



KADRI ZEKA

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REGULATION  
ON DISCIPLINARY MEASURES AND PROCEDURES FOR THE ACADEMIC STAFF  
AND STUDENTS

Gjilan, April 2014

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Pursuant to Article 23, paragraph 1, point 1.6.1 of the provisional Statute of the University of “Kadri Zeka”, the Steering Committee, in its regular meeting held on the 15.04.2014, approved this:

## REGULATION

### ON DISCIPLINARY MEASURES AND PROCEDURES FOR THE ACADEMIC STAFF AND STUDENTS

#### I. GENERAL PROVISIONS

##### Article 1

The general provisions of this Regulation determine:

Disciplinary measures and procedures for the academic staff and students of this University, reporting-identification of the disciplinary procedure violation, disciplinary violations, appointment of Disciplinary Committee, support of Disciplinary Committee, measures related to disciplinary violations and other issues.

Determination of disciplinary responsibility of academic staff and students of this University and the complaints procedure, right of appeal, appointment of the Complaints Committee.

#### II. DISCIPLINARY PROCEDURE FOR THE ACADEMIC STAFF AND STUDENTS OF THE UNIVERSITY “KADRI ZEKA”

##### Article 2

##### **1. Reporting and Identification of the Disciplinary Violation**

Any suspected or alleged violation, must be reported to the Rector of the University, Dean of the academic unit, or the organizational unit of the University, (hereinafter: the head of the relevant authority).

##### Article 3

The head of the relevant authority, immediately after receiving the oral or written report of an alleged disciplinary offense, should investigate the case, interview the alleged offender and the person who reported it, analyze the details provided in the statement, and according to his assessment will decide whether the nature of the infringement is slight or severe.

In making the decision, the Head of the relevant authority will rely on the provisions of this regulation.

#### Article 4

### **2. Disciplinary violations by academic staff**

a) A minor disciplinary violation is considered:

Unreasonable absence from work, minor errors of negligence, or recurring errors that will not be the subject of disciplinary procedures will be considered as minor disciplinary violations.

The head of the relevant authority will collect and review any documents or evidence relevant to the case, question the alleged offender, his statement and the person who reported the alleged case, as well as anyone who has information about the case.

The interview should be held as soon as possible within 3 working days after the case is presented in order to determine whether a minor violation has been committed or there is evidence that a serious violation has been committed.

The alleged offender may be accompanied by another employee of his choice, but he may not respond on his behalf.

#### Article 5

If the head of the relevant authority concludes that a minor offense has been committed and is the first time, then a verbal warning is issued, while for the repeated violation a written warning is issued not later than 3 working days after the interview.

The minutes of the verbal and written warning should be placed in the person's personal file.

#### Article 6

b) Determination of serious disciplinary violation

If the Head of the relevant authority concludes that a disciplinary offense has been committed, he or she will refer the matter to the disciplinary committee of the appropriate body of the University, academic unit or organizational unit.

The head of the relevant authority will interview the alleged offender within 5 days from the day it is referred to the Disciplinary Committee whereupon the following shall be clarified;

- the nature of the alleged violation,

- that the alleged violation is treated as serious and referred to the Disciplinary Committee,
- when and where the Disciplinary Committee hearing will be held,
- that the offender may be accompanied in session by another employee.

#### Article 7

Where there is evidence of violence against other people or a risk to property, the head of the relevant authority may decide to suspend the alleged violator from work, but with pay as long as investigations and disciplinary procedures are ongoing.

#### Article 8

Serious disciplinary violations are considered:

- Unreasonable opposition to the performance of the duties specified in the employment contract;
- Unauthorized theft, fraud, forgery, damage or misappropriation of University property;
- Violation of the code of ethics at "Kadri Zeka" University in Gjilan;
- Unreasonable absence from work for more than 5 consecutive days without any reason and without notice of absence;
- Repeated errors which, by their frequency and weight, disrupt the normal course of work;
- Direct or indirect discrimination or ill-treatment against another person of the University on the basis of sex, race, color, language, religion, residence, political opinions, social origin, and other cases protected by law;
- Sexual harassment of the other person, characterized as any physical or verbal behavior of a sexual nature, a violation of the dignity of the person at work that is undesirable or offensive which creates hostility by threatening or intimidating that person;
- Misconduct outside the workplace that does not correspond to the status of staff or student at the University, and which may bring the University into disrepute, where it would bring the University a bad name;
- Intentional damage to property;
- Disclosure of business secrets;
- Severe work-related disability caused by alcohol or drugs;
- Giving a false statement regarding the conflict of interest;

- Aggressive, threatening or offensive conduct in the workplace, and similar violations provided by law and other University acts.

