

# DISCIPLINARY CODE

Moderation Department

# 1. GENERAL RULES AND PRINCIPLES

1. The Students' Disciplinary Code is aimed at:
  - a. *upholding the name and reputation of the Institute;*
  - b. *maintaining order and discipline within the wider Institute;*
  - c. *ensuring the integrity of the academic processes of the Institute; and*
  - d. *assuring the quality of the assessment processes at the Institute.*
2. Any conduct of a student which contravenes the Disciplinary Code and/or negatively impacts on these goals may be regarded as misconduct and subject to disciplinary measures.
3. The general supervision and control of student discipline at the Institute lays in the power of the HRTI CEO and are administered in terms of the Students' Disciplinary Code of the Institute.

## 2. MISCONDUCT

A student is guilty of misconduct if she/he:

1. intentionally or negligently contravenes or subverts, or attempts to contravene or subvert, or assists, encourages or persuades any other person to contravene or subvert a code, regulation, rule or instruction of the Institute;
2. refuses or fails to comply with a lawful instruction or request of an employee of the Institute authorised to give such instruction or make such request, or acts contrary to such instruction or request;
3. commits any statutory or common law crime whilst part of the wider Institute;
4. intentionally or negligently misuses, defaces or alienates, or without authorisation, notes, documents, material or any other thing owned or controlled by the Institute or by any employee of the Institute, or by any registered student of the Institute for purposes other than official Institute business;
5. intentionally or negligently mismanages and/or misappropriates funds of the Institute;
6. uses abusive or offensive language when engaging with Institute employees during official Institute business ignoring common courtesy and etiquette, or during a meeting, conference or any gathering organised by or whilst representing the Institute;
7. uses confidential information without authorisation;
8. sexually or otherwise harasses any employee of the Institute (as defined in the Sexual Harassment Policy (students) and the Protection from Harassment Act, 17 of 2011) whilst being part of the wider Institute;
9. acts in a racist manner towards any employee whilst being part of the wider Institute;

10. unlawfully expresses, publishes or disseminates in speech, writing, print or other medium of the Institute's views, beliefs or ideology which would infringe upon the dignity or the Institute, or any employee of the Institute;
11. without the written permission of the Chancellor uses the name of the Institute, or uses or displays the logo and/or the logo of the Institute;
12. knowingly makes a false statement about the Institute or otherwise intentionally provides materially false information to anyone in- or outside of the Institute about the Institute;
13. making a false declaration in order to obtain a benefit or to prejudice the Institute or prejudice or benefit another student;
14. intimidates students with the intent to compel another person within the Institute to act or not to act against the will of that student;
15. intentionally or negligently tenders or presents to any employee of the Institute any document which he or she knows or ought reasonably to know to be false or a forgery and which causes or has the potential to cause prejudice to the administrative, financial or academic interests of the Institute;
16. accepts or offers a bribe to students, employees or any other official of the Institute;
17. reproduces or transmits in any form or manner, whether electronically or mechanically (including photocopying and faxing), any study guide, book, thesis, dissertation, article, examination paper, lecture, printed tutorial matter or any other study aids in respect of which copyright exists, unless such reproduction or transmission is done in a manner authorised in terms of the Copyright Act, 1978 (as amended), and unless the copyright owner's permission for the reproduction or transmission is obtained;
18. behaves in any way that leads or may lead to the consequences described below, if such consequences were or should reasonably have been foreseen at the time when such behaviour occurred. Such behaviour includes conduct by which:
  - a. *the good name and reputation of the Institute is or may be impaired,*
  - b. *the maintenance of order and discipline of the Institute is or may be prejudiced or imperilled, or*
  - c. *the process of tuition, research and administration of the Institute are or may be prejudiced or imperilled.*
19. With regard to assessments, a student is guilty of misconduct if he/she cheats in any Institute's process of examination.
  - a. *For purposes of this rule 'examination' includes all assessments of a student's performance organised and/or conducted in the name of the Institute.*
20. Further for purposes of this rule, 'cheating' includes:
  - a. *the possession of any unauthorized document(s) and/or aid(s) in the process of examination which is made available to students;*

