

3. STUDENT DISCIPLINARY RULES

3.1 DEFINITIONS

- 3.1.1 Academic Dishonesty: Academic dishonesty in any form including, but without being limited to plagiarism, and collusion, cheating in tests, examinations, assignments, theses and research papers, or any other such conduct that results in a breach or prejudicial effect on the University's academic integrity.
- 3.1.2 Appeal Committee of Council: The Appeal Committee will consist of three members of the University Council as determined by the Council from time to time.
- 3.1.3 Cheating: refers to cheating in tests, examinations, assignments, theses, research papers or any other such official assessment aimed at achieving a specific academic goal or purpose with reference to a specific study/course/material/subject/degree/diploma or any other such purpose incidental to the functions of the University.
- 3.1.4 Collaborating: refers to working and/or completing tests, examinations, assignments, theses, research papers or any other such official assessment aimed at achieving a specific academic goal or purpose with reference to a specific study/course/material/subject/degree/diploma, with the help and/or assistance and/or joint venture of another person.
- 3.1.5 Collusion: refers to two or more students collectively completing any tests, examinations, assignments, theses, research papers or any other such official assessment aimed at achieving a specific academic goal or purpose with reference to a specific study/ course/ material/ subject/ degree/ diploma and presenting same as individual works.

- 3.1.6 Complainant: refers to the person, entity, or persons (collectively) referring a complaint to the Proctor's Office against a student or group of students.
- 3.1.7 Contravention: refers to any misconduct and/or contravention in the broad sense of any rules or policies contained herein or elsewhere, of the University while the Student is a registered Student of the University.
- 3.1.8 Exclusion: refers to the deprivation for a stated period from participating in specified activities of the University, prevention of entering/ residing in any part of the University premises for a stated period, prevention of participating in any Academic Function of the University for a stated period.
- 3.1.9 Expulsion: refers to the permanent / official removal and legal prohibition from the University.
- 3.1.10 Fabrication: refers to the misrepresentation, falsification and/or untrue reflection of data, research, evidence or attendance of lectures, practical training/ practical hours or any other such misrepresentation associated with a specific study/ course/ material/ subject/ degree/ diploma.
- 3.1.11 Hours/Days: refer to business hours and/or business days and will exclude public holidays and weekends. The period of the Official University Closure as from time to time communicated by the University, shall not be included in the calculation of days or hours.
- 3.1.12 Plagiarism: means to steal, or to pass off as one's own, the formulation, idea or words of another (i.e. appropriating a formulation, idea or words derived from the intellectual work of another person by incorporating, without crediting such author and source, such formulation, idea or words into one's own work).

(Please note: Plagiarism includes, but is not limited to: (a) the appropriation of formulations, ideas or words from the work of another person without acknowledging the author(s) and the source; and (b) the appropriation of work from someone else's assignment, thesis, test or research paper without acknowledging such other person and/or source.)

- 3.1.13 Policy: refers to any such policy approved and/or implemented and/or communicated by the University Council which is applicable to students.
- 3.1.14 Property: refers to, but is not limited to, any premises, area, building, land, structure, immovable/movable property owned and or under the temporary or permanent control of the University.
- 3.1.15 In the presence of: refers to, but is not limited to, appearance: in person, via any digital platform, via teleconference, or any other platform used to ensure a person's involvement in any process undertaken by the Proctor's Office..
- 3.1.16 Residence: refers to any unit/ structure/ building/ physical residence/ temporary placement, whether or not under the control of the University to students for a specified period
- 3.1.17 Residence Rules: refers to all rules communicated or published herein, by the Residences and/or Council of the University and/or Student Disciplinary Rules from time to time.
- 3.1.18 Service/delivery of Documents/Notices: in terms of the Student Disciplinary Rules, means: the delivery of any notice or document by any officer of the Proctor's Office, to a person, in any form of communication whether written or electronic, by way of personal delivery; posting of any document by registered post to the last known postal or residential address; electronic mail to an address designated by the student or allocated to the student by the University. Any document or notice would

be deemed to have been received by such person upon expiration of forty eight hours after the service in the manner provided for in this provision.

- 3.1.19 Sexual Harassment / Sexual Misconduct: refers to the unwanted, persistent sexual attention or advances towards another person. Sexual advances include but are not limited to physical contact, comments, gestures, suggestions, hints, innuendo, communication in any form which the perpetrator knew or should reasonably have known or foreseen will create an environment in which the subjected person would feel humiliated or denied his/her integrity. Sexual Harassment / Sexual Misconduct is regulated by the University's Sexual Violence Policy as amended from time to time.
- 3.1.20 Student: means a person registered for a qualification offered by the University.
- 3.1.21 Student Discipline Court: refers to the members of the Court as established by these Rules and contained in section 3.8
- 3.1.22 Student Representative Council: refers to the student representative body as elected and appointed by the University and in terms of the University Statute.
- 3.1.23 Suspension/suspended: means the temporary interruption/adjournment of the continuation or commencement of a sentence ordered/ imposed by the Student Discipline Court or any alternative measure implemented or proposed by the Proctor's Office.
- 3.1.24 Written Notice: refers to any form of communication whether written or electronic.