## Article 9

### **3. Disciplinary Committee**

The relevant body will establish a Disciplinary Committee which will decide on cases involving alleged serious violations.

The commission consists of three permanent members from among the members of the respective body.

The mandate of the members of the disciplinary committee shall be as long as mandate of the body which has appointed this committee.

In cases of conflict of interest where the objectivity of the member is questioned, the member of the committee shall be replaced and a substitute shall be appointed for that special session also in the following cases:

- when the commission member is in a position of a leader towards the alleged offender and is related to him by the family.
- when the commission member has been the victim of the alleged offender, or is related to the victim by the family.

## Article 10

### **4. Support of the disciplinary committee**

The professional service of the University, academic units and other organizational units will provide the Disciplinary Committee with:

- providing advice and guidance to committee members,
- gathering documented evidence,
- preparing session schedules,
- notifying the persons required to be present of the details of the venue, the date and time of the session,
- keeping the minutes of the disciplinary session and placing it in the candidate's file as well as other matters required for the conduct of the procedure.

## Article 11

The disciplinary session should be held as soon as possible, but not later than 30 days, and the decision must be made within 60 days of the case being notified.

The Disciplinary Committee:

- will hear evidence;
- determine, on a case-by-case basis, whether the infringement is made;
- propose disciplinary action. The purpose of the session is to establish the facts.

The decision of the relevant body must be communicated to the offender within 5 days of the decision being made. The minutes and the decision of the relevant body should be placed in the person's file.

## Article 12

### **5. Measures for serious disciplinary violations**

The Disciplinary Committee, after thorough examination of the case, proposes to the relevant body to apply these measures:

- written warning,
- last written warning,
- no promotion for up to 3 years,
- decrease in position, and
- termination of employment relationship.

The disciplinary measures provided for in paragraphs 1 and 2 of this Article shall be imposed by the leader, while disciplinary measures from paragraphs 3-6 of this article, on the proposal of the Disciplinary Committee, will be imposed by the relevant authority.

### III. DETERMINATION OF THE DISCIPLINARY RESPONSIBILITY OF STUDENTS

#### Article 13

Students are required to abide by the obligations arising from the general acts of the University and this Regulation.

Students should carefully and fairly utilize the resources entrusted to them during their studies to protect them from destruction.

The student is liable for disciplinary violations for violating the University's legal obligations and rules.

#### Article 14

##### 1. Minor disciplinary violations;

Minor disciplinary violations are considered:

- Misconduct in university-faculty workplaces where lectures, exercises and exams are held;
- Disruption of order and silence during lectures in the classroom impedes the normal work of teachers and students;
- Destruction of teaching equipment, laboratories, computers, library funds in libraries, and other property in the University;
- Participation in political gatherings in University facilities for which there is no permit;
- Performing other activities that cause harm to and violate the authority of the University, professors, associates, other employees and students of the University.

#### Article 15

##### 2. Serious disciplinary violations

Serious disciplinary violations are considered:

- Falsification, improvement of index data, ID card, certificate and other documents issued by the University - faculty;
- Falsification of the professor's grade or signature;
- Giving inaccurate notes to university authorities for the purpose of acquiring certain student rights;
- False presentation for the purpose of passing the exam or performing other duties on behalf of the other student;



- Inciting a major incident at the University's workplaces where instruction is largely impeded (lectures, exercises and exams);
- Major destruction of University property;
- Inciting hatred, beatings, gross offenses against professors, workers, students;
- Alcohol and drug use in University facilities and other cases provided by Law and Statute.

#### Article 16

- The commencement of the disciplinary procedure for minor offenses for students is obsolete after the expiration of 6 months from the day the offense was notified.
- The commencement of the disciplinary procedure for serious offenses for students is obsolete after the expiration of 12 months from the day the offense was notified.

#### Article 17

### **3. Taking measures in relation to the disciplinary violation**

The disciplinary commission, after thorough examination of the case, proposes to the relevant body to take the following measures:

- A written notice,
- Exclusion from the Faculty for 6 months,
- Exclusion from the Faculty for one year,
- Exclusion from the Faculty for two years,
- Permanent exclusion from the Faculty.

