



<b>POLICY NUMBER</b>	<b>IIE015</b>	
<b>POLICY NAME</b>	<b>Student Code of Conduct, Dispute, Grievance and Disciplinary Policy</b>	
<b>LEGEND</b>	<b>Formerly known as the Student Code of Conduct – renamed on 03 November 2016</b>	
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<b>RELATED POLICIES AND PROCEDURES</b>	<b>IIE001: Quality Assurance Policy</b> <b>IIE002: Admissions Policy</b> <b>IIE006: Work-Integrated Learning Policy</b> <b>IIE009: Assessment Strategy and Policy</b> <b>IIE019: Community Engagement and Citizenship Policy</b> <b>IIE021: Safe Campus Policy</b> <b>IIE023: Intellectual Integrity Policy</b> <b>IIE026: Student Rights and Services Policy</b>  <b>PDIIIE015: Student Code of Conduct, Dispute, Grievance and Disciplinary Procedure</b>	

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<sup>1</sup> S28: 2011-11-22 Item 8.7

<sup>2</sup> S43: 2016-11-03 – whole policy review

<sup>3</sup> Post S43: 2016-11-03 amended version was re-numbered and edited and Glossary and Roles moved before the Introduction.

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## Glossary and Roles

<b>Accused</b>	The person suspected of misconduct against whom a formal disciplinary charge has been laid.
<b>Aggravating factors</b>	Factors presented by the Complainant or Prosecutor that could increase the severity of the penalty to be laid down after an Accused has been found guilty of misconduct.
<b>Appeal</b>	A <i>formal request</i> to reconsider the outcome of the disciplinary hearing including the penalty, or a penalty where the right to a disciplinary hearing was waived. Grounds for appeal can include claims of procedural error, new evidence, the severity of the penalty or the overall merit of the case.
<b>Appellant</b>	The person appealing against the outcome or the penalty.
<b>Balance of probabilities</b>	The standard of proof which would find that the version of an event as presented by one party is more likely to be true, based on the preponderance of evidence, than the version presented by the other party. (See <i>reasonable suspicion</i> later for the standard of proof for an initial investigation.)
<b>Bill of Rights</b>	Chapter Two of the Constitution of South Africa contains the Bill of Rights, a human rights charter that protects the civil, political and socio-economic rights of all people in South Africa.
<b>Campus Disciplinary Officer</b>	The person on campus formally responsible for student complaints and discipline and the management and implementation of this Policy.
<b>Central Academic Team (CAT)</b>	The IIE's Central Academic Team (CAT) responsible for several of the regulatory, quality, compliance, and policy matters for The IIE.
<b>Charge</b>	An <i>official statement</i> accusing the student/ Respondent of the alleged misconduct.
<b>Common law</b>	means the Constitution of the Republic of South Africa, 1996. It is the supreme law of the country. It sets out the structure of the state and its organs and contains the Bill of Rights in which the state undertakes to guarantee and protect the basic human rights of an individual.
<b>Complainant</b>	The person who lays the complaint/ brings the charges, or makes the allegation against the Respondent or the Accused.
<b>Complaint</b>	An allegation made by a person (in this case a student) normally against another student. The complaint may be an allegation of misconduct or an allegation of conduct that requires the intervention of a third party.
<b>Constitution</b>	The South African Constitution is the supreme law of the country of South Africa. It provides the legal foundation for the existence of the republic, sets out the rights and duties of its citizens, and defines the structure of the government.