3.2 STRUCTURE OF STUDENT DISCIPLINE

Student discipline shall be exercised by:

- 3.2.1 the Rector,
- 3.2.2 the Vice-Rector's Tribunal,
- 3.2.3 the Student Discipline Court,
- 3.2.4 the Appeal Committee of the Council.

3.3 RECTOR

The general supervision and control of student discipline shall vest in the Rector and, except where otherwise directed/delegated by the Rector, shall be administered in terms of these rules.

3.4 PROCTOR AND PROSECUTOR

- 3.4.1 The University may appoint a Proctor who shall advise the Rector and Vice-Rector in any matter relating to student discipline. The Rector may in terms of Rule 3.3 assign those functions and duties to the Proctor that are necessary for the proper execution of disciplinary matters on campus.
- 3.4.2 The Proctor's Office may collect, prepare and present evidence regarding contravention of the rules for student discipline at disciplinary inquiries.
- 3.4.3 The Proctor's Office may be assisted by a Prosecutor, who may collect evidence, consult with witnesses and prosecute persons contravening University rules in the Student Disciplinary Court or argue the University's case before the Appeals Committee.
- 3.4.4 The Proctor's Office may in terms of the delegation of the powers referred to in clause 3.3 and 3.4.1 determine the necessary and appropriate disciplinary steps to be taken against students.
- 3.4.5 Where appropriate the Proctor's Office has the discretion to share information with a Faculty or any internal University structure in respect of a student.

3.4.6 The Proctor's Office has the discretion to return a matter to the relevant Complainant to dispose of the matter.

3.5 VICE-RECTOR'S SUMMARY POWERS

3.5.1 The Vice-Rector, after an enquiry conducted in the presence of the student concerned, and if he/she considers it to be in the interests of the University, may until the final disposition of the charge, forbid the student to:

- 3.5.1.1 enter the University premises;
- 3.5.1.2 reside in a University residence;
- 3.5.1.3 attend lectures;
- 3.5.1.4 write tests or examinations; or
- 3.5.1.5 participate in any other activity of the University.

3.5.2 Should the student decide not to or fail to attend the proceedings, the Vice-Rector may consider and conclude the matter in the student's absence and issue a rule *nisi* that will be valid for 30 (thirty) days. In such a case the matter will be referred to the relevant disciplinary body for hearing of the matter. In the instance that an adverse decision was made in the student's absence, the student may make representations within 4 (four) days to the Proctor's Office and the tribunal may be reconvened.

3.6 OFFENCES

Offences shall consist of the contraventions of any of the following rules:

- 3.6.1 Academic dishonesty which may include but is not limited to any one or more of the following:
 - 3.6.1.1 Cheating on tests, examinations and assessments;
 - 3.6.1.2 copying from another student's test, examination and assessment;

- 3.6.1.3 using or being in possession of material or any electronic device able to store material, resources, documentation in any form, during a test, examination or assessment not authorized by the University;
- 3.6.1.4 collaborating with any other person during a test, examination and assessment without authority,
- 3.6.1.5 knowingly obtaining, using, buying, selling, transporting, or soliciting in whole or in part the contents of an unadministered test, examination or assessment;
- 3.6.1.6 bribing any other person to obtain an unadministered test, examination or assessment or information about an unadministered test, examination or assessment;
- 3.6.1.7 substituting for another student or permitting any other person to substitute for oneself, to take a test, examination or assessment;
- 3.6.1.8 altering a returned test, examination script or assessment for subsequent re-evaluation and marking,
- 3.6.1.9 failure to return a test, examination script or assessment that the supervisor has requested to be returned,
- 3.6.1.10 removal of a test, examination script or assessment from the test or examination venue, which the supervisor has requested not to be removed.
- 3.6.1.11 Plagiarism;
- 3.6.1.12 Collusion;
- 3.6.1.13 Submitting of fabricated documents or timesheets in order to obtain credits or recognition that the student is not entitled to.

- 3.6.2 No student shall, while on any premises owned or controlled by the University or while participating in any University activity, or using University resources/equipment, behave in a violent, threatening, insulting, disorderly, improper or unbecoming way towards an office-bearer or member of the managerial body of the University or a staff member, a fellow student or any other person.

- 3.6.3 No student shall bring onto or possess on University premises any firearm or other dangerous weapon.