- b. *the use or attempt to use during an examination not supplied by the Institute, any note(s) or aid(s) or electronic devices for the purpose of assisting in the examination;*
- c. *the communication or attempted communication of any information relating to an examination with any other candidate;*
- d. *the use of a false name, identity number or student number in an examination;*
- e. *the submission for examination as own work any matter that has been copied, reproduced, or extracted in whole or in part from the work of another student or some other person, or which is substantially the same in whole or in part as the work of another student;*
- f. *intentionally or negligently assisting another student to cheat as defined in the above;*
- g. *the commission of any other fraudulent or dishonest practice whereby a student, whilst being examined by the Institute, seeks to mislead or deceive the moderator or any other officer of the Institute.*

### 3. THE DISCIPLINARY PANEL

#### 1. Disciplinary Panel COMPOSITION:

- a. *Moderator or his/her representative (chairperson)*
- b. *One or two members of Academic Board (elected by the Academic Board)*
- c. *The Dean or his/her representatives of the applicable Campus*

#### 2. QUORUM

Three members of the Disciplinary Panel constitute a quorum.

#### 3. ABSENCE OF DISCIPLINARY PANEL MEMBERS

If at any stage during the sitting of the Disciplinary hearing a member of the Panel is no longer able to participate in the proceedings or is absent for any reason, the hearing will continue, provided that the Panel is properly constituted and quorate.

#### 4. CHAIRPERSON TO DETERMINE PROCEDURES

Subject to the provisions of this Code, the procedure adopted at the Disciplinary Panel Hearing is determined by the Chairperson of the Disciplinary Panel.

#### 5. DECISIONS OF THE DISCIPLINARY PANEL

- a. *At the conclusion of the evidence, the Disciplinary Panel decides, in light of all the evidence led, whether or not the student is guilty of the misconduct, as charged. A finding of guilty will only be returned if:*
  - i the misconduct charged has, in the opinion of the Panel, been proved on a balance of probabilities; or

- ii the student has freely and voluntarily admitted guilt and the Panel is satisfied that there is evidence from the accused or from another source to substantiate the admission. Should the Committee not be satisfied with the evidence presented, it may of its own accord call for further evidence to be led in respect of the charge.
- d. *If the Panel does not find the student guilty as provided for in paragraph 5.a.i, the student is acquitted of the charge.*
- e. *The decision of the Disciplinary Panel is determined by a majority vote of the members present.*
- f. *In the event of an equality of votes, the Chairperson of the Disciplinary Panel has a casting vote in addition to his/her ordinary vote.*

#### 6. STUDENT'S ABSENCE FROM HEARING

- a. *If a student charged with misconduct does not attend his/her disciplinary hearing via, skype, video call or in person, such hearing proceeds in his/her absence and the proceedings of the Disciplinary Panel are not invalid as a result thereof.*
- b. *However if a student does not attend via, skype, video call or in person, his/her disciplinary hearing without a valid written notice of absence, via email in (7) seven days before the hearing, that student will be find guilty of discontent and a second hearing will be scheduled.*
- c. *If the second hearing is also not attended without a valid written notice of absence, the second hearing will proceed in his/her absence and the proceedings of the Disciplinary Panel are valid.*

#### 7. OBSTRUCTION OF PROCEEDINGS

If a student charged with misconduct interferes with or obstructs any proceedings of the Disciplinary Panel or refuses to carry out an instruction of the Chairperson of such Panel, such student may be ordered by the Chairperson to withdraw from the proceedings, which may then continue in his/her absence and the proceedings will be valid.

#### 8. RECORD OF PROCEEDINGS

The Moderation Department appoints a person from HRTI Administration Department to record, by means of recording or in writing, the proceedings of the Disciplinary Panel and all the evidence tendered.