<b>Disciplinary hearing/ hearing</b>	A formal process in which the Disciplinary Committee hears and decides on all cases of alleged misconduct.
<b>Disciplinary Committee</b>	The duly constituted committee that hears and decides on all cases of alleged misconduct.
<b>Disciplinary Committee Chair</b>	The person appointed by the Principal to chair the Disciplinary Committee.
<b>Disciplinary Committee Members</b>	The two staff members or Independent Contractors and two students (see below) to make up the Committee with the Chair.
<b>Dispute</b>	A disagreement.
<b>Expulsion/ Expelled</b>	Permanent ejection/ barring of the student from an IIE campus or from all campuses of The IIE and/ or from all studies – including distance mode – offered through The IIE.
<b>Grievance</b>	A cause for a complaint normally unfair behaviour.
<b>Independent Contractor</b>	A person performing contracted duties on or for the campus concerned, but not employed by The Independent Institute of Education.
<b>Interpreter</b>	The person requested by the Accused to interpret the disciplinary proceedings for him/ her in any of the official 11 South African languages.
<b>Investigating Officer (IO)</b>	The person designated by the Campus Disciplinary Officer to conduct the investigation of a complaint or allegation and to make the recommendation on how to proceed.
<b>Lecturer</b>	A person who lectures on the campus concerned – irrespective of the contract type.
<b>Mediator</b>	A member of the student support team or any other staff member or independent contractor on a campus or skilled external person, who does not have a conflict of interest in the matter, who has been requested to assist with mediating a dispute or complaint.
<b>Misconduct</b>	Wrongful, improper, or unlawful behaviour committed intentionally or at least without regard for the reasonably accepted consequences of one's acts.
<b>Mitigating factors</b>	The factors that could positively influence/ soften a penalty, presented by the Accused/Accused's Representative after the Accused has been found guilty of the alleged misconduct.
<b>Natural Justice</b>	The concept of natural justice includes the right to a fair hearing; the opportunity to present a case; and to a decision by an unbiased party.
<b>Next most senior person</b>	This is the person to whom someone reports. In the context of this Policy it refers to the person who would take on a particular task or function if the person who should be doing it is unable to do so for any reason.
<b>Penalty/ Sanction</b>	The <i>punishment</i> decided by the Disciplinary Committee.

<b>Precinct of the institution</b>	Any institutional building, grounds or any other place where the institution ordinarily conducts its business, or conducts its business for a specific event or period.
<b>Principal</b>	Campus head, or in the case of a distance education student not receiving campus based support, the Distance Education Manager at the Central Academic Team (CAT).
<b>Prosecutor</b>	The person who leads the case against the Accused to the Disciplinary Committee.
<b>Reasonable suspicion/ comfort</b>	This standard of proof applies to an investigation prior to making the decision to proceed with a disciplinary hearing. Reasonable suspicion/ comfort means that a reasonable conclusion has been reached that an event may have occurred, which, taken together with rational inferences, would suggest that a formal disciplinary hearing should be instituted.
<b>Registrar</b>	The Registrar of The IIE
<b>Representative</b>	The person (another student, a staff member or an independent contractor of The IIE) who supports, advises and represents either the Respondent/ Accused or the Complainant at his/ her request throughout any process outlined in this Policy.
<b>Respondent</b>	Person or group against whom a complaint is laid or an allegation is made (Until a formal decision is taken to charge a student with misconduct this is the term to be used).
<b>SAPS</b>	South African Police Services
<b>Scribe</b>	A person appointed by the Campus Disciplinary Officer to record the hearing, and take detailed notes of all investigative discussions, meetings, and Committee proceedings.
<b>Staff</b>	A person in the employ of The IIE normally, but not necessarily, employed on the campus concerned.
<b>Statement</b>	A statement is a formal description of events supported by an explanation or interpretation of the meaning or impact of the events that can be made verbally or in writing.
<b>Student</b>	Any person currently registered for a full qualification or short learning programme or other course of study at The IIE.
<b>Student Hub</b>	Centralised Student Hub for all students' queries and complaints across Tertiary. Logged on Brands public facing websites and managed via a Case Management System
<b>Student Hub AoC</b>	The Academic Operations Coordinator in the Student Hub attending to student queries and complaints that are logged on this system.
<b>Student Support Team</b>	Members of the staff of a campus that can be approached for advice and direction on a complaint. These will include, but are not necessarily limited to, the Counsellor, Student Relations Manager, Vice Principal, and Teaching and Learning (T&L) Specialist.

<b>Suspension</b>	Formal <i>instruction</i> from the Principal to the student indicating that some or all rights and privileges of the student are withheld. This can be for a specific period, or until a specific action has been taken, and/ or until the disciplinary process has been finalised.
<b>The IIE</b>	The Independent Institute of Education.
<b>this Policy/ this Code</b>	The Student Code of Conduct, Dispute, Grievance and Disciplinary Policy (IIE015), as amended from time to time.
<b>Verbal Statement</b>	A statement not committed to writing but on which notes are taken by another person. The record of the statement is then normally signed and dated by the person making the statement.
<b>Verdict</b>	The formal finding/ official decision of the Disciplinary Committee on the matters they are considering.
<b>WIL</b>	Work-integrated learning
<b>Witness</b>	A person who has direct knowledge of the events who gives testimony of the facts to the Investigating Officer and/ or the Disciplinary Committee.
<b>Written Statement</b>	Written statements (hand written or printed) signed and dated by the person making the statement.