- 3.6.4 No student shall threaten another student with or inflict onto him/her any hurt, harm, damage or reprisal for any reason and/or in order to induce such student to act or refrain from acting in any particular manner.
- 3.6.5 No student shall damage, deface or destroy any building, furniture, equipment or books or other property owned or controlled by the University or upon the precincts of the University.
- 3.6.6 A student shall not obstruct or attempt to obstruct members of staff or any Service Provider appointed by the University.
- 3.6.7 A student shall not occupy or be present, or allow any person to occupy or be present, upon any property or premises owned or controlled by the University without permission or after being required to leave such property or premises by a member of staff acting within the scope of his/her duties.
- 3.6.8 A student shall refrain from dishonest conduct which causes or may cause harm to the University and/or members of the University.
- 3.6.9 No student shall make a false declaration prejudicial to the University in whatever form.
- 3.6.10 No student may consume, possess or distribute alcohol upon any property or premises owned or controlled by the University without due authorization.
- 3.6.11 No student may consume, possess or distribute any illegal, prohibited or intoxicating (including those which has a narcotic effect) drug or substance upon any property or premises owned or controlled by the University, including legal substances not authorised by the University. These include substances that upon request, no proof of prescription can be produced for by the student.

3.6.12 A student shall obey any lawful order of a member of staff or any other Service Provider appointed by the University.

3.6.13 No student shall behave in any other way that leads to the consequences described below, if such consequences were or would reasonably have been foreseen at the time when such behaviour occurred:

Behaviour as a result of which:

- (a) the University's good name was impaired;
- (b) the maintenance of order, discipline and security at the University may be prejudiced; and
- (c) the process of tuition, research and administration and general university activities are or may be prejudiced.

3.6.14 No student shall:

3.6.14.1 disrupt the proceedings of a disciplinary body;

3.6.14.2 fail, without just cause, to attend the proceedings of a disciplinary body either as an accused student or a witness, when required to do so,

3.6.14.3 give false evidence at or in connection with an enquiry before a disciplinary body;

3.6.14.4 interfere with, threaten or intimidate a person who is or may be a witness at a disciplinary body.

3.6.15 A student shall comply with any order made by any tribunal.

3.6.16 A student shall comply with all other rules and policies of the University, including but not limited to the rules applicable to residences, as communicated from time to time.

3.6.17 A student shall not under any circumstances ostracize, insult or belittle any other person on account of, including but not limited to:

- (a) that person's mental health/impairment or any other illness;
- (b) sexual identification;
- (c) gender;

- (d) race;
- (e) ethnicity;
- (f) nationality;
- (g) religion;
- (e) social background, social appearance or identification;
- (f) any other social, cultural grounds;
- (g) age;
- (h) differently abled persons

3.6.18 A student who attempts to contravene any of the above-mentioned rules shall be guilty of an offence.

3.6.19 A student who incites or encourages a fellow student or any other person, or conspires with another person to contravene any of the rules of the University, shall be guilty of an offence.

3.6.20 Sexual Harassment:

A student shall refrain from conduct amounting to sexual harassment as defined herein and amplified in the relevant policy of the University, amended from time to time.

3.6.21 Submission of statements or declarations:

No student shall knowingly make a false or erroneous statement or declaration to any member of a managerial body of the University or a staff member or intentionally provide materially false information concerning the University or any member of the managerial body of the University or a staff member, a fellow student or any other person.

3.7 COMPLAINT AND INVESTIGATION PROCEDURE

3.7.1 Whenever a contravention of a University rule is alleged, or if any person has reason to believe that a contravention of a University rule is being or has been committed, a report preferably in writing, should be referred to the Proctor.

- 3.7.2 The Proctor's Office shall investigate the complaint, and if the Proctor's Office is of the opinion that an inquiry into the student's alleged misconduct is necessary, the Proctor's Office shall institute those proceedings against the student before the appropriate disciplinary body. If during the investigation the Proctor's Office obtains further evidence in the matter implicating further contraventions or implicating other students, these students may be charged jointly. The Proctor's Office shall be entitled to lead further evidence and bring additional charges as it deems fit, which may have been uncovered during the investigation.
- 3.7.3 The Proctor's Office shall obtain written statements from witnesses, prepare a charge sheet setting out the charge(s) to be brought against the student and deliver the charge sheet, copies of any statements or documents relating to the matter and a list of witnesses to the appropriate disciplinary body. If the Proctor's Office is of the opinion that it is in the interest of the Complainant or if the seriousness of the misconduct justifies same, the Proctor's Office may issue the student with a letter of restraint, prohibiting the student to act in a certain manner or to commit a certain action. In the event that a letter of restraint has been issued and contravened by the student, the Proctor's Office (in its discretion) may refer the matter to the Vice-Rector's Tribunal to request summary suspension of the student as stipulated by the Rules, pending the investigation and final hearing of the matter.
- 3.7.4 If it is in the interest of justice and if it appears that an offence has been committed by students while engaged in the business affairs or activities of a student society, council, committee, union, club, residence or other association or organisation (referred to hereinafter as student organisation), the prosecutor may in its discretion charge such organisation or the individual members of the organisation, with the offence that has been committed. The organisation's representative in the form of the organisation's president or chairperson and its secretary shall appear before the disciplinary body with the individual student.

