



**UNIVERSITY OF PRISHTINA
“HASAN PRISHTINA”**

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Prot. No. 857

Date: 11.04.2017

The Steering Council of the University of Prishtina pursuant to Article 182 of the Statute of the University of Prishtina, as recommended by the Senate based on the Article 17, paragraph 2 of the Code of Ethics, in the meeting held on 30.03.2017, approved this:

**REGULATION ON DISCIPLINARY MEASURES AND PROCEDURES
FOR THE ACADEMIC STAFF OF UNIVERSITY OF PRISHTINA**

General principles

The University is managed by the premise that the main objective of higher education is to provide an environment consonant to the cultivation, expansion and critical evaluation of knowledge and values, as well as the continuous advancement in the pursuit of truth and knowledge.

In accordance with the Statute of the University, the academic staff has the duty to cultivate and respect the spirit of humanity, the autonomy of the University, the freedom of scientific and artistic creativity, the university acts and decisions based on the same, the principles of professional and scientific honesty, the Code of Ethics, and the reputation of the University, as well as to improve the same.

This Regulation is intended to maintain and promote the highest standards of teaching and research and with the objective of advancing the mission of the University as a reliable and quality higher education institution.

This Regulation does not limit academic freedom, including freedom of expression and freedom of the arts and sciences, as protected and defined in the Constitution of the Republic of Kosovo, the Law on Higher Education, the Statute of the University of Prishtina, and the Code of Ethics.

No disciplinary measure may be imposed without sufficient evidence substantiated for any doubt and the imposition of which the burden of proof falls on the decision-making body.

I. General Provisions

Article 1

Purpose

1. This Regulation defines the disciplinary procedures and measures applicable to cases of disciplinary liability of academic staff of the University of Prishtina (hereinafter referred to as “the University”), in accordance with the University Statute, Code of Ethics and other applicable laws and regulations. applicable at the University.
2. Disciplinary measures shall be imposed in accordance with the procedures stated in this Regulation. The imposition of any disciplinary measure shall be in harmony with the principle of proportionality, namely the adjustment of the measure given to the purpose which it shall have in a liberal educational environment.
3. This Regulation upholds the principle of collegiality in decision-making related to disciplinary proceedings, as an important category of legality in administrative proceedings.

II. Disciplinary procedures for the academic staff of the University

Article 2

Reporting of disciplinary violations, competent bodies, composition and subjects of disciplinary proceedings

1. Any suspected violation shall be reported to the disciplinary committees of the academic units, namely the University Committee of Ethics, depending on the nature of the violation as defined by the regulation herein.
2. Minor violations shall be assessed by the Disciplinary Committee of the academic unit, which shall be appointed for a four-year term, in accordance with the regular voting procedure by the Committee of the academic unit. The mandate of the Disciplinary Committee is correlated to the mandate of the academic unit Committee.
3. The Disciplinary Committee has five (5) members, who shall have, at least, the title of Assistant Professor in the relevant academic unit.
4. In identifying minor violations, the subjects authorized to report suspected disciplinary violations are:
 - a. Dean of the academic unit;
 - b. Heads of departments or branches of the academic unit;
 - c. Any member of the academic staff, upon the reporting of the alleged violation, addresses the dean of the academic unit according to the relevant evidence;
5. A report of disciplinary violations may be submitted to the Council of Ethics by:
 - a. Academic unit committee, based on the violations established by their disciplinary committees appointed by academic unit committees;
 - b. Dean of the academic unit;
 - c. Rector of the University of Prishtina;
 - d. Steering Council, and
 - e. Any other concerned party, as to the relevant evidence as defined in the Code of Ethics.

6. The Committee of Ethics is the authority that proposes disciplinary action against academic staff for cases of violation of the Code of Ethics in accordance with the disciplinary procedures stipulated in regulation herein.
7. The decisions of the Committee of Ethics, concerning the proposal to impose disciplinary measures that violate the academic title to become effective, shall be confirmed by the Senate of the University of Prishtina as stipulated in regulation herein.
8. Subject to disciplinary proceedings pursuant to this Regulation may be: (a) all academic staff in any academic unit of the University, including not full-time or part-time staff at the University of Prishtina.

