transgression that may lead to an employee's dismissal, the employee/person complaining about the misconduct shall make

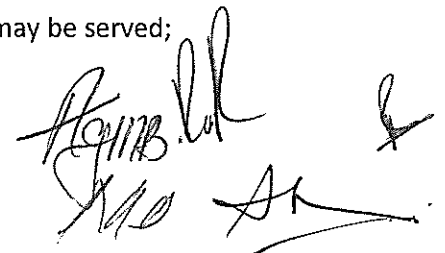


a written request to the Employee Relations Manager to investigate or review any investigation which had already been done. The Employee Relations Manager will decide whether there is a *prima facie* case and whether to proceed with any disciplinary action against the employee.

- 3.6.2 In the event that the complaint is against anyone in the HR Division then the employee/person complaining about the misconduct shall make a written request to the Vice-Chancellor, who shall have the power to delegate the investigation and/or review of an investigation already done to any person she/he deems appropriate. The Vice-Chancellor or their nominee will decide whether there is a *prima facie* case to proceed with any disciplinary action against the employee. The Vice-Chancellor or their nominee shall have the powers set out herein in respect of any alleged transgression notwithstanding that the complaint may not have been made to the Vice-Chancellor.
- 3.6.3 The employee shall receive a notice of the disciplinary hearing and the procedure to be followed for the disciplinary hearing is as set out under the heading of "The Disciplinary Hearing".
- 3.6.4 The University may appoint any person to act as the University's representative during the disciplinary hearing, subject to the approval of the Vice-Chancellor.
- 3.6.5 The University must appoint an external person to act as Chairperson of the disciplinary hearing. The external Chairperson will be appointed from a panel of 10 Chairpersons agreed to between the University and the Trade Unions from time to time. The Chairpersons shall be used in the order in which they appear on the agreed list, unless the Chairperson is not available to chair the hearing in which case the Chairperson directly below them shall be appointed and so forth. Following the appointment of a Chairperson, the Chairperson appearing directly below them on the agreed list shall be the first approached for the next appointment and if not available then the procedure set out above shall be followed.
- 3.6.6 In the event that a postponement of the disciplinary hearing is requested by either the University or the employee, such a party shall request a postponement in writing from the Chairperson at least two (2) days prior to the disciplinary hearing, or if this is not practical due to exceptional circumstances, verbally at the Disciplinary Hearing.
- 3.6.7 If the Chairperson decides to dismiss the employee, he/she shall provide the date of dismissal together with details of any notice arrangements.

4. THE DISCIPLINARY HEARING

- 4.1 If a disciplinary hearing is required, the office of the Employee Relations Manager will prepare a notice of the disciplinary hearing, to be issued to the employee at least five (5) days prior to the hearing, setting out the following: -
 - 4.1.1 The time, date and place of the hearing;
 - 4.1.2 The alleged transgression(s);
 - 4.1.3 The address at which notices and correspondence may be served;



- 4.1.4 That the employee may be represented during the disciplinary hearing by a fellow employee or trade union representative;
 - 4.1.5 That the employee would be entitled to proceed in the language of the employee's choice and that an interpreter will be arranged if requested by the employee;
 - 4.1.6 That the employee must communicate to the employer, at least 48 hours prior to the hearing, in what language the disciplinary hearing should be interpreted;
 - 4.1.7 That if the employee or the employee's representative fails to attend the hearing, it may be conducted in the employee's or their representative's absence;
 - 4.1.8 The name of the Chairperson who will chair the disciplinary hearing;
 - 4.1.9 The employee should acknowledge receipt of the notice. Where the employee is not available or unwilling and/or refuses to sign, a witness must sign;
 - 4.1.10 That the employee may use any relevant documents during the hearing;
 - 4.1.11 That the employee may present evidence and/or call witnesses to testify on the employee's behalf.
- 4.2 The Employee Relations Manager shall arrange the disciplinary hearing within 20 days from when the decision to prosecute was made or as soon as reasonably possible.
 - 4.3 In the event where the misconduct is of a very serious nature, the employer may suspend the employee, as a precautionary measure, on full pay with immediate effect until the finalisation of the Disciplinary Procedure provided that Clause 7 of this Disciplinary Code and Procedure is given effect to.
 - 4.4 If possible and practical, all documentation which will be used at the disciplinary hearing must be indexed and paginated.
 - 4.5 The parties shall make every effort to attend the disciplinary hearing. Should there be an acceptable reason for either of the party's non-attendance, the Chairperson may postpone the hearing to a date agreed upon by the parties, or in the event that the parties are not able to reach an agreement, to a date determined by the Chairperson.
 - 4.6 The principles and ethics of natural justice and fair procedure must be adhered to by the Chairperson during the disciplinary hearing in determining, on a balance of probabilities, the guilt or not of the employee.
 - 4.7 The Chairperson must exercise care, proceed diligently and act impartially.
 - 4.8 The Chairperson has a discretion concerning verbal or written closing arguments.
 - 4.9 If an employee is found guilty after having pleaded not-guilty, and after the parties have submitted their closing arguments, the outcome on the guilt of the employee shall be given with reasons for the finding in writing by the Chairperson within fourteen (14) days of the last day of the hearing unless it is not reasonably possible or the parties agree to an extension.
 - 4.10 If an employee has pleaded guilty, the outcome of the hearing may be given verbally at the hearing, provided the Chairperson is satisfied that the employee understands the allegations made against them, that they admit all the elements of the alleged misconduct and that closing arguments have been submitted (if required). However,