## IV. THE COMPLAINTS PROCEDURE

#### Article 18

- The complaints procedure is intended to protect the person and the student from decisions that he or she considers unfair.
- The person dissatisfied with the decision on the disciplinary measures imposed has the right to complain. The complaint is addressed to the second instance body.

## **2. Appointment of the Complaints Committee**

### Article 19

The relevant body will appoint a complaint committee.

The commission consists of three permanent members from among the members of the relevant body. The mandate of the members of the Complaints Committee shall be as long as the mandate of the body which has appointed this Committee.

Members of the Complaints Committee may not be members of the First Instance Disciplinary Committee.

### Article 20

In the event of a conflict of interest, the member of the Complaints Committee shall be withdrawn and replaced for that particular session, if:

- is in a management relationship with the complainant or is close to his/her family.
- is implicated in the incident (event) that is the subject of the complaint.

### Article 21

The professional service of the relevant body will provide the complaints committee with:

- Advice and guidance, gathering documentary evidence and distributing appropriate documents to all parties;
- Preparing the timetable for the review sessions;
- Keeping the minutes of the hearings and placing them in the personal disciplinary file.

### Article 22

The complainant should present new facts, arguments and evidence summarizing the reasons for the complaint.

The complaint hearing shall be held as soon as possible and, in any event, not later than 30 days from the date on which the complaint is addressed to the complaints committee.

Complaints Committee shall:

- Review the testimony,
- Determine on the basis of the evidence whether the complaint should be upheld,

• Shall prescribe the disciplinary measure of improvement to be applied. The Committee may request the presence of witnesses to testify in the case.

The purpose of the Complaints Committee is to take into account the evidence in the appeal, taking complementary evidence in finding fact-based evidence.

#### Article 23

The hearing shall be completed as soon as possible and the committee shall decide within 60 days of the case being referred to the committee.

The committee decides by a majority vote of its members.

On the basis of a proposal from the committee, the concerned authority shall take a decision which shall be notified to the complainant within 5 days of receipt.

The minutes of the complaints committee are placed in the complainant's file.

### V. FINAL PROVISIONS

#### Article 24

The Steering Committee of the University is responsible for the implementation of this Regulation.

Interpretation of this Regulation is given by the Steering Committee of the University.

In the annex part of this Regulation are given different forms of disciplinary procedure, Instructions for the work of the Disciplinary Committee, different forms of complaints procedure and Instructions for the work of the Complaints Commission.

#### Article 25

The Regulation shall enter into force immediately with the signature of the Chairman of the Steering Committee.

Amendments to this Regulation shall be made in accordance with the same approval procedure.

Chairman of the Steering Committee

Arben Dërmaku

## **ANNEX OF THE REGULATION ON DISCIPLINARY AND APPEALS PROCEDURE**

### **1. DISCIPLINARY COMMITTEE FORM**

1. Reporting a disciplinary violation form
2. Interview form
3. Verbal reprimand registration form
4. Written reprimand form
5. Notification of the suspected subject of the alleged violation form
6. Notification for the suspension of the employee form
7. Communication of the committee decision form

### **2. INSTRUCTION ON HOLDING A DISCIPLINARY HEARING SESSION**

1. Key points
2. Preparing for a session
3. How the Disciplinary Committee hearing ought to be conducted
4. Statement of the alleged violation
5. Response of the suspected subject
6. General questions and discussions
7. Summary
8. Postponement (suspension)
9. What problems may arise and how they ought to be responded to
10. Decision-making guidelines on disciplinary measures
11. What ought to be considered before imposing any disciplinary punishment
12. Decision of the Disciplinary Committee

### **3. APPEAL COMMITTEE FORM**

1. Appeal registration form
2. Accepting or rejecting the appeal form
3. The disciplinary committee decision form

### **4. GUIDELINES FOR HOLDING A HEARING SESSION TO REVIEW THE APPEAL**

1. Key points
2. Preparation for the review session
3. How the appeal committee review session ought to be conducted
4. Statement of the appellant
5. Response for the appellant
6. General questions and discussions
7. Summary
8. Postponement
9. What problems may be reported and how they ought to be responded to
10. Guidelines for decisions on the choice of measure (remedial measures)
11. What is to be considered prior to making any choices
12. Decision of the appeals committee

**DISCIPLINARY COMMITTEE DIFFERENT FORMS**

**Form/1**

**Reporting a disciplinary violation form**

University-Faculty.....