Article 3

Criteria for reporting a suspected disciplinary violation

1. A minor or aggravated disciplinary violation reported by an authorized subject shall meet the following conditions:
 - 1.1. Be based on a clear report proving a disciplinary violation, with all official accompanying documents, and reported in a form that is clearly credible and based on applicable legislation;
 - 1.2. Provide evidence that suggests the violation occurred, and that the entity that committed the violation is clearly identified beyond a reasonable doubt;
 - 1.3. Be clear as to the identification of the violation in the present case, the extent of the violation, the harm caused by such violation, and to be based on any evidence that proves its occurrence.
2. In evaluating the report of the alleged violation, the Disciplinary Committee shall organize at least two (2) hearing sessions, one at the beginning and one at the end of the proceedings, to confront the evidence between the reporting entity and the offending entity. The suspected entity for the alleged violation enjoys all procedural rights to a fair hearing and fair treatment, including the right to seek confrontation with any party who has reported the violation.
3. In all cases where the Disciplinary Committee finds that the violation presented constitutes an aggravated violation (as defined by the Code of Ethics), it refers the same to the University Committee of Ethics.
4. The Disciplinary Committee shall decide as soon as thirty (30) calendar days following the violation has been filed. Such a decision shall be submitted to the relevant parties and recorded in the protocol book of the academic unit.

Article 4

Disciplinary violations

1. Disciplinary violations are classified into:
 - 1.1. Minor violations; and
 - 1.2. Aggravated violations.

Article 5

Minor violations

1. A minor disciplinary violation shall be considered any offense which, because of its low risk, does not infringe upon the employment relationship of the academic staff of the University of Prishtina. A minor violation is considered:
 - 1.1. Three unjustified absences of one-day duration within the calendar year;
 - 1.2. Regular failure of keeping official records and data related to work duties;
 - 1.3. Constant and unreasonable non-compliance of working hours;
 - 1.4. Clear and constant negligence in the process of organizing exams in terms of schedule, student distribution, and the time of issuance of the results;
 - 1.5. Failure to timely address decisions made by the Committee of the academic unit, including failure to observe transparency for any decision of both the assessment and managerial level, and
 - 1.6. Other errors caused by negligence.
2. If the violations set forth in paragraph 1 of this Article are repeated numerous times and given at least three (3) decisions for the imposition of disciplinary measures, then such violations may in themselves constitute an aggravated violation.

Article 6

Aggravated violations

1. An aggravated violation is considered to be any violation which infringes the essence of the employment relationship for the academic staff at the University of Prishtina, the consequence of which is difficult repairable damage. Aggravated disciplinary violations are considered:
 - 1.1 Aggravated violation of the Code of Ethics;
 - 1.2 Any confirmed violation of the relevant laws affecting the field of university and academic work therein;
 - 1.3 Falsification of official documents, including deliberate alteration of data in any official records or documents;
 - 1.4 Concealment the official document and not presenting it to the relevant body ex officio;
 - 1.5 Manipulating the process of student evaluation and scientific work;
 - 1.6 Unlawful and intentional material gain from the process of evaluating academic performance;
 - 1.7 Proceeding the decisions of university bodies (faculty committees, cathedra, departments, deans, and other bodies established on the basis of legislation in force at the university), without passing through the lawful voting procedure;
 - 1.8 Providing false data in an official university document;
 - 1.9 Exercising physical violence or psychological pressure on another employee, student, party or any other person within the institution;
 - 1.10 Discrimination of any kind;
 - 1.11 Damage to the institution's property, premeditated;
 - 1.12 Reporting for duty under the influence of alcohol or drugs;
 - 1.13 Deliberate non-fulfillment or clearly unsatisfactory performance of duties and responsibilities specified by contract or decision;
 - 1.14 Serious violations of the rules related to the health and safety of the employee;
 - 1.15 Aggravated violation of copyright and ethics in scientific publications;
 - 1.16 Failure to make a statement or make a false statement regarding a conflict of interest;
 - 1.17 Misuse or unauthorized use of trusted public funds for personal gain or in the interests of other persons;