- a. *Such a person is not a member of the Disciplinary Panel.*

## 4. PROCEDURE IN THE CASE OF A COMPLAINT OF MISCONDUCT

### 1. NOTIFICATION OF MISCONDUCT

- a. *A student will not be formally charged with misconduct until a written and signed statement containing an accusation, complaint or allegation made against the student has been submitted to the Moderation Department via email (studentsupport@hrti.co.za) or a person authorised by him/her to receive such complaint, provided that nothing contained herein will prevent the Moderation Department from laying a complaint of misconduct against a student.*

## 2. PRELIMINARY INVESTIGATION

- a. *The Moderation Department appoints one or more persons to conduct a preliminary investigation into an accusation, complaint or allegation brought to his/her attention. The Moderator may, at his/her discretion, conduct the investigation him/herself.*
- b. *Such person(s) so appointed submits a written report and/or charge sheet to the Moderation Department.*
- c. *The person(s) appointed to conduct the preliminary investigation may consult with or obtain information from any person, including the student against whom the accusation, complaint or allegation has been made.*

## 3. REFERRAL TO THE DISCIPLINARY PANEL

- a. *If the Moderation Department is of the opinion that there is a prima facie case and that there are reasonable grounds for a charge of misconduct and that the misconduct is of a serious nature, he/she drafts a written charge or has such charge drawn up to be heard by the Disciplinary Panel.*
- b. *If the Moderation Department is of the opinion that an alleged misconduct of a student constitutes a minor contravention of the Code, the Moderator may exercise his/her discretion to decide what further steps should be taken in response to the alleged misconduct.*

## 4. NOTICE TO THE ACCUSED STUDENT

- a. *When proceedings against a student are instituted in terms of paragraph 3 above, the Moderation Department will give the student concerned not less than (14) fourteen calendar days' notice in writing of the date, time and place of the hearing by the Disciplinary Panel.*
- b. *The Notice under this rule will inform the student:*
  - i. *that proceedings under the Students' Disciplinary Code are to be instituted against him/her and that a copy of the Code is available for inspection on the website of HRTI,*
  - ii. *of the Rule that the student is alleged to have breached and/or the act(s) of misconduct that the student is alleged to have committed. The Notice must set out the charge with sufficient particularity to enable the student to prepare for his/her defence,*
  - iii. *of his/her right to answer the charge in writing at least (4) four calendar days before the hearing,*

- iv. of his/her right to attend the hearing personal, via electronic media such as skype or video call to present his/her case, or to be represented at the hearing by another student or an employee of the Institute, and

## 5. SERVICE OF NOTICE

- a. *Service of any written notice and the furnishing of particulars in terms of this Code will be via email to the email address provided either on the most recent application form completed by the student for the purpose of registration or on any later written notice submitted by the student to the Institute of a change of address.*
- b. *In the case of such service the student will be deemed to have received the Notice and particulars within (5) five calendar days of the date of posting thereof.*

## 6. SUSPENSION

- a. *No student will be suspended from the Institute before a hearing is held. However, the Moderation Department may use an abridged service of Notice to convene an emergency Disciplinary Panel that will determine the need for a temporary suspension which will serve to prohibit such student from:*
  - i. access the Online System or offices of the Institute, or any part thereof, and/or
  - ii. using an opportunity resulting from his/her enrolment as a student.
- b. *A temporary suspension in terms of paragraph 7.1 remains in force for the period not exceeding (30) thirty calendar days or until the disciplinary proceedings in terms of this Code have been completed, whichever instance may first occur.*
- c. *The suspended student may make written representations to the CEO within (5) five calendar days of receipt of written notice via email of his/her suspension, advancing reasons why he/she should not be suspended.*
  - i. The CEO may at his/her discretion revoke a suspension at any time, provided that, notwithstanding such revocation, further steps may be taken to proceed with the disciplinary hearing on the charge of misconduct against the student.
  - ii. The CEO may, at his/her discretion, also confirm the suspension.

## 5. GENERAL PROCEDURES AT THE HEARING OF A CHARGE OF MISCONDUCT

1. In the interest of transparency, all hearings are open meetings unless the Chairperson of the Disciplinary Panel is persuaded by the circumstances of the case to direct that the hearing be closed to the Institute community.
2. The Disciplinary Panel hears the case of the Institute

3. The Disciplinary Panel allows the student in person or via electronic communication or such person representing the student a reasonable opportunity to present a defence and to answer the charges.
4. Both parties, which is the Institute and the student, are allowed to adduce all relevant evidence and call witnesses and to examine and cross-examine witnesses, as appropriate.
5. The Disciplinary Panel may also ask the witnesses questions for clarity.
6. The Disciplinary Panel may further, of its own accord, call for evidence that it may deem relevant to determine the issue(s) before it.
7. The hearing of the Disciplinary Panel is conducted in an informal manner, according to the principles of natural justice and with due regard for the rights of the accused student. No accused student will be prejudiced by reason of a failure to comply with the rules of procedure or rules of evidence as applied in the ordinary courts.
8. If the student is a minor, no disciplinary action(s) will be taken against that student before his/her parent or guardian has also been informed in writing of his/her alleged misconduct and has been given a proper opportunity to make a written statement and, if he/she so wishes, to appear before the Disciplinary Panel in person.