**REPORTING OF AN ALLEGED DISCIPLINARY VIOLATION Details of the suspected subject**

Name and surname ..... Post title .....  
Department ..... Head .....

**Details of the person reporting the alleged violation**

Name and surname .....

If employed with the University:

Post title ..... Department .....

If not employed by the University:

Address: .....Phone no. ....

**Details of the alleged violation, as reported: (to be completed by the Head)**

.....  
.....  
.....  
.....  
.....  
.....

Date ..... Head .....  
.....

**Interview form**

**Form/2**

University- Faculty .....

**ALLEGED DISCIPLINARY VIOLATION:  
INVESTIGATIVE INTERVIEW RECORD**

**Name and surname of the interviewee** .....

If employed with the University:

Post title ..... Department .....

Address: ..... Phone no. ....

**Name and surname of the interviewer** .....

Post title .....

Department .....

Interview record (to be completed by the interviewer)

Date

.....

Interviewer

.....

**Verbal reprimand registration form**

**Form/3**

University- Faculty.....

**VERBAL REPRIMAND RECORD**

Name and surname: ..... was given the notice “Verbal reprimand” on ..... that

**1. The following conduct on his/her part constitutes a disciplinary violation:** (a brief description of the offense)

.....  
.....  
.....  
.....

**2. The following improvements are required:**

.....  
.....  
.....  
.....

**3. Failure to improve will result in other disciplinary measures:**

.....  
.....

Notice-Verbal reprimand was given by:

Name and surname

Post title

.....

.....

Date

Head

.....

.....

**Written reprimand form**

**Form/4**

University-Faculty.....

Name and surname .....

Post title .....

Department .....

Date ..... Dear Mr./Mrs. ....

**WRITTEN REPRIMAND FOR DISCIPLINARY VIOLATIONS**

This letter is to formally notify you of your demeanor related to:

.....  
.....  
.....  
.....

is an unacceptable disciplinary violation.

The following improvements are required: .....

.....  
.....  
.....  
.....

Failure to improve or further discipline violations will result in stricter disciplinary measures.  
A copy of this notice will be filed in the person's personal file.

Date  
.....

Head  
.....



**Notification of the suspected subject of the alleged violation form**

**Form/5**

University- Faculty .....

Name and surname .....

Post title .....

Department .....

Date .....Dear Mr./Mrs. ....

**NOTICE OF AGGRAVATED ALLEGED DISCIPLINARY VIOLATION**

This letter is to inform you that you are suspected of having committed the following aggravated disciplinary violation (briefly describe the alleged violation that has been committed):

.....  
.....  
.....

The statement is referred to the University Committee of Ethics, which will assess whether there is sufficient evidence to substantiate the statement and if so, what ought to be applied towards you.

You must appear before the Committee of Ethics:

At (location) ..... date ..... at ..... hrs.

The aim of the Ethics Committee is to ascertain the facts while giving you ample opportunity to provide the Committee with full explanations of your version of the event and to provide evidence that you think is valuable. Please provide any documentary evidence, at least 5 working days prior to the hearing, in order to allow the Committee to read and ascertain the facts.

You may be accompanied to a hearing by another University employee of your choice, whom you may consult during the hearing session, but who may not respond on your behalf. The hearing session shall be conducted in any official Kosovo language you require.

The decision shall be delivered to the parties not later than 5 working days following after the hearing session.

You have the right to appeal against the decision of the relevant body.

Date  
.....

Head  
.....

**The notification form for the suspension of the employee**

**Form/6**

University- Faculty.....

Name and surname .....

Post title .....

Department .....

Date ..... Dear Mr./Mrs. ....

**NOTIFICATION OF SUSPENSION WITH PAY**

Following allegations of aggravated violation against you, you are hereby informed that you are suspended until the investigation and disciplinary proceedings are being conducted. The reason for the suspension is considered for the benefit of the University – Faculty, you should not continue your work until the investigation for the alleged violation is complete. You should not visit any University - Faculty premises during your suspension period. You ought to return to work on ....., unless notified otherwise.

A copy of this notice will be filed in your personal file.

Date  
.....

Head  
.....