- 1.18 Performing activities that conflict with the institution's interests or actions that harm the institution;
- 1.19 Conduct or threat that prevents impedes or hinders the successful performance of official duties;
- 1.20 Concealment of official facts, evidence or data, when required for official purposes;
- 1.21 Action or inaction leading to the disclosure of confidential data or information;
- 1.22 Misuse of university authority and name for personal gain outside the university;
- 1.23 Misusing managerial position to favor others contrary to the university's legal criteria and procedures;
- 1.24 Misusing managerial position by deliberately discriminating and denying the rights of academic staff guaranteed by the constitution or applicable laws;
- 1.25 Harassment of any kind, abusing a person's dignity in a way that causes hostility or fear to any person in the workplace;
- 1.26 Deliberate concealment of facts that constitute a conflict of interest in the process of recruiting and advancing academic staff;
- 1.27 If, within a period of one (1) year, three (3) minor violations have been imposed by the Disciplinary Committee receiving final status in administrative proceedings;
- 1.28 Aggravated disciplinary violations can only be committed through a direct will, which shall be justified.

Article 7
Committee of Ethics

- 1. Aggravated violations fall within the exclusive competence of the Committee of Ethics. The decision of the Committee of Ethics shall be confirmed in the Senate, respectively the Steering Council, depending on legal and statutory powers.
- 2. In making its decision, the Committee of Ethics shall apply the provisions of Regulation herein, the Statute of the University of Prishtina, the provisions of the Labor Law, the Law on Higher Education, and the provisions of other applicable laws and regulations.
- 3. The decision of the Committee of Ethics proposing the disciplinary action shall be reasoned and based on the standard of proof that goes beyond any reasonable doubt.
- 4. The report of suspected violation submitted by the authorized entity shall contain the following data:
 - 4.1 Be based on a plurality of clear evidence proving a disciplinary violation, with all official supporting documents, and reported in a form that is clearly credible and in accordance with applicable legislation;
 - 4.2 Provide evidence that suggests the violation occurred, and that the entity that committed the violation is clearly identified beyond a reasonable doubt;
 - 4.3 Be clear as to the identification of the violation in the present case, the extent of the violation, the harm caused by such violation, and to be based on any evidence that proves the committing of the same.
- 5. In evaluating the report of the alleged violation, the Committee of Ethics shall organize at least two (2) hearing sessions, one at the beginning of the procedure and one at the end of it to confront the evidence between the entity reporting the alleged violation and the entity suspected of infringement. The entity suspected of committing a violation enjoys all procedural rights to a fair hearing and treatment, including the right to seek confrontation with any party who has reported the violation. The relevant legislation on the organization of the disciplinary procedure, the data used, and the evidence obtained will be strictly enforced. Any party to the proceedings before the Committee of Ethics may invoke procedural regularity as prescribed by the principles of the Law on General Administrative Procedure.

6. The interview shall be conducted as soon as possible after the reporting of the alleged violation, but not later than 5 working days, ensuring that the suspected offender is notified 2 working days in advance.
7. The decision of the Committee of Ethics proposing disciplinary action shall be presented in advance to the Rector and subsequently proceeded to the Senate by the Steering Council thirty (30) calendar days following the violation has been filed.
8. The decision proposed by the Committee of Ethics shall become final upon approval by the Senate, respectively, of the Steering Council at the latest thirty (30) calendar days after its receiving.
9. The decision approved by the Senate, namely the Steering Council, shall be delivered to the parties not later than 5 working days from the date of its approval.
10. The Committee's decision shall justify the alleged violation, the reasoning that the violation has occurred or not, the reasoning that the party reported for a violation has been involved in the occurred violation, and the reasoning that the sentence imposed is proportionate and in accordance with the relevant legislation, including the Law on Higher Education, Labor Law, UP Statute, Code of Ethics and other sub-legal acts.