- 3.7.5 Any information relayed to a student as part of an ongoing investigation, is to remain confidential, with the exception of sharing the information with a legal representative in preparation of the hearing or obtaining independent legal advice, until finalisation of the matter through the Proctor's Office. Failure to comply will result in further disciplinary action being taken against the student.
- 3.7.6 If after the completion of the investigation the Proctor's Office is of the opinion that the merits of the matter does not justify any disciplinary action to be taken against the accused student, the Proctor's Office in its sole discretion may withdraw the charges brought against the accused student. The Proctor's Office has the discretion to determine whether the matter is provisionally or permanently withdrawn.
- 3.7.7 On request the Proctor's office shall advise the relevant University Executive Members of the outcomes of investigations for noting.
- 3.7.8 Where a qualifying student (that is, a student who qualifies for the award of a degree, diploma or certificate) has been summoned to face a charge before the University Tribunal or Student Disciplinary Court, the graduation of that student, or the award of a diploma or certificate to that student, as the case may be, is suspended until the case has been disposed of by a University Tribunal, the Student Disciplinary Court or the Proctor's Office, unless the Vice-Chancellor, on written application by the student, decides otherwise.
- 3.7.9 The Student Disciplinary Rules are applicable on all registered students at the University of the Western Cape and once any investigation, hearing or appeal of a hearing has commenced the Rules shall remain applicable to each and every student irrespective of whether they deregister in that academic year or fails to register in any following academic year.

3.8 DIVERSION / INTERVENTION

- 3.8.1 The Proctor's Office has the discretion to, when the circumstances or seriousness of the offence does not justify a formal hearing, introduce and implement diversion steps aimed at rehabilitating the behaviour of the student.
- 3.8.2 The Proctor's Office has the discretion to implement any of the following steps or interventions:
- 3.8.2.1 issue the student with a serious warning (with notification to parent if a minor);
 - 3.8.2.2 instructing the student to address a written apology to a particular person or body;
 - 3.8.2.3 instructing the student to repair any damage, loss or costs caused by the student to the property of the University or another person;
 - 3.8.2.4 referral to experts for any social-, psychological-, rehabilitative or other diagnosis, therapy, counselling or aid;
 - 3.8.2.5 community service of such a nature and at such an instance that the Proctor's Office may deem reasonable and appropriate in the circumstances of each case;
- 3.8.3 In the event that the student fails to comply with any of the interventions listed above the Proctor's Office will refer the matter to the Student Disciplinary Court. In such an event, the Proctor's Office will advance arguments in aggravation of the sentence.
- 3.8.4 If the Proctor's Office is of the opinion that it is in the interest of the Complainant or if the seriousness of the misconduct justifies same, the Proctor's Office may issue the student with a letter of restraint, prohibiting the student to act in a certain manner or to commit a certain action.

3.9 NOTICE TO ACCUSED STUDENT AND HIS/HER PARENTS

3.9.1 When proceedings against a student are instituted the Proctor shall give the student concerned not less than 5 (five) days' notice in writing of the following:

3.9.1.1 that proceedings under the rules of student discipline are to be instituted before a specified disciplinary body;

3.9.1.2 the time place and electronic platform (which may include: Zoom, Hangout; Teams or any other similar platform) of the disciplinary hearing;

3.9.1.3 the terms of the rule that the student is alleged to have contravened and sufficient details to acquaint the student with the case to be met;

3.9.1.4 that (s)he must attend the hearing and that (s)he may adduce evidence or make representations in his/her defence;

3.9.1.5 that (s)he may be assisted by a legal representative in the student disciplinary court only with the consent of that court;

3.9.1.6 that (s)he may be found guilty and penalised in his/her absence; and

3.9.1.7 that the proceedings will be conducted in English.

3.9.2 The notice shall be delivered to the student in any one of the following manners:

3.9.2.1 be posted by registered mail to the student's postal address as provided by the student to the University and shall be deemed to have been received by the student within a period of 48 hours after the time of posting, as well as in the manner prescribed by Rule 3.9.2.3, or

3.9.2.2 be left at the student's last known place of residence and shall be deemed to have been received by the student at the time of delivery, or

3.9.2.3 be sent by electronic mail to the student's allocated University e-mail address and shall be deemed to have been received by the student at the time and date sent to the student.

3.9.3 In the case of a minor student/accused, notification shall be given to the guardian or parent of the student/accused in any of the manners stipulated above.