## 1 Introduction

- (1) The Independent Institute of Education (The IIE) is committed to the maintenance of an environment characterised by respect, accountability<sup>4</sup> and integrity in which effective teaching and learning can take place. The IIE expects its students to conduct themselves in line with the Constitution of the Republic of South Africa, the common law of the country, and the preservation of human rights and dignity.
- (2) This includes adherence to all rules and regulations of The IIE in general and as may be specifically detailed from time to time.
- (3) The IIE will co-operate with others in society charged with the maintenance of the above, including but not limited to, the South African Police Services (SAPS).
- (4) The IIE is committed to the principles of restorative justice practises. <sup>5</sup>These are practises in a justice system which focus on the rehabilitation of offenders and the restoration of the well-being of victims, through reconciliation with victims and the community at large driven by the direct involvement of both the offender and the victim in determining penalties where appropriate.
- (5) The IIE retains sole and final responsibility for the setting and management of penalties, whether or not restorative opportunities are possible.
- (6) The IIE offers students and others within its environment and influence a graduated system (see Section 3) for accessing mechanisms to redress harm, seek positive outcomes, and resolve disputes and wrong doing. In other words, students are expected to use the most collaborative methods first, where appropriate, before engaging in methods that rely more on the principles of sanction to achieve their ends. This is not always possible or appropriate.
- (7) All general campus concerns must be logged on the Student Hub.

## 2 Code of Conduct

- (1) All rules of The IIE are connected to the three core values of respect, integrity, and accountability. Behaviour that supports the three values is described below and the associated specific offences which are violations of these values are detailed in the appropriate sections of the Policy. When a disciplinary process is initiated it will normally reference the details of Section 6 but may make reference to the potential violations of elements of the Code which is based on the values as detailed in this Code.

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<sup>4</sup> Interchangeable in this document with “taking responsibility”

<sup>5</sup> See Wikipedia and others

## 2.1 In Terms of Respect All Students are Expected to:

- a) Actively promote, through their own conduct or influence on the conduct of others, an environment that is free from stereotype, prejudice or discrimination in relation to the gender, race, sexual preference, political affiliation, nationality, marital status, disability; religious belief or any other characteristic of any other person.
- b) Contribute to a harmonious and positive learning environment that is respectful of the rights and interests of all those in the environment.
- c) Respect other students' and staff members' (including independent contractors') rights to privacy, dignity, safety and appropriate confidentiality.
- d) Respect any information to which the student gains access in relation to any person or entity with due regard for the interests, dignity and rights of that person or entity.
- e) Safeguard the well-being of themselves and others.
- f) Not place others at risk.
- g) Respect the laws, rules, regulations and conventions of the country and the immediate context (formal or informal; social or academic; indoors or outdoors etc.).

## 2.2 In Terms of Accountability All Students are Expected to:

- a) Take responsibility for their conduct and its impact.
- b) Take responsibility for their learning and for their adherence to the requirements of their course of study.
- c) Take responsibility for their involvement in any activity associated with The IIE.
- d) Monitor their own progress throughout their course study and to seek advice, support or assistance when he/ she experiences difficulties.
- e) Provide solicited and unsolicited feedback for the improvement of the teaching and learning environment.
- f) Resolve disputes, appeals or grievances honestly and openly by participating in available processes.
- g) Use the facilities and resources that are provided in accordance with their function and the conditions for their use.
- h) Familiarise themselves with the rules, regulations, policies and procedures of The IIE and to comply with these.
- i) Manage their own conduct with due regard to the impact of that conduct on others and on the environment.
- j) Participate actively, honestly and positively in all the activities that constitute the teaching/ learning process.
- k) Familiarise themselves and comply with the protocols and other rules or policies that may apply to a particular facility (such as the library or computer

venues) or a programme, or module in a programme including those associated with work-integrated learning (WIL).

### **2.3 In Terms of Integrity All Students are Expected to:**

- a) Engage with others with integrity (honesty and in accordance with positive social ethics and standards).
- b) Participate actively, honestly and positively in all the activities that constitute the teaching/ learning process; including acting with integrity in relation to their work which includes, but is not limited to; not cheating or in any other way falsifying or misrepresenting any work.
- c) Recognise the intellectual property rights of others and therefore use the prescribed conventions for referencing and other attributions.
- d) Report on events honestly.