**The Form for the Communication of the Committee's Decision**

**Form/7**

University- Faculty .....  
Name and surname .....  
Post title .....  
Department .....

Date ..... Dear Mr./Mrs. ....

**DECISION OF THE DSCIPLINARY COMMITEE**

After your appearance before the disciplinary committee on.....(date), all the evidence presented has been carefully reviewed and it has been decided that:  
(details of the decision of the Committee).

.....  
.....  
.....  
.....

If the Commission has concluded that an aggravated violation has been committed: The Committee has decided that:  
(details of the fine imposed)

.....  
.....  
.....  
.....

If you want to appeal to the Appeals Committee against the decision of the disciplinary committee of the first instance, you must do it in writing within 15 days from the date of receipt of this decision.

Date  
.....

Head  
.....

## **INSTRUCTION ON HOLDING A DISCIPLINARY HEARING SESSION**

### **1. Key points:**

- The committee ought to carefully prepare for the hearing session and ensure that all relevant facts are available (ready);
- Inform the suspected subject of the alleged violation precisely what the alleged violation is, advise him/her of his/her rights under disciplinary procedures, including the right to be accompanied at each hearing;
- Personnel ought to be allowed time to prepare and given sufficient opportunity to state their case;
- Conduct sufficient investigations and interviewing, ensuring that all facts are objectively examined;
- Listen carefully to all that has been said;
- Consider postponing the hearing before deciding on any disciplinary measure in order to be able to take full account of all the issues raised.

### **2. Preparing for a session**

- Ensure that all relevant facts are available, such as personal details, disciplinary file, and any current reprimand, other relevant documents (e.g., records of absence from work or sick leave) and, if necessary, witnesses' written statements.
- Notify the alleged offender of the complaint, the procedure to be followed, and that he/she ought to attend the disciplinary hearing.
- Tell the alleged offender that he/she has the right to be accompanied to a hearing by another University employee.
- Find out if there are any special circumstances to be considered, e.g., are there any personal or external issues that affect the assessment (performance) or behavior.
- Be careful when dealing with the testimony of an informant who wishes to remain anonymous. Take a written statement, seek corroborative evidence and verify that the informant's motives are genuine.
- Consider how the standards of the alleged offender compare with those of the other person - is it possible that the alleged offender is unjustly singled out?
- Keep in mind what explanations can be provided by the alleged offender, and if possible, verify in advance.
- Give the alleged offender time to prepare his/her case. It can be helpful and saves time in the session if copies of any document and witness statements are made available in advance.
- Set the date and time for the session in a suitable room where there will be no obstacles. Notify the alleged offender at least 5 working days before the session and allow him/her to propose a reasonable alternative date if his/her companion cannot attend the due date.
- See what disciplinary action has been taken in relation to other offenders in the same past circumstances.
- If the witness is outside the University who is unprepared or unable to attend the session try obtaining a written statement from him/her.
- Think about the structure of the session and make a list of points to be covered.

### **3. How the Disciplinary Committee Hearing Session ought to be conducted**

The Chairperson of the Disciplinary Committee shall:

- introduce to the suspected offender the members of the Committee and the secretariat of administration,
- invite the alleged offender to introduce the person accompanying him/her and to clarify the role of the accompanying person,
- clarify that the purpose of the hearing session is to ascertain whether disciplinary action should be taken in accordance with the disciplinary procedure and that the purpose of the hearing is to discover the truth, and
- explain how the hearing session will be conducted.

### **4. Statement of the alleged offender**

The Chairperson shall:

- state (ascertain) exactly what the alleged complaint is and clarify the case briefly by passing through the evidence that has been collected. Ensure that the alleged offender and his/her representative are allowed to see every statement made by witnesses, and
- find out if the person is prepared to admit that he/she has done something wrong. Then accept the steps that need to be taken to remedy the situation.

### **5. Answer of the alleged offender**

Members of the Committee shall:

- give the person an opportunity to describe, tell his/her case and respond to any statements made. He/she ought to ask questions, present evidence, and invite witnesses. The accompanying person may likewise ask questions and should be able to privately consult with the person but cannot answer questions on his/her behalf.
- Listen carefully to what the alleged offender has to say and be prepared to calmly wait for a response, as this can be a useful way to encourage him/her to be more ready to cooperate;
- if it is not practical for witnesses to attend, consider holding a hearing session without witnesses as well, if it is clear that their testimony will not impair the content of the complaint.