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the same outcome shall be confirmed in writing with reasons for the finding by the Chairperson within fourteen (14) days of the last day of the hearing unless it is not reasonably possible or the parties agree to an extension.

- 4.11 In the event of a guilty finding, the Chairperson has discretion concerning the form (verbal or written) in which evidence in aggravation and/or mitigation and/or submissions concerning the appropriate sanction may be presented.
- 4.12 The Chairperson will provide the parties with the sanction in writing within fourteen (14) days unless it is not reasonably possible after the submissions have been made on mitigating and aggravating circumstances.
- 4.13 If an employee is dismissed, or suspended for a period of time without pay, the Chairperson shall inform the employee of the employee's right to refer the outcome of the disciplinary enquiry to the CCMA.

5. THE EMPLOYEE'S RIGHT TO REFER DISPUTES TO THE CCMA

If an employee is dismissed, or suspended for a period without pay, the Chairperson shall inform the employee of the employee's right to refer the outcome of the disciplinary hearing to the CCMA within the relevant timeframes provided by the LRA for referral.

6. SANCTIONS FOR MISCONDUCT

The Chairperson of the disciplinary hearing shall have the discretion as to the appropriate sanction to impose, paying due regard to the level of the offence. Although the Chairperson should have regard to the recommended sanctions in this Disciplinary Code and Procedure, there will be no duty on the Chairperson to blindly follow such recommended sanctions.

6.1 Formal Verbal Warning

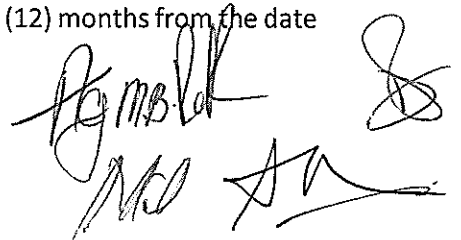
- 6.1.1. This sanction may be issued for Level 1 offences or similar less serious offences.
- 6.1.2. The verbal warning will be recorded by way of a note of these offences on the relevant template.
- 6.1.3. A verbal warning shall remain valid for a period of six (6) months from the date that it was recorded by a note on the relevant template and conveyed to the employee.

6.2 Written Warning

- 6.2.1 The written warning will be in writing and will provide details of the misconduct.
- 6.2.2 A written warning shall remain valid for a period of six (6) months from date that it was issued to the employee.

6.3 Final Written Warning

- 6.3.1 The final written warning will be in writing and will provide details of the misconduct.
- 6.3.2 A final written warning shall remain valid for twelve (12) months from the date that it was issued to the employee.



6.4 Suspension as a disciplinary sanction

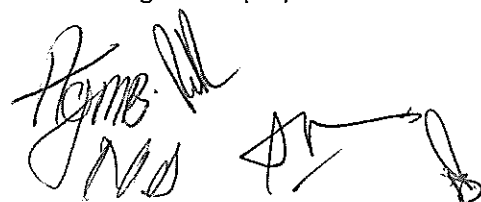
- 6.4.1 If an employee is found guilty of serious misconduct, the employee may be suspended without pay as a disciplinary sanction for a maximum of three (3) months, as an alternative to a dismissal. The Chairperson has the discretion to apply this sanction as an alternative to a sanction of a dismissal.
- 6.4.2 Contributions towards the employee's medical aid and pension/provident fund will still be paid by the University during the period of suspension. The employer will recover such contributions from the employee in terms of the applicable policy of the University.

6.5 Dismissal

- 6.5.1 The Chairperson of the disciplinary hearing shall determine whether or not a dismissal is the appropriate sanction and if not, what the appropriate sanction shall be.
- 6.5.2 A sanction of dismissal may be issued if the employee is found to have committed serious misconduct that cannot be remedied by issuing a verbal warning, written warning, final written warning, or suspension without pay as an alternative to dismissal.
- 6.5.3 Depending on the circumstances, a dismissal may take place summarily or with notice.
- 6.5.4 There shall be no internal appeal process available to the employee in the event of a dismissal or suspension without pay. However, the dismissed employee may refer a dispute to the CCMA in terms of the relevant provisions of the LRA.