3.10 STUDENT DISCIPLINE COURT

- 3.10.1 The members of the court shall be appointed from the following persons:
- 3.10.1.1 All the professors, senior lecturers and lecturers at the Law Faculty of the University with practical legal experience, or a legal practitioner, and members of the academic staff at the University who are not associated with the Law Faculty.
- 3.10.1.2 Not less than three members of the panel are to constitute the court in any enquiry.
- 3.10.1.3 A professor, a senior lecturer, a lecturer at the Faculty of Law of the University with practical legal experience, or a legal practitioner shall be the chairperson of the discipline court, unless the Rector directs otherwise.
- 3.10.1.4 At the request of an accused student or student organisation, the Rector may invite the President of the Student's Representative Council (or a person nominated by the SRC) to be an additional member of the court for the enquiry.
- 3.10.1.5 The Rector may direct that, in a particular enquiry, a Vice-Rector other than the one who exercised the summary powers in 3.5 above shall be an additional member of the discipline court.
- 3.10.1.6 The Proctor's Office may in its sole discretion on an *ad hoc* basis appoint an appropriate professional assessor or a person with the relevant expertise to be an additional member of the court for the enquiry, if the nature of the matter or the circumstances require same.
- 3.10.1.7 The decision of the majority of members of a court at any enquiry shall be the decision of the court.
- 3.10.2 Enquiry procedure:

- 3.10.2.1 The inquiry shall be conducted in the presence of the accused student, provided that if the student after notice duly given, and without leave of the court, fails to attend the inquiry, the inquiry may proceed in his/her absence. In the latter case the student may make written representations to the court, which the court shall consider.
- 3.10.2.2 An inquiry shall be held in private, except if the court directs otherwise.
- 3.10.2.3 The evidence prepared by the proctor/prosecutor shall be placed before the court.
- 3.10.2.4 In conducting the inquiry, a student discipline court shall proceed in an inquisitorial manner and the court shall call and examine any witness who may be required and/or obtain any exhibits, which may be necessary.
- 3.10.2.5 The rules of the law of evidence shall not apply.
- 3.10.2.6 The proctor/prosecutor may, with leave of the court, call and question witnesses and advance arguments.
- 3.10.2.7 A student may be assisted by a legal representative, including a law student, provided that the legal representative shall contact the Proctor's Office at least 3 (three) days prior to the hearing date and in accordance with Rule 3.9.1.5.
- 3.10.2.8 A student or his/her legal representative may, with leave of the court, call and question witnesses and advance arguments.
- 3.10.2.9 The court shall be a court of record and all oral evidence shall be digitally recorded.
- 3.10.2.10 At the conclusion of the hearing the court shall find the student guilty if on a balance of probabilities it is satisfied that, (s)he is guilty in the light of the evidence advanced or the voluntary and substantiated admission of guilt by the student. If the court is not so satisfied, the student shall be found not guilty.
- 3.10.3 The Proctor/Prosecutor (duly authorised herein) may enter into a plea and sentence agreement with the student. At the instance of the commencement of the hearing, after a plea was entered, the Proctor/Prosecutor may address the Student Disciplinary Court members on the agreement reached, subject to the discretion and decision of the Student

Disciplinary Court members, whether to allow or reject the agreement. Should the Student Disciplinary Court members reject the agreement, the Chairperson may direct the manner in which the matter should proceed.

3.10.4 Imposing a sentence or intervention:

3.10.4.1 In the event of the court finding the student guilty of an offence, it shall afford the student or his/her representative and the proctor/prosecutor, the opportunity to advance evidence and argument, in order to be fully informed as to an appropriate sentence. The court may also call further evidence, including witnesses, if it deems it necessary for the just disposition of the case. The court shall take account of such evidence as well as the academic record and the general conduct at the University of the student before passing sentence upon the student.

3.10.4.2 The court shall impose one or more of the following sentence(s):

3.10.4.2.1 a serious warning (with notification to parent if a minor);

3.10.4.2.2 ordering the student to address a written apology to a particular person or body;

3.10.4.2.3 an order for reparation for any damage, loss or costs caused by the student to the property of the University, another student or any other person;

3.10.4.2.4 a fine, if deemed appropriate in the circumstances and as determined by the Court, based on the severity of the contravention as well as the impact on the parties after due consideration of the mitigating factors of the student;

3.10.4.2.5 deprivation for a stated period of all or specified student privileges;

3.10.4.2.6 exclusion for a stated period from participating in specified activities of the University;

3.10.4.2.7 forfeiting a bursary and/or loan in consultation with the Bursar or subject to the bursary/loan terms

3.10.4.2.8 removal/cancellation of a student appointment of whatever nature, including but not limited to the student's appointment in a student

organisation, in circumstances that warrants the removal based on the merits of the matter;

3.10.4.2.9 exclusion for a stated period from any part of the University, including a residence;

3.10.4.2.10 expulsion from a residence;

3.10.4.2.11 exclusion from the University for a stated period of time;

3.10.4.2.12 expulsion from the University;

3.10.4.2.13 cancellation of examination marks; semester marks; year marks and other form of credit earned in examinations; tests or otherwise, in cases of academic dishonesty;

3.10.4.2.14 forfeiting a degree, diploma or certificate in circumstances where the integrity of the awarded qualification was compromised;