### **6. General questions and discussions**

The Commission/Committee shall:

- make use of this period, establish all facts and, if any, any special circumstances are taken into account;
- adjourn the hearing session if further investigations are necessary, or if appropriate, at the request of the alleged offender or his/her representative.
- ask formal and informal questions but encourage the employee to speak freely in order to find the facts. The disciplinary hearing should be a two-way process. Use questions to clarify issues and verify what is said to be understood. Ask precise closed questions with yes/no answers only when specific information is required.

- not engage in quarreling and ought not to make personal or humiliating remarks. Committee members should avoid physical contact and gestures that may be misinterpreted or misunderstood.

If it becomes clear during this period that the person has provided an adequate explanation or has no real evidence to support the statement stop the process.

## **7. Summary**

The Chairperson shall:

- summarize the key points of discussion after the interrogation is completed. This allows all parties to be reminded of the nature of the violation, of the arguments or evidence put forward and to ensure that nothing is missing, forgotten, and - ask the alleged offender if he/she feels they have had a fair hearing and whether they have anything else to say. This should help to demonstrate the alleged offender to have been treated reasonably.

## **8. Postponement - suspension**

It is generally good practice for the committee to suspend the hearing before a decision is made on whether the disciplinary measure is appropriate. This gives time for reflection and appropriate consideration. It moreover allows time for further verification of any issues raised, especially if there is any inconsistency - disagreement of facts. If new facts emerge, consider if it is better to call a hearing session again.

## **9. What problems may arise and how they ought to be responded to**

The Chairperson is responsible for ensuring that the hearing session is properly conducted. It is possible that the hearing may not go quietly - the offender may become agitated or furious. If the alleged offender becomes agitated or furious, the chairperson ought to give him/her time to relax before continuing with the hearing session. If the agitation is too great, the hearing should be discontinued, thus should be postponed.

A language of understanding can be used, however, vocabulary or behavior which can be interpreted as very bad conduct should not be allowed to pass without any comment. If necessary, such conduct may be taken as a disciplinary offense. In these circumstances, the chairperson shall adjourn the hearing and schedule another hearing later, when both matters may, if necessary, reviewed jointly. The Committee may also recommend that the alleged offender should be suspended with pay to allow him/her to calm down and allow a full investigation.

## **10. Decision-making guidelines on disciplinary measures**

Key points:

- The decisions of the committee at the end of the disciplinary hearing are:

- a) to impose the disciplinary measure;
- b) what form it should take and,

c) should any other action be taken or not (e.g. training or job change)

- Before deciding whether the disciplinary measure is appropriate and at what level, the committee should consider the offender's general and disciplinary record if disciplinary proceedings indicate possible penalties, what action has been taken in the previous cases, what circumstances ought to be taken into consideration and whether the punishment is reasonable.
- Dismissal without notice for serious violation or the payment upon notice should only be for very serious cases of violation and should only take place after the disciplinary investigation and the hearing procedure.
- The offender must not be left in any doubt as to the nature of the disciplinary punishment, the expected improvement, the need to support the improvement, and the timeliness of the appeals.
- The Committee ought to actively consider what remedial steps should be taken, including advice, training, and development.
- Offenders should be given written details of any disciplinary measures imposed against him/her.
- Records of disciplinary measures shall be kept secure and confidential.
- Minor disciplinary measures ought not to be enforced against the offender indefinitely if he/she improves.

## **11. What ought to be considered before imposing any disciplinary punishment**

When deciding whether disciplinary punishment is appropriate and what form it should take, the committee should consider the following:

- if the disciplinary procedure itself indicates what the likely punishment will be as a result of the particular misconduct,
- the punishment imposed in the same cases in the past,
- any special (mitigating) circumstance which may make an adequate reduction of the severity of the punishment,
- the employee's disciplinary file, general work file, work experience, position and length of service, and
- whether the proposed punishment is reasonable taking into account all the circumstances.
- Disciplinary measures must be considered to be fair and impartial (equal for all) and enforced consistently. This does not mean that the same measure will always apply to the same violations, each case must be looked at on its own merits and any relevant circumstance shall be taken into account. This may include health or personal problems, provocation, disregarding the rules or standards, or irregular (unacceptable, concentrated) treatment in the past.