7. PRECAUTIONARY SUSPENSION

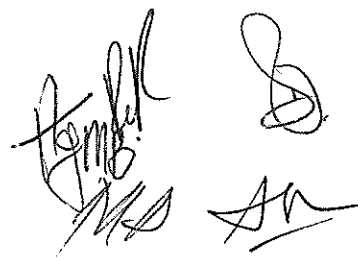
- 7.1 A precautionary suspension is not automatic nor in itself, a disciplinary action. However, in certain circumstances, the Director: HR or his/her authorized representative may suspend an employee for any reasonable period. In the case of an employee in the HR Division, this prerogative rests with the Vice-Chancellor or his/her nominee. These circumstances include but are not limited to:
- 7.1.1 Where an employee is alleged to have committed an act of serious misconduct;
- 7.1.2 When it is deemed necessary to remove the employee under investigation from the workplace because there is a reasonable apprehension that the employee might interfere with the investigation or pose some other threat;
- 7.1.3 Where it is considered to be part of the University's duty of care to the employees and/or students involved; or
- 7.1.4 Where objectively, a justifiable reason exists for excluding the employee from the workplace.



- 7.2 Based on the outcome of the preliminary investigation, the Director: HR or his/her designate (or in the case of staff in the HR Division the Vice-Chancellor or his/her nominee) shall notify the employee in writing of such intention.
- 7.3 The employee shall be afforded 48 hours from the time the notice of intention to suspend was issued to submit reasons verbally or in writing for consideration before a final decision is made regarding the suspension of the employee. Such reasons shall be submitted to the Director: HR (or in the case of staff in the HR Division the Vice-Chancellor) for a final determination as to whether or not to suspend the employee.
- 7.4 The suspension will be confirmed in writing, setting out the grounds on which the decision to suspend has been taken.
- 7.5 Precautionary suspensions shall be on full remuneration and the suspended employee will be kept informed of the progress of their case by the ER Office (or in the case of staff in the HR Division by the Vice-Chancellor's office) even in cases where external investigators have been appointed.
- 7.6 During a period of suspension, the employee must remain contactable if and as required. In addition, the employee must not interfere with the investigation and/or potential witnesses and/or tamper with evidence. The employee's staff card, along with their IT access, may be suspended.
- 7.7 If a suspended employee or their representative wishes to have access to campus and/or access their IT account, they should contact the Employee Relations Manager.
- 7.8 The employee is not allowed to take up alternative employment during this period.

8. LEGAL REPRESENTATION

An employee is entitled to legal representation at his/her own cost during a Level 3 hearing.

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9. APPENDIX 1 – GUIDELINE FOR THE NATURE AND CATEGORY OF OFFENCES

Nature of offence		First offence	Second offence	Third offence	Fourth offence
9.1 LEVEL 3 – Serious					
1	Submitting false documentation, information or a CV during application for employment.	Dismissal	-	-	-
2	Submitting of false information regarding previous misconduct or criminal offence.	Dismissal	-	-	-
3	Intentional damage to property.	Dismissal	-	-	-
4	Assault and/or Fighting.	Dismissal	-	-	-
5	Misappropriation or unauthorised possession of property.	Dismissal	-	-	-
6	Fraudulent use of the University property or name.	Dismissal	-	-	-
7	Soliciting, receiving or offering a bribe; corruption.	Dismissal	-	-	-
8	Hate speech.	Dismissal	-	-	-
9	Sabotage.	Dismissal	-	-	-
10	Gross insubordination.	Dismissal	-	-	-
11	Sexual harassment, rape or attempted rape.	Dismissal	-	-	-
12	Intentionally giving false evidence and/or making a false statement(s).	Dismissal	-	-	-

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Nature of offence		First offence	Second offence	Third offence	Fourth offence
13	Submitting a false medical certificate.	Dismissal	-	-	-
14A	Unfair Discrimination, racist behaviour, harassment, Intimidation and/or incitement of co-employees or students.	Dismissal	-	-	-
14B	Discriminatory, Insulting, abusive, or racial language, communication or behaviour towards employers, co-employees or students.				
15	Disclosure and/or distribution of confidential information to unauthorised persons.	Dismissal	-	-	-
16	Abscondment with no intention to return to work.	Dismissal	-	-	-
17	Theft	Dismissal	-	-	-
18	Any conduct placing the name of the employer into serious disrepute	Dismissal	-	-	-
19	Dealing in illegal drugs/substances.	Dismissal	-	-	-
20	Unauthorised use of any dangerous weapons on University premises.	Dismissal	-	-	-
21	Intentionally endangering the lives and/or safety of others.	Dismissal	-	-	-