## **3 A Graduated System**

- (1) Learning to manage natural conflict and disagreement between individuals and groups is aligned with The IIE's commitment to assisting students to develop strong social and citizenship skills. The IIE offers students (and staff and contractors) a number of ways to seek assistance to resolve disputes without, or before, resorting to disciplinary action.
- (2) Students are encouraged to engage in the most collaborative method possible given the nature of the dispute, without undermining their own sense of safety and well-being, or the safety and well-being of others. Similarly, depending on the nature of the concern, The IIE will seek to engage with students within a restorative framework whenever possible.
- (3) The disciplinary processes will be entered into when necessary and appropriate, and if the complaints and dispute resolution processes fail. Therefore, the Policy deals with student complaints/ grievances, requests for mediation, and formal disciplinary processes in that order.
- (4) Without limiting the rights of Complainants to request a particular process, the conduct listed in Sections 6 (6.2, 6.7, 6.8 and 6.9) of this Policy are normally dealt with in terms of the disciplinary process. Those listed under Section 2 are normally dealt with in terms of the complaints procedures.

## **4 Campus and IIE Complaints and Disciplinary Structures**

### **4.1 Campus**

- (1) One senior manager on each campus is designated as the Campus Disciplinary Officer, and is responsible for the implementation of this Policy in general and the functions as specified. In the absence of the Campus Disciplinary Officer or in the case of a conflict of interest, the next most senior person or the Principal will be the responsible person.
- (2) All members of the student support team are available to students for support in the complaints process as specified below, but may recuse themselves due to a conflict of interest or an inability to remain objective on the matter or for any other reason.
- (3) Campuses need to have at least one competent mediator to assist with dispute and grievance resolution. Externally trained mediators can be used when required at the expense of the campus.
- (4) The Campus Disciplinary Officer will appoint an Investigating Officer as per Section 7.1. This person must meet the requirements of the relevant section and in particular must have no conflict of interest in the matter. The Campus Disciplinary Officer may carry out the investigation.
- (5) The Campus Disciplinary Officer will appoint the Prosecutor who is the person who will present the case against the Accused. This may be the Campus Disciplinary Officer or the Investigating Officer or another person. The Investigating Officer will then normally be called as a witness to explain the investigation process if he/ she is not the Prosecutor.
- (6) The language of instruction of The IIE is English and students should be able to participate in these processes in English, but may request the support of an Interpreter in any official SA language in any matter in which the Prosecutor intends to ask for the sanction of expulsion. The Interpreter is then to be provided at campus expense and the student is then required to only work through the Interpreter for the proceedings. The Interpreter does not have to be a professional but the student requiring these services must indicate that they believe the person to be sufficiently competent in the language under question.
- (7) Each campus will have a Disciplinary Committee constituted as per the requirements in Section 10.1.

## **4.2 The Independent Institute of Education**

- (1) The Registrar or relevant Deputy Registrar is responsible for ensuring the constitution of the Appeals Committee as per Section 11.1.
- (2) The Registrar or Deputy Registrar is responsible for ensuring that members of the Central Academic Team (CAT) carry out their roles as per this Policy.
- (3) Campuses may consult with the Registrar or the relevant Deputy Registrar on matters that are being handled on campus, but the person with whom they consulted may then not be part of an Appeals Committee on the same matter.

## **5 Student Complaints**

### **5.1 General Process and Principles**

- (1) All complaints must be logged on the Student Hub.
- (2) Individual students may opt to use the complaints process to seek to resolve a dispute or grievance with another student, or a staff member or lecturer, or The IIE without escalating the matter further to the disciplinary process that may apply to the Respondent. The choice must be offered to the Complainant when the matter is first reported but the decision rests with the Complainant.
- (3) If a complaint is directed against a student by a lecturer or a staff member only level 2 of this procedure can be used if the disciplinary process is not immediately used. This is to ensure the involvement of a neutral third party that can manage any potential power differentials.
- (4) If an area of dispute or grievance is provided for in another policy such as the Assessment Strategy and Policy (IIE009) that specific policy takes precedence until all its provisions have been exhausted, or that policy refers to this one for a particular matter such as those handled in the Intellectual Integrity Policy (IIE023).
- (5) Complaints by students must be dealt with in a supportive environment free of victimisation or intimidation of anyone connected with the complaint, either during or subsequent to a complaint resolution procedure.
- (6) Informal and early resolution of complaints is encouraged and may include mediation by a third party if agreed to by both the Complainant and the person against whom the complaint has been laid.