Article 8

Measures for disciplinary violations

1. For violations stipulated in the Code of Ethics and regulation herein, employees shall be imposed one of the following punitive measures:
 - 1.1. verbal reprimand;
 - 1.2. written reprimand;
 - 1.3. suspension of daily allowance;
 - 1.4. denial of involvement in assessment committees for the consequent three (3) years;
 - 1.5. denial of involvement in mentoring at all levels for one (1) consequent year;
 - 1.6. demotion;
 - 1.7. non-promotion for up to three (3) years;
 - 1.8. demotion in the academic title;
 - 1.9. revocation of a scientific degree;
 - 1.10. termination of the employment relationship.
2. Punitive measures, verbal reprimand, written reprimand, suspension of daily allowance, and denial of involvement in assessment committees for the consequent three (3) years, shall be imposed for minor violations in accordance with the applicable laws and regulations.
3. Punitive measures, denial of involvement in mentoring at all levels for one (1) consequent year, demotion, non-promotion for up to three (3) years, demotion in academic title, revocation of scientific degrees and termination of employment relation shall be imposed for aggravated violations of work duties and other provisions that contradict applicable legal and sub-legal acts.
4. The disciplinary measures stipulated in paragraph 2 of Article herein shall be imposed by the disciplinary committee of the academic unit, while the disciplinary measures referred to in paragraph 3 of Article herein, shall be proposed by the University Committee of Ethics for approval by the Senate, namely the Steering Council.

Article 9

Right to appeal

1. The decision of the Disciplinary Committee, in the case of minor violations, may be appealed to the Committee of Ethics.

2. The decision of the Committee of Ethics as a second instance for minor violations shall be final in the competent bodies of the UP.
3. The decision of the Senate as a first instance for aggravated violations may be appealed to the Steering Council of UP.
4. An aggrieved party with the final decision of the competent body within the UP may initiate the appeal procedure before the respective inspectorate or even the judicial-administrative conflict procedure against such decision under the legislation for administrative conflict.

Article 10 Secretariat

1. The UP central administration will provide the secretarial services to the Committee of Ethics, including:
 - 1.1 the regulation on disciplinary procedures and measures;
 - 1.2 providing advice and guidance to Committee members;
 - 1.3 gathering documented evidence;
 - 1.4 preparation of session schedules;
 - 1.5 notification of persons required to be present about the time, date and place of the hearing;
 - 1.6 keeping the minutes of the disciplinary hearing and filing the same in the candidate's file, as well as other procedural issues.
 - 1.7 Similar to the paragraphs above, the administration of the academic unit will provide the secretarial services to the Disciplinary Committee of the academic unit.

V. Final Provisions Article 11

1. The Steering Council of the University of Prishtina shall be responsible for the implementation of Regulation herein.
2. The Steering Council shall interpret Regulation herein.
3. For matters not stipulated in the Regulation herein, the provisions of the Law on Higher Education, the Labor Law, the Law on General Administrative Procedure, the Statute of the UP, the Code of Ethics and other applicable legal and sub-legal acts shall apply.
4. An integral part of this regulation is the Disciplinary Procedure Form, the Appeal Procedure Form, the Disciplinary Committee Work Guidelines, and the Guidelines on Reviewing Appeals.

Article 12 Repeal

With the entry into force of the Regulation herein, the Regulation on Disciplinary Procedures and Measures no. 3/531, dated 15.03.2005 repeals.

Article 13 Entry into force

The Regulation herein shall enter into force on the day of signature by the Chairman of the Steering Council of the University of Pristina.

UP Steering Council
Prof. dr. Ismet Salihu, chairman

A N N E X

REGULATION ON DISCIPLINARY MEASURES AND PROCEDURES FOR THE ACADEMIC STAFF OF UNIVERSITY OF PRISHTINA

1. DISCIPLINARY COMMITTEE FORM

- 1.1. Reporting a disciplinary violation form;
- 1.2. Interview form;
- 1.3. Verbal reprimand registration form;
- 1.4. Written reprimand form;
- 1.5. Notification of the suspected subject of the alleged violation form;
- 1.6. Notification for the suspension of the employee form;
- 1.7. Communication of the competent body's decision form.