## 6. SANCTIONS

1. When considering an appropriate sanction, the Disciplinary Panel takes account of all mitigating and aggravating factors presented during the hearing. Further, when considering the appropriateness of the disciplinary measures to be imposed, the Disciplinary Panel ensures that such disciplinary measures are, as far as possible, appropriate to and commensurate with the nature and gravity of the misconduct of which the student has been found guilty. And still further, it is noted that the Disciplinary Panel is also bound by the rules of administrative law and natural justice and the principles of precedent.
2. After finding a student guilty of misconduct, the Disciplinary Panel may impose one or more of the following sanctions:
  - a. *revocation of a degree, diploma or other qualification obtained in conjunction with the applicable University in an improper manner;*
  - b. *a written reprimand and/or warning;*
  - c. *denial of the opportunity to enrol as a student at the Institute;*
  - d. *a fine not exceeding twice the annual tuition fee for the full first year of study of the qualification for which the student is registered;*
  - e. *payment of compensation or requiring the accused student to repair the damage caused by his/her misconduct;*
  - f. *denial of the opportunity to register for a particular study module or course offered by the Institute;*



- g. annulment of examination results and/or withdrawal of a credit(s) obtained in a study modules and/or courses;*
          - h. confirmation of the temporary suspension of a student, and/or the suspension of the student for a specified period or further period subject to any condition(s) which the Disciplinary Panel deems reasonable;*
          - i. denial of the opportunity to register or enrol again as a student at the Institute for a specified period;*
          - j. any other appropriate sanction(s) which the Disciplinary Panel deems suitable in the particular circumstances.*
3. A student who is temporarily or permanently deprived in terms of this Code of the opportunity which he/she has as a student or is temporarily or permanently denied admission to the Institute, forfeits any claim for repayment, reduction or remission of moneys paid or payable to the Institute.

## 7. IMPLEMENTATION OF FINDINGS OF THE DISCIPLINARY PANEL

1. If the Disciplinary Panel finds an accused student:
  - a. **guilty**, the student is notified in writing of the finding and the sanction(s) imposed by the Disciplinary Panel. In the Notice, the student is further informed of his/her right to appeal against the finding(s) and/or the sanction(s) imposed;
  - b. **not guilty**, the student is notified in writing of the finding of the Disciplinary Panel.
2. A student who has been found guilty of misconduct may, within (14) fourteen calendar days of being informed of the finding of the Disciplinary Panel, appeal to the Moderation Department in writing by lodging a written Notice of Appeal with the CEO, provided that a student who has been found guilty of misconduct after having pleaded guilty to the charge against him/her has no right of appeal against such finding, but may still appeal against the sanction.
3. The appellant furnishes, in writing, detailed grounds for his/her appeal in the Notice of Appeal.

## 8. APPEALS

1. The Student have the right to appeal in respect of findings of the Disciplinary Panel.
  - a. *In the case of an appeal, the Disciplinary Appeals Panel will be the authoritative body hearing the appeals in respect of the decisions of the Disciplinary Panel whether based on factual findings, matters relating to procedure and/or the sanctions imposed.*

- b. *The Disciplinary Appeals Panel has the powers to review, reverse, nullify or replace decisions of the Disciplinary Panel in all respects, and can also order that hearings be held de novo.*

## 2. DISCIPLINARY APPEALS PANEL COMPOSITION:

- a. *HRTI CEO or HRTI CFO (one of them to be the chairperson)*
- b. *Two or three members of the Executive Directors (elected by the Board of Directors)*
- c. *No member of the Disciplinary Panel may participate on the Disciplinary Appeals Panel.*

## 3. QUORUM

Three members of the Disciplinary Appeals Panel constitute a quorum.