## **12. Decision of the Disciplinary Committee**

In all cases the Committee ought to make a written decision which summarizes briefly but clearly the case, in particular, including the statements, the evidence gathered and presented before the Committee, facts established based on the evidence, the conclusions of the committee based on these facts and the decision of the Committee.

**Appeal Registration Form**

University-Faculty .....

**SUBMISSION OF THE APPEAL**

Name and surname of the complainant .....

Department .....

Post title .....

If the complainant is an applicant for employment at the University:

Residential address: ..... Phone no.: .....

**Brief details of the appeal:**

Copies of any documents supporting the appeal or a copy of the disciplinary case order (in the case of an appeal against a disciplinary decision) shall be attached.

.....  
.....

Date  
.....

Signature of the complainant  
.....



**EVIDENCE OF THE COMPLAINT RECEIPT**

For.....  
(Name and Surname of the Complainant)

Your appeal dated ..... has been accepted by staff. You will be contacted within 30 days to be informed if the appeal is to be reviewed or not, and if so, we will provide you further information.

Date  
.....

Head  
.....

Accepting or rejecting the appeal form

University-Faculty .....

Mr./Ms. ....Name and surname of the complainant

(Address of the complainant):

.....  
.....

(date) .....Dear Mr./Ms.....

Appeal against ..... [title of appeal]

If there are sufficient primary grounds for appeal or if there is an appeal against the disciplinary decision:

Your appeal dated ..... will be heard/reviewed by the Appeals Committee of the Senate of the University of Gjilan on ..... in.....

You have the right to be accompanied by a friend or counselor of your choice, who may ask questions but is not allowed to answer on your behalf.

If the grounds for appeal are invalid, unreasonable or insufficient: Your appeal dated: ..... is rejected because: (briefly explain the reasons why the appeal was not accepted).

.....  
.....

According to the civil code of Kosova, you have the right to file an appeal against this decision to the competent Court in Gjilan.

Date

.....

Head

.....

**Form for the decision of the disciplinary committee of complaints**

University-Faculty .....

Mr./Ms. ....

Name and surname of the complainant (Address of the complainant):

.....  
.....

(Date) ..... Dear Mr./Ms. ....

Appeal against ..... [title of appeal]

(If appeal is accepted):

The Appeals Committee has accepted the appeal and decided that:  
(briefly describe the correction described by the appeal committee)

.....

(If appeal is rejected):

The Appeals Committee has rejected the appeal.  
(briefly describe the grounds given by the committee for rejection of the appeal)

.....  
.....  
.....

You have the right to file an appeal against this decision to the competent Court in Gjilan.

Date

.....

Head

.....

## **GUIDELINES ON HOLDING THE APPEAL REVIEW SESSION**

### **1. Key points:**

- Prudent preparation for the appeal hearing session and ensuring that all facts are available.
- Explaining to the appellant the procedure and his/her rights under the procedure of the appeal, including the right to be accompanied at the hearing session.
- Giving the appellant sufficient time to prepare to argue his/her claims.
- Listening carefully to what is being said.

### **2. Preparation for the hearing session**

- Ensure that all relevant facts are available and when needed written statements from witnesses as well.
- Explain to the appellant the procedure to be followed and his/her right to be accompanied at the hearing session by a companion/counselor.
- Find out if special circumstances need to be considered, for example, personal or other external matters.
- Be careful when dealing with the testimony of an informant who wishes to remain anonymous. Take a written statement, seek corroborative evidence and verify that the informant's motives are genuine.
- Give the appellant time to prepare arguments for his or her case. It could be useful and timesaving during the hearing session if copies of any relevant documents and witness statements are made available to him/her at least 5 working days prior to the hearing.
- Set a date and time for a hearing in an appropriate room where there will be no disturbances. The appellant must be notified of the hearing session at least 2 working days in advance and allow him/her to propose a reasonable alternative date if his/her chosen companion cannot attend the due date.
- See what disciplinary action has been taken in relation to other offenders in the same past circumstances.
- If the witness is someone outside the University who is unprepared or unable to attend the hearing session try obtaining a written statement from him/her.
- Think about the structure of the session and make a list of points to be covered.

### **3. How the review session of the appeals committee ought to be conducted**

The Chairperson of the appeals committee shall:

- introduce to the appellant the members of the Committee and the secretariat of administration,
- invite the appellant to introduce the person accompanying him/her and to clarify the role of the accompanying person,
- explain that the purpose of the hearing session is to reveal the truth,
- explain how the review hearing session will be conducted.