2. INSTRUCTION ON HOLDING A DISCIPLINARY HEARING SESSION

- 2.1. Key points;
- 2.2. Preparing for a session;
- 2.3. How the Disciplinary Committee hearing ought to be conducted;
- 2.4. Statement of the alleged violation;
- 2.5. Response of the suspected subject for the alleged violation;
- 2.6. General questions and discussions;
- 2.7. Summary;
- 2.8. Postponement (suspension);
- 2.9. What problems may arise and how they ought to be responded to;
- 2.10. Decision-making guidelines on disciplinary measures;
- 2.11. What ought to be considered before imposing any disciplinary punishment;
- 2.12. Decision of the Disciplinary Committee.

3. APPEAL COMMITTEE FORM

- 3.1. Appeal registration form;
- 3.2. Accepting or rejecting the appeal form;
- 3.3. The disciplinary committee decision form.

4. GUIDELINES FOR THE COMPETENT BODY FOR HOLDING A HEARING SESSION TO REVIEW THE APPEAL

- 4.1. Key points;
- 4.2. Preparation for the session;
- 4.3. How the appeal review session ought to be conducted;
- 4.4. Statement of the appellant;
- 4.5. Response for the appellant;
- 4.6. General questions and discussions;
- 4.7. Summary;
- 4.8. Postponement;
- 4.9. What problems may be reported and how they ought to be responded to;
- 4.10. Guidelines for decisions on the choice of measure;
- 4.11. What is to be considered prior to making any choices;
- 4.12. Decision of the competent body for reviewing the appeals.

Form/1.1.

Reporting a disciplinary violation form

University

Faculty

REPORTING OF AN ALLEGED DISCIPLINARY VIOLATION

Details of the suspected subject for the alleged violation

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:

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Phone nr.

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

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Date
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Head
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Form/1.2.

Interview form

University

Faculty

ALLEGED DISCIPLINARY VIOLATION:

INVESTIGATIVE INTERVIEW RECORD

Name and surname of the interviewee

If employed with the University:

Post title Department

Address:

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Phone nr.

Name and surname of the interviewer

Post title

Department

Interview record (to be completed by the interviewer)

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Date

Interviewer

Form/1.3.

Verbal reprimand registration form

University

Faculty

VERBAL REPRIMAND RECORD

Name and surname: was given the notice “Verbal reprimand”. This light disciplinary measure is imposed on

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

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2. The following improvements are required:

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

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Notice-Verbal reprimand was given by:

Name and surname

Post title

Date

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Head

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Form/1.4.

Written reprimand form

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:

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is an unacceptable disciplinary violation and the following improvements are required:

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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
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Head
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Form/1.5.

Notification of the suspected subject of the alleged violation form

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):

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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 hearing session shall be recorded with an audio recorder.

The decision proposed by the Committee of Ethics shall be approved by the Senate, respectively in the Steering Council at the latest thirty (30) calendar days following its receipt.

The decision approved by the Senate, namely the Steering Council, shall be delivered to the parties not later than 5 working days following its approval.

The right of appeal shall be filed in accordance with Article 7 of the regulation herein.

Date
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Head
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Form/1.6.

The notification form for the suspension with pay of the employee

University
Faculty
Name and surname
Post title
Department
Date
Dear Mr./Mrs.

NOTIFICATION OF SUSPENSION WITH PAY UNDER THE LAW

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

Communication of the Competent Body’s Decision Form (Disciplinary Committee, Committee of Ethics, Senate or Steering Council):

University
Faculty
Name and surname
Post title
Department
Date
Dear Mr./Mrs.

DECISION OF THE COMPETENT BODY (Disciplinary Committee, Committee of Ethics, Senate or Steering Council):

After your appearance before (specify the competent authority) on
....., all the evidence presented has been carefully reviewed and it has been decided
that: (details of the decision of the Disciplinary Committee or the Committee of Ethics).

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If the Commission has concluded that an aggravated violation has been committed, indicate
the details of the measures imposed.

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The right of appeal shall be filed in accordance with Article 7 of the regulation herein.

Date

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Head

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2. INSTRUCTION ON HOLDING A DISCIPLINARY HEARING SESSION

2.1. 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, interviewing the suspect, complainant of the alleged violation and potential witnesses, 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.