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 RLR
 J
 JMB
 MS
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Nature of offence		First offence	Second offence	Third offence	Fourth offence
22	Unauthorized destruction or deletion of information with the wilful intention of disrupting the operations of the University.	Dismissal	-	-	-
23	Intentional or reckless interference with health and safety measures and/or of health and safety equipment.	Dismissal	-	-	-
	9.2 Level 2 – Less Serious	First offence	Second offence	Third offence	Fourth offence
24	Possession of illegal drugs/substances.	Written Warning	Final written warning	Dismissal	-
25	Any offence relating to time keeping requirements and procedures including attendance and registers	Written Warning	Final written warning	Dismissal	-
26	Dereliction of duty	Written Warning	Final written warning	Dismissal	-
27	Negligently endangering the lives and/or safety of others'	Written Warning	Final written warning	Dismissal	-
28	Insolence towards any supervisor	Written Warning	Final written warning	Dismissal	-
29	Report for duty while under the influence of liquor or narcotics or use of alcohol or other narcotics while on duty	Written Warning	Final written warning	Dismissal	-
30	Causing of damage due to negligence	Written Warning	Final written warning	Dismissal	-
31	Unauthorized use and/or abuse of telephones or Internet-facilities, including accessing another individuals email and ICT accounts.	Written Warning	Final written warning	Dismissal	-

Nature of offence		First offence	Second offence	Third offence	Fourth offence
32	Unauthorised absence from work for 1 or more days without a valid reason	Written Warning	Final written warning	Dismissal	-
33	Sleeping while on duty.	Written Warning	Final written warning	Dismissal	-
34	Distribution of obscene material and/or use of obscene and/or insulting language.	Written Warning	Final written warning	Dismissal	-
35	Refusal to comply with a lawful instruction	Written Warning	Final written warning	Dismissal	-
9.3 Level 2 – Less Serious (OCCUPATIONAL HEALTH AND SAFETY OFFENCES)		First offence	Second offence	Third offence	Fourth offence
36	Negligence regarding health and safety, non-compliance with a safety or health measure or with a lawful instruction regarding health and safety or failure to report an incident or unsafe situation.	Written Warning	Final written warning	Dismissal	-
37	Negligent interference with health and safety measures and/or of health and safety equipment.	Written Warning	Final written warning	Dismissal	-
38	Smoking in an unauthorised area in contravention of the Smoking Policy	Written Warning	Final written warning	Dismissal	-
9.4 Level 1 – Minor		First offence	Second offence	Third offence	Fourth offence
39	Failure to follow a lawful instruction	Formal Verbal Warning	Written warning	Final written	Dismissal


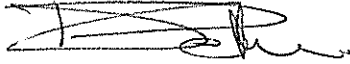


Nature of offence		First offence	Second offence	Third offence	Fourth offence
40	Failing to report for agreed overtime duties	Formal Verbal Warning	Written warning	Final written warning	Dismissal
41	Abuse of sick leave	Formal Verbal Warning	Written warning	Final written warning	Dismissal
42	Display discourtesy towards any person in the execution of their duties.	Formal Verbal Warning	Written warning	Final written warning	Dismissal
43	Failure to inform line manager of absence and expected date/time of return.	Formal Verbal Warning	Written warning	Final written warning	Dismissal
44	Indolent and slow work	Formal Verbal Warning	Written warning	Final written warning	Dismissal
45	Failure to produce a medical certificate as per leave policy	Formal Verbal Warning	Written warning	Final written warning	Dismissal
46	Reporting late for duty and reporting late for duty after authorised break.	Formal Verbal Warning	Written warning	Final written warning	Dismissal

Agmb. 1/10 *AK* *AK* *S*

THIS STAFF DISCIPLINARY CODE AND PROCEDURE AND ANNEXURE 1 IS A PRODUCT OF DISCUSSIONS AND ENGAGEMENT BETWEEN THE UNIONS, HUMAN RESOURCES AND THE EXECUTIVE. IT WAS APPROVED BY COUNCIL ON 30TH MAY 2019.

IT IS DULY SIGNED AS A FINAL AGREEMENT BETWEEN THE PARTIES ON THIS 25TH DAY OF JUNE 2019 AT RHODES UNIVERSITY, MAKHANDA.

IT WILL TAKE EFFECT AT MIDNIGHT 30TH JUNE 2019.

	SIGNATURE
FOR THE NATIONAL EDUCATION, HEALTH AND ALLIED WORKERS' UNION	
FOR THE NATIONAL TERTIARY EDUCATION UNION	
FOR RHODES UNIVERSITY ON BEHALF OF COUNCIL (VICE-CHANCELLOR)	
WITNESS	
WITNESS	