- (7) Except with the explicit permission of the Registrar, no complaint will be handled that deals with an event that occurred three months or more prior to the complaint being laid and which has not re-occurred since the first occurrence.
- (8) Any student involved in these processes may have a representative as defined above who is able to support, guide, and advise them on any part of the process but in the case of the complaints process may not speak on behalf of the student concerned, but can be present in all interactions to assist the student.
- (9) The complaints processes will be conducted in accordance with the principles of natural justice and restorative practise, and includes, for both parties:
  - a) Assurance of the absence of bias in decision-making by the involvement of persons who have no vested interest or bias in relation to the matter to be decided.
  - b) An opportunity to suggest who should be involved in the decision-making and what outcome would be viewed as having resolved the matter.
  - c) Absolute clarity on the process to be followed and regular feedback to all parties involved.
  - d) An opportunity to be heard on all elements of the matter.
  - e) Sufficient time for both parties to prepare their statements, or positions, or contributions.
  - f) Appropriate confidentiality without hindering resolution of the complaint and without limiting the right of The IIE to take further action as may be required to protect individuals, or The IIE, or to deal with possible violations of the law.
  - g) Timeous handling of complaints to enable clear resolution without undue delay.

## **5.2 Complaint Resolution Level 1: Conciliation and Mediation**

- (1) The Complainant must log the complaint on the Student Hub and the relevant Student Hub Academic Operations Coordinator (AOC) will forward it to the relevant student support team member. If the Complainant indicates that he/ she believes the complaint can be resolved directly with the Respondent the following options are available:
  - a) The Complainant can invite the Respondent to a meeting in a neutral place on campus (access to the space facilitated by a member of the student support team). The student support team member is not present.
  - b) The member of the student support team can invite the Respondent to the meeting and he/ she is then present in the meeting with the role of a mediator.
  - c) The student support team member can indicate that a more skilled mediator is required, and through the Campus Disciplinary Officer, source one and then invite both the Complainant and the Respondent to a formally mediated session.

- (2) The student support team member is required to log the outcome of any of the above interactions on the Student Hub (based on information from the parties) and annotate the SAM (System for Academic Management) or other appropriate record of both parties.
- (3) If the Complainant does not want to interact with the Respondent but is agreeable to a Mediator attempting to seek a solution with the Respondent, the Complainant is required to stipulate in writing the outcome desired (see Annexure 1: Outcome Requested by Complainant), and that he/ she will accept the outcome if agreed to. Normally this is in the form of requesting the Respondent to stop a particular behaviour.
- (4) The designated member of the student support team will then engage with the Respondent. If agreement is reached, the Respondent will sign accordingly on the same form (see Annexure 1: Outcome Requested by Complainant) on which the Complainant indicated the required outcome. This is to be captured on the Student Hub.
- (5) If the Respondent is not willing to agree to the requirement outcome, the choices the Complainant has, which will be discussed with the Complainant by the designated student support team member, are:
  - a) Take no further action, or
  - b) Make a formal complaint (see Level 2) with or without the request that the matter be handled in terms of a disciplinary procedure.
- (6) It should be noted that:
  - a) The member of the student support team that has managed the process should ensure that it is resolved or finalised within five working days of the complaint being raised, failing which, the matter is to be escalated to the Campus Disciplinary Officer.
  - b) Extensions to this time frame can only be authorised by the Principal or the Campus Disciplinary Officer for a further period of no more than five working days (after which the matter needs to be escalated to another level) and only for reasons such as the availability of relevant staff/ independent contractors, or students and or assessments, or holidays, or illness.

### **5.3 Complaint Resolution Level 2: Formal Mediation**

- (1) A person may only use Level 2 after Level 1 has failed.
- (2) A complaint that is being taken to Level 2 must be lodged within 10 working days of the date of completion of Level 1.
- (3) Level 2 involves the lodging of a formal complaint on the Student Hub in the required format. Unless the complaint is against the Campus Disciplinary Officer it

is then referred to his/ her immediate manager by a Student Hub AOC. If the complaint is to do with an institutional matter and not a campus matter, the complaint should be referred to the Registrar by the relevant Student Hub Academic Operations Coordinator (AOC).