2.2. 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 quiet room at least 2 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.

2.3. How the Disciplinary Committee or Committee of Ethics Hearing Session ought to be conducted

The Chairperson of the Disciplinary Committee or Committee of Ethics 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.

2.4. 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.

2.5. 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.

2.6. 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. Commission/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.

2.7. 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.

2.8. Postponement - suspension

It is generally good practice for the committee to suspend the hearing before a decision is made and to ensure that the disciplinary measure is appropriate to the violation established. 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 better to call a hearing session again.

2.9. 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.

2.10. Decision-making guidelines on disciplinary measures

Key points:

- The decisions of the committee at the end of the disciplinary hearing are:
 - a) to impose/propose adequate disciplinary measure;
 - b) to dismiss the suspected violation as ungrounded, and
 - c) to propose measures to improve behavior.
- 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.
- The taking of any action in respect of the alleged violation can only be undertaken after a disciplinary investigation by the competent body.
- 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.

2.11. 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.

2.12. Decision of the Disciplinary Committee/Committee of Ethics

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.

3. FORM FOR THE COMPETENT BODY TO REVIEW THE APPEALS

Form/3.1.

Appeal Registration Form

University

SUBMISSION OF THE APPEAL

Name and surname of the complainant

Department Post title

Residential address:

.....

Phone nr.:

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

Your appeal dated has been accepted by (first and last name of the recipient) on You will be contacted in due time to be informed if the appeal is to be reviewed or not, and if so, we will provide you further information about the date, time and place.

This form is filed in two copies. One copy for the complainant and one copy for the recipient of the appeal.

Form/3.2.

Accepting or rejecting the appeal form

University

Mr./Ms.

Name and surname of the complainant

(Address of the complainant):

.....

Date of appeal

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 competent body (write the competent body designated as in Article 7 of this Regulation) for review of appeals depending on which decision body dealt in the first instance.

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).

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Legal remedy: *You have the right to file an appeal against this decision with the competent Court in Pristina.*

Date
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Head
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Form/3.3

Form for appealing the first instance decision

University

Mr./Ms.

Name and surname of the complainant

(Address of the complainant):

.....

Date of appeal

Dear Mr./Ms.

Appeal against [title of appeal]

(If appeal is accepted):

The competent body for reviewing the appeal (specify the competent body) has accepted the appeal and decided that: (briefly describe the correction described by the appeal committee)

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Legal remedy: *You have the right to file an appeal against this decision with the competent Court in Pristina.*

Date
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Head
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4. GUIDELINES FOR THE COMPETENT BODY TO HOLD THE APPEAL REVIEW SESSION

4.1. Key points:

- Prudent preparation for the appeal hearing session and ensuring that all facts are available to all parties.
- Explaining to the appellant the procedure and his/her rights are 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 and recording the statements of the parties in the record.

4.2. Preparation for the hearing session

- Ensure that all relevant facts are available and when written statements from witnesses are needed.
- 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 business 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.

4.3. How the appeal review session ought to be conducted

The Chairperson of the competent appeal review body 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 appeal review hearing session will be conducted.

4.4. Statement of the appellant

The Chairperson shall:

- request from the appellant to state his/her case clearly and precisely,
- invite the appellant to submit his or her testimony uninterruptedly including the witnesses.

4.5. 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.

4.6. 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.

4.7. 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.

4.8. 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.

4.9. 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.

4.10. Guidelines for decisions on the choice of measure

Key points:

- The decisions required by the committee at the end of the hearing session for reviewing the appeal are:
 - a) rejection of the appeal for lack of argument,
 - b) the approval of the appeal in its entirety and the dismissal of the first-instance decision as ungrounded;
 - c) partial approval of the appeal;
 - d) change of disciplinary measure,
 - e) the imposition of additional disciplinary measures,
- 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 competent body should carefully consider the impact this measure will have on the appellant's future career and on his/her work reports within the University.

4.11. 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/ Ethics 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.

4.12. Decision of the competent body for reviewing the complaints

In all cases, the competent body for reviewing the complaints 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, as well as the decision of the Committee.