#### **4. Statement of the appellant**

The Chairperson shall:

- request from the appellant to state his/her case clearly and precisely, ensure that he / she is able to present the testimony uninterruptedly and
- invite the appellant to submit his or her testimony including the witnesses.

#### **5. Response to the appellant**

The Chairperson shall:

- request a response to the appellant's statement from the individuals named by the appellant and others involved in the case, to give the appellant a chance to ask them questions. The accompanying person may ask questions and ought to be able to discuss privately with the appellant but cannot answer the questions on behalf of the appellant.

#### **6. General questions and discussions**

The Committee shall:

- examine this stage to establish the facts and whether or not there are special circumstances to be considered;
- adjourn the hearing session if further investigations are necessary, or if appropriate, at the request of the appellant or his/her representative;
- ask his/her own questions formally and politely but encourage the appellant and other participants to speak freely in order to find the facts. A well-conducted reviewing hearing session should be a two-way process Ask questions to clarify issues, to check what is said and understood. Ask open-ended questions, for example, what happened then? tell me something more about... in order to gain full insight into the case. Ask precise, closed-ended questions with yes/no answers only when specific information is required or to clarify the comprehension;
- not enter into discussions and ought not to make personal or humiliating remarks. The Committee members should avoid physical contact and gestures that may be misinterpreted or misunderstood.

#### **7. Summary**

The Chairperson shall:

- summarize the key points of discussion after the interrogation is completed. This enables all parties to understand the main points of the appeal, the evidence and arguments presented and to ensure that there are no omissions and
- to ask the appellant if he or she feels they have had a just hearing session and if there is anything to add. This should help to demonstrate the appellant to have been treated reasonably.

## **8. Postponement**

If the Committee agrees that the appeal is justified, it is usually best practice to suspend the hearing before deciding which remedial action is more appropriate. This allows time for better thinking and appropriate consideration. Postponement of the hearing gives time to examine any issues raised, especially if there is any inconsistency about the facts. If new facts emerge, the committee must consider if there is another hearing session to be called.

## **9. What problems may be reported and how they ought to be responded to**

The Chairperson is responsible for monitoring the progress and ensuring that all parties are given the opportunity to present their case in their entirety. Nevertheless, it is possible that the review hearing session may not proceed efficiently, the people may be agitated or even furious. If the appellant becomes agitated or furious, the chairperson ought to give him/her time to recover before continuing with the hearing session. If the agitation is too great to continue, then the hearing session should be discontinued and called again at another time.

Misconduct and language may be expected, nonetheless, vocabulary or abusive behavior which can be interpreted as very bad conduct ought not to be allowed to pass without any comment. If necessary, such conduct may be considered as a disciplinary offense.

## **10. Guidelines for decisions on the choice (remedial measures)**

Key points:

- The decisions required by the committee at the end of the hearing session for reviewing the appeal are:

- a) should any choice-remedial measure be taken,

- b) if yes, in what form it should be taken,

- c) should any other action be taken (e.g., disciplinary measure against staff or leaders, or their transformation into another position)

- When deciding which option would be most appropriate, the committee should consider what action has been taken in the previous cases;

- When deciding on the measure, the committee should carefully consider the impact this measure will have on the appellant's future career and on his/her work reports within the University.

## **11. What is to be considered prior to making any choices**

When deciding whether the choice is appropriate and what form it ought to take, the committee should consider the following:

- whether the appeal procedure itself indicates what choice is to be made. E.g., successful appeals against selective and promotive decisions or Disciplinary Committee decisions will ordinarily result in the annulment of those decisions;
- if the choice, though appropriate and fair, would raise other managing problems;
- what choice has been imposed in similar cases in the past, and
- any particular circumstances that would make it possible to select an alternative solution. E.g. where redeployment in the same position would mean that the complainant would have to work together with the person who had abused, mistreated him/her.
- The choices must be fair and equal and be enforced consistently. This means that the same choice will apply every time to similar violations: the merits of each case must be considered, and any relevant circumstances are to be taken into account.

## **12. Decision of the Appeals Committee**

- In all cases, the Appeals Committee ought to make a written decision which summarizes briefly but clearly the case, in particular, ought to include which were the statements, what evidence is gathered and presented before the Committee, facts established based on the evidence, the conclusions of the committee based on these facts and the decision of the Committee.