3.10.4.2.15 referral to experts for any social-, psychological-, rehabilitative or other diagnosis, therapy, counselling or aid;

3.10.4.2.16 community service of such a nature and at such an instance that the Court may deem reasonable and appropriate in the circumstances of each case;

3.10.4.2.17 where appropriate and in the case of students registered with a professional body/board, give notification to another professional or academic institution of occupational / professional / educational nature regarding the guilty finding and sentence imposed by the Student Disciplinary Court;

3.10.4.2.18 upon request from another higher education institution, share any relevant outcome of an investigation or Court process with the institution;

3.10.4.2.19 any other order or referral in the Court's discretion as may be appropriate with due regard to the case-by-case evaluation of the matter.

3.10.4.3 The court may direct that the operation or execution of any sentence imposed by the court shall be suspended for a period not exceeding the time the student remains a registered student of the University and upon such conditions as the court may deem appropriate, provided that sentence(s) referred to in Rule 3.10.4.2.1, 3.10.4.2.2, 3.10.4.2.10, 3.10.4.2.12 and 3.10.4.2.13 and 3.10.4.2.14 shall not be suspended.

3.10.4.4 Where the accused before the court is a student organisation the court may:

3.10.4.4.1 impose any of the sentence(s) provided for in Rule 3.10.4 and those shall apply *mutatis mutandis* to the individual members of the student organisation, provided that where the sentence(s) is reparation or a fine the court may direct that it be collectively levied upon all members of the organisation; and/or

3.10.4.4.2 suspend the existence of such organisation for a specified period of time if it is deemed to be in the interest of the student populace, in consultation with the Student Representative Council (should a response from the Student Representative Council is not forthcoming within a period of seven days, or should an agreement not be reached in seven days, the Student Disciplinary Court will make the relevant order); and/or

3.10.4.4.3 order the forfeiture of the budget allocation of the organisation/society; and/or

3.10.4.4.4 make any such order as may be reasonable in the circumstances.

3.10.4.5 The court may direct where the circumstances of the contravention dictates that it would be in the best interest of all students to be aware of the details, that the details of the offence and sentence of a student and if the court especially so directs, the name and faculty of the student, shall be published in the official University newsletter "On Campus" in such manner as the court may direct.

3.10.4.6 At the conclusion of the enquiry, the Chairperson shall inform the student of the outcome of the enquiry and the terms of any sentence that has been imposed on the student, and of the procedures for an appeal, which order will be confirmed in writing by the Proctor's Office.

3.10.4.7 Where a student has been found guilty and sentenced, the Proctor shall cause that it be recorded on the student's University record. Any application for the removal of the endorsement of the student's academic record shall be assessed by the Proctor's Office and upon approval a

recommendation for the removal shall be forwarded to the Registrar for recordal.

3.10.4.8 The provision of Rule 3.10.4.5 – 3.10.4.7 inclusive shall apply in all appropriate respects to a guilty finding of a student organisation.

3.10.5 The proctor shall notify the parent(s) or guardian(s) of the accused minor student of the findings and sentence of the Court in writing.

3.11 ALTERNATIVE DISPUTE RESOLUTION / MEDIATION

3.11.1 The Proctor or Prosecutor, or any such person nominated by the Vice-Rector may, based on the individual assessment of each case, refer a complaint for mediation;

3.11.2 The Proctor or Prosecutor has the discretion to determine the process of the mediation and may act as mediator or appoint a suitable person to mediate the complaint. In circumstances where the merits of the matter warrant same, appoint a suitable, qualified person to mediate the matter;

3.11.3 In the event that the mediation is unsuccessful and the matter proceeds to the Student Disciplinary Court, the person acting as mediator in the first instance shall not be involved in the prosecution of the matter in the Student Disciplinary Court.

3.12 INTERIM ASSESSMENT OF A STUDENT'S MENTAL HEALTH STATUS

3.12.1 As contemplated in Rule 3.10.1.6, in the event of a psychiatrist/clinical psychologist, or such other professional/person similarly qualified for this purpose, being appointed by the Proctor's Office as an assessor to the panel, the Proctor/Prosecutor may, at any stage of the enquiry, address the Court for an interim order based on the following criteria:

- 3.12.1.1 the nature and seriousness of the alleged conduct deviates significantly from the legal norm;
 - 3.12.1.2 that there is a risk of harm to the student or fellow students;
 - 3.12.1.3 the allegation/statement of complainant(s) and/or witnesses of the alleged conduct calls the accused's capacity or mental health directly into question; and
 - 3.12.1.4 frequency of complaints received in respect of a given individual (greater frequency could imply an underlying Mental Health condition, requiring further investigation).
- 3.12.2 In the event that the Court (on advice of a psychiatrist/clinical psychologist) has considered the above criteria and finds that the accused student is incapable of understanding the proceedings or incapable of appreciating the wrongfulness of his/her actions, then the Court will be obliged to refer the accused student for a preliminary assessment at any private or public facility/doctor, which report is to be provided to the psychiatrist.
- 3.12.3 In the event that the doctor concludes that the student must go for a 30-day Mental Status Observation (or such period that may be relevant in the circumstances), at a Mental Health Facility (public or private) then:
the student's registration at the university will be suspended until such time that the student is able to prove that he/she is mentally capable, in which instance the suspension will be uplifted. This will be assessed by the student's affiliated academic advisor and all resultant re-admissions committees as further amplified in the relevant policy approved by Council from time to time.
- 3.12.4 Subsequent to the completion of the preliminary assessment or a 30-day Observation of the student at a facility, the psychiatrist/clinical psychologist (after receipt of the relevant report) will advise the Court panel on the appropriate next step in finalisation of the matter and whether or not the matter should continue as envisaged in Rule 3.10.

3.12.5 In the event that the preliminary assessment reveals that a formal observation is not necessary, then the matter shall proceed in the manner as stipulated in Rule 3.10.

3.13 VICE-RECTOR'S TRIBUNAL

3.13.1 There shall be a Vice-Rector's Tribunal, which shall inquire into the alleged commissions of offences, if:

3.13.1.1 the severity or the merits of the matter warrant same;

3.13.1.2 in the opinion of the Vice-Rector after consultation with the Proctor/Prosecutor, it will be in the interest of the University or the Complainant to do so.

3.13.2 Composition. The Vice-Rector's Tribunal shall consist of a Vice-Rector and, if the Vice-Rector deems it necessary, another member or members of the academic staff.

3.13.3 Enquiry procedure. The procedure of enquiry provided for in Rule 3.10.2 shall apply except:

3.13.3.1 a student may not be assisted by a legal representative at the enquiry; and

3.13.3.2 the tribunal shall not be a court of record but minutes shall be kept.

3.13.4 Sentence(s)

3.13.4.1 Before imposing a sentence(s) the tribunal shall follow the procedure provided for in Rule 3.10.4.1

3.13.4.2 The tribunal shall impose one or more of the following sentence(s):

3.13.4.2.1 a serious warning;

3.13.4.2.2 a written apology to a person or body;

3.13.4.2.3 a fine in the discretion of the Vice-Rector;

3.13.4.2.4 deprivation of all or specified student privileges for a stated period;

3.13.4.2.5 exclusion for a stated period from any part of the University; or

3.13.4.2.6 expulsion from a University residence.

3.13.4.3 The provisions of Rule 3.10.4.6 above shall apply *mutatis mutandis*.

3.13.5 Should the student decide not to or fail to attend the proceedings, the Vice-Rector may consider and conclude the matter in the student's absence and issue a rule *nisi* that will be valid for 30 (thirty) days. In such a case the matter will be referred to the relevant disciplinary body for hearing of the matter. In the instance that an adverse decision was made in the student's absence, the student may make representations within 4 (four) days to the Proctor's Office and the tribunal may be reconvened.

3.14 APPEALS

3.14.1 A student or student organisation may appeal in the manner hereinafter provided against any guilty finding for a contravention of these rules or against any sentence imposed by the Student Discipline Court or Vice-Rector's Tribunal.

3.14.2 The operation of the decision made by the Student Discipline Court shall not be suspended by the appeal process, unless the court or tribunal directs otherwise.

3.14.3 Appeal to the Appeal Committee of Council

3.14.3.1 A student has the right of appeal to the Council against the guilty finding or any sentence(s) imposed.

3.14.3.2 An appeal shall be lodged by way of a written notice setting forth the substantial grounds of appeal recognised in law and handed to the court *a quo* (Student Disciplinary Court or Vice-Rector's Tribunal) through the Proctor's Office within 5 days of judgement being handed down or written judgement received from the Proctor's Office.

3.14.3.3 The Court *a quo* will consider the grounds of appeal on the papers presented to it without reconvening a Court process and inform the student of their decision in writing, through the Proctor's Office.

3.14.3.4 In the event that the Court *a quo* grants leave to appeal:

3.14.3.4.1 the Proctor's Office shall arrange the preparation of a transcript of the proceedings of the Court *a quo* and forward it, together with the order of the Court *a quo* and the necessary documents for the set down of the appeal, to the Appeal Committee, as well as the student.

3.14.3.4.2 The costs associated with the preparation/transcribing of the records and copies of the transcript shall be the student's responsibility and for the student's account. The hearing of the matter by the Appeal Committee is subject to the student satisfying the costs of preparing the transcript prior to the set down of the matter. In the event that the student does not pay the costs of transcript the matter shall not be set down for the Appeal to be heard. The student shall pay the costs on receipt of the invoice. Should the student be unable to pay the costs for the transcript within 21 days of such costs being incurred, the student may apply to the office of the DVC: Student Development and Support for financial assistance. Upon the written approval by the DVC: Student Development and Support, the matter shall be set down for Appeal.