## 4. PROCEDURES

- a. *Upon receipt of a Notice of Appeal, a copy of such Notice is forwarded to the Chairperson of the Disciplinary Panel which adjudicated the charge, whereupon the Disciplinary Panel, where necessary, should within a reasonable period compile a reply to the grounds for appeal and submit it to the Chairperson of the Disciplinary Appeals Panel.*
- b. *When an appeal is lodged against a decision of the Disciplinary Panel in terms of Point 8, the enforcement of any disciplinary measure imposed by the Disciplinary Panel is deferred by either the Disciplinary Panel or the CEO, pending the outcome of the appeal.*
- c. *An appeal will be heard solely on the grounds of the record of the proceedings of the Disciplinary Panel, together with any document(s) and exhibit(s) submitted during the Disciplinary Panel hearing, save where the appeal is based on a material irregularity that is alleged to have occurred in the course of the proceedings but does not appear as such from the record.*
- d. *For the purposes of an appeal, the appellant or the person assisting him/her or any other person allowed by the Disciplinary Appeals Panel (or the Disciplinary Panel as the case may be) may make written or, with the permission of the Disciplinary Appeals Panel, verbal representations to the Disciplinary Appeals Panel.*

## 5. After considering an appeal the Disciplinary Appeals Panel may:

- a. ***dismiss the appeal*** and uphold the decision of the Disciplinary Panel in its entirety or in part,
- b. ***allow the appeal*** and set aside the decision of the Disciplinary Panel in its entirety or in part,
- c. ***amend the decision*** of the Disciplinary Panel,
- d. ***increase or decrease any sanction(s) imposed*** by the Disciplinary Panel, provided the Disciplinary Appeals Panel has given the accused student *within reasonable time prior to the appeals hearing written notice*

*of its intention to do so and has further considered the appellant's written representations, if any, in this regard.*

- e. *prior to reaching a final decision concerning the appeal, the Disciplinary Appeals Panel may **refer any question** pertaining to the hearing of the Disciplinary Panel back to the Disciplinary Panel concerned and order that a report be submitted.*
6. There is no further forum for appeal within the Institute structures after the Disciplinary Appeals Panel.

## 9. REPORTING AND DISCLOSURE OF FINDINGS

1. *If a student in respect of whom the Disciplinary Panel has imposed a sanction fails to exercise his/her right of appeal as set out in Chapter 8, the Disciplinary Panel submits a written report on the matter to the Executive Board of Directors.*
2. *If a student in respect of whom the Disciplinary Panel has imposed a sanction exercises his/her right of appeal as set out in Chapter 8, the Disciplinary Appeals Panel will submit a written report on the matter to the Executive Board of Directors after disposing of the appeal and, if it deems necessary, to Council for its information.*
3. *Final decisions in respect of student disciplinary hearings (without identifying the student) may be published on the Institutes website and may be made public by any other means determined by the relevant Disciplinary Appeals Panel or the CEO, save where exceptional circumstances are found to exist.*


## 10. SAFEKEEPING OF THE RECORD OF PROCEEDINGS

1. All documents and recordings, pertaining to a disciplinary matter, will be kept in safe custody by the Institute's Administration Department. A student<sup>1</sup> is, however, entitled to receive copies of such documents and transcription of recordings at his/her own expense.
2. Such documents and transcription of recordings will be held by the Institute for a period of (3) three years after a matter has been finalised.

## 11. COMMENCEMENT OF THIS CODE

1. This Code comes into operation on the date on which it is approved by the Board of Directors.
2. This Code is the relevant Code for all students registered at HRTI from the commencement date of this Code and repeals all previous Disciplinary Codes, policies and procedures that may have previously pertained.

## 12. OPERATIONAL GUIDELINES

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1. The Registrar may prepare operational guidelines regarding:
    - a. *minimum and maximum sentences to be imposed by the Disciplinary Panel and Disciplinary Appeals Panel;*
    - b. *any matter required to be prescribed in terms of this Code; and*
    - c. *any other matter which the HRTI Management deems necessary or expedient to be prescribed in order to achieve the objects of this Code.*
  2. Any guideline made under this subsection must be submitted to the HRTI Management for approval.