3.14.3.4.3 The Proctor shall give the student at least 5 (five) days written notice, in accordance with Rule 3.9 above, of the time and place of the hearing of the appeal and shall provide the student with a copy of the record if so requested.

3.14.3.4.4 The appeal shall be heard by a committee selected from a pool of:

Council members;
Academic staff; and
Legal professionals

3.14.3.4.5 Unless the Appeals Committee Council directs otherwise, the appeal shall be based solely on the record of the proceedings of the Student Discipline Court.

3.14.3.4.6 A legal representative or fellow student at the University may represent the student at the hearing of the appeal, with the leave of the Appeal Committee and subject to Rule 3.10.2.7, and the Proctor or prosecutor may represent the University.

3.14.3.5 The Appeals Committee of Council shall after deliberation either:

3.14.3.5.1 confirm or set aside the findings;

3.14.3.5.2 increase or decrease of the sentence; or

3.14.3.5.3 refer the case back to the Student Disciplinary Court with or without recommendations, for reconsideration.

3.14.3.6 In the event that the Court *a quo* denies leave to appeal, in terms of Rule 3.14.3.3 the matter shall be deemed as finalised and the student may exercise his/her legal right to approach the appropriate High Court for assistance.

3.14.4 Appeals to Student Discipline Court

3.14.4.1 A student may as of right appeal to the Student Disciplinary Court against the guilty finding or any sentence(s) imposed by a Vice-Rector's Tribunal, provided that in such event there shall be no further appeal in terms of Rule 3.14.3.1.

3.14.4.2 An appeal shall be lodged by way of a written notice setting forth the grounds of appeal recognized in law which must be lodged with the Proctor's Office within 5 (five) days of the conclusion of the proceedings.

3.14.4.3 The Proctor's Office shall give the student at least 5 (five) days written notice of the time and place of the hearing of the Court.

3.14.4.4 The Court shall hear the matter against the student anew and the proceedings shall be conducted in the manner prescribed for that court.

3.14.4.5 The Student Discipline Court may:

3.14.4.5.1 Allow or disallow the appeal;

3.14.4.5.2 confirm, set aside or amend the sentence and impose such other sentence as it may consider appropriate, and its decision shall be final.

3.15 VARIATION OF AN ORDER

- 3.15.1 In the event that the Student Disciplinary Court or the Appeal Committee of Council made an order or passed a sentence that includes an administrative or typographical error, or where the circumstances of the accused student changed materially, the Proctor's Office may apply to a forum that heard the matter, for a variation of the order. The application for the variation shall be done on notice to the Student as stipulated in Rule 3.9 of these Rules. The application shall set out clearly and concisely the grounds on which the application is brought.
- 3.15.2 The Student Disciplinary Court or Appeal Committee of Council may:
- 3.15.2.1 allow or disallow the application for variation;
- 3.15.2.2 confirm, or amend the sentence and impose such other sentence as it may consider appropriate in the circumstances.

3.16 INVOKING SUSPENDED SENTENCE(S)

- 3.16.1 Where a sentence(s) imposed in terms of Rules 3.10.4.3 has been suspended and the student or student organisation concerned breaches a condition of such suspension, a disciplinary body equivalent to that which originally imposed the sentence may –
- 3.16.1.1 order that the suspended sentence(s) be brought into operation; or
- 3.16.1.2 order the further suspension of the execution or operation of the sentence(s) on the same or different conditions; or
- 3.16.1.3 make such other order, as it deems proper in relation to the suspended sentence(s).

3.17 FINES AND REPARATIONS

- 3.17.1 Any fine or reparation imposed under these rules shall be paid by the student or student organisation to the Finance Officer of the University in

accordance with the order passed by the Student Disciplinary Court, Vice-Rector's Tribunal or the Appeal Committee of Council.

3.17.2 Upon application by the student or student organisation, the Proctor's Office may, in his/her discretion, grant an extension of time for the payment of a fine or reparation, or permit the payment of the fine or reparation in instalments.

3.17.3 In the event of a student failing to make payment within the period provided in this rule, the student concerned may be subjected to further disciplinary action.

3.17.4 In the event of a student organisation failing to make payment within the period provided in this rule, the Rector may suspend such organisation until the fine is paid.

3.18 NON-COMPLIANCE WITH ORDERS/INTERIM ORDERS PASSED BY THE RESPECTIVE TRIBUNALS/COURTS

3.18.1 In the event that the student fails to comply with any of the orders of the respective tribunals/courts made in terms of these Rules and on advice of the Proctor's Office, the Registrar's Office may:

3.18.1.1 withhold the awarding of the degree certificate;

3.18.1.2 withhold the student's academic transcript;

3.18.1.3 postpone the graduation of the student;

3.18.1.4 disallow future registration at the University.