- (4) The process at this stage should normally take no more than five working days from receipt of the written complaint by the appropriate person for investigation. This timeline may be extended after consultation with the Respondent and Complainant, in light of matters such as the availability of relevant staff/ independent contractors or students. If either objects to the extension, the next most senior person may still authorise the extension but must note the objection in the record of the complaint.
- (5) The Campus Disciplinary Officer or a person nominated by the Campus Disciplinary Officer or the Registrar, will follow this process:
  - a) Discuss options for resolution with all parties concerned.
  - b) Consider all relevant matters and, where appropriate, make further enquiries with due regard to the privacy and dignity of the Complainant and the Respondent.
  - c) The investigation (seeking additional information on the matter) shall not go beyond people listed by the parties as being relevant to the resolution unless the Campus Disciplinary Officer has informed both parties that he/ she will be speaking to people not listed.
  - d) The investigation will only be of a scope limited to gaining information to make a recommendation.
  - e) The person doing the investigation is always entitled to consult with the Registrar, Deputy Registrar, or other appropriate senior person from CAT, or the brand national team on technical matters related to the policy.
  - f) The following outcomes are possible:
    - i. Recommend a solution to the parties and record their agreement or not as above. This may include some form of appropriate logical penalty or redress action on the part of the Respondent.
    - ii. Recommend to the Principal, or Registrar, or relevant Deputy Registrar the appointment of a trained mediator if so agreed by all parties.
    - iii. Recommend that a more formal process be followed within the disciplinary code.
- (6) As this is a complaints procedure, neither the Respondent nor the Complainant are bound to accept the outcome, but will be held to the outcome if they sign their agreement (see Annexure 2: Outcome of Complaint Resolution Level 2).
- (7) The student and/ or the Respondent may elect to be represented or supported by a fellow student or staff member/ independent contractor of choice provided that such fellow student or staff member/ independent contractor accepts such

appointment (see Annexure 3: Representation During Complaint Resolution Level 2).

- (8) If a mediator is to be appointed (see Annexure 4: Designation of Mediator) this needs to be done within five working days of the recommendation to that effect. The Mediator will then meet with the Respondent and Complainant separately, and then together, and seek to achieve a resolution that both will agree to.
- (9) If the complaint cannot be resolved at Level 2, if for instance the Complainant or Respondent do not agree with the remedial action or penalty proposed, the disciplinary process is the remaining recourse. The Complainant will then need to log a formal complaint on the Student Hub, to the Campus Disciplinary Officer, for handling in terms of the Disciplinary Code.

## **5.4 Gravitas of Outcome**

- (1) The purpose of the complaint resolution process is to restore harmony and order and settle disputes without invoking the formal disciplinary policy for staff or students. A finding in terms of this process is therefore recorded on either the staff or independent contractor file, and on the student record (as appropriate) as the outcome of a conciliation or mediation process, but is not recorded as a disciplinary outcome.
- (2) Should a complaint of the same nature be raised again against the same person/s, the outcome already recorded should be taken in to consideration as a source of information and may be considered as an aggravating factor in determining a penalty.
- (3) Normally the emergence of a complaint of a similar nature within a 12-month period would be a reason to escalate a new complaint to the disciplinary procedure, but this is not a binding requirement of this Policy.

## **5.5 Participation and Support Available During the Complaint Resolution Process**

- (1) It is expected that students and/ or staff/ independent contractors involved in these procedures will participate in good faith.
- (2) It is recognised that in applying these procedures, the student or Respondent may require support. In the case of the student or Respondent being a student or group of students, this support may be sought from a friend or colleague of choice, or from counsellors or other members of the student support team within The IIE.
- (3) In the case of the student or Respondent being an organisational unit, support and advice may be sought from relevant staff members within The IIE with specialist

knowledge of the situation, provided that such contact does not create a conflict of interest.

- (4) The person from whom support is sought need not act as a formal representative for the student or staff members concerned.

## **5.6 <sup>6</sup>Conclusion of the Complaints Resolutions Process**

- (1) Within five working days of the complaint having been concluded, the Campus Disciplinary Officer shall check that the full details have been recorded on the Student Hub and on the student's SAM record.

## **6 Disciplinary Process**

### **6.1 When is the Disciplinary Process used Instead of the Complaints Process?**

- (1) The provisions and requirements of the disciplinary process are used when:
  - a) A complaint has not been resolved satisfactorily at Level 2 and is then referred to the Disciplinary Process for resolution.
  - b) A complaint relates to misconduct of a level and type not amenable to resolution within the Complaints process.
  - c) The IIE or the Complainant is not willing to handle the matter in terms of the Complaints process.
  - d) A student is already subject to a suspended penalty.
  - e) A second complaint of a similar nature to a complaint lodged and handled 12 months or less ago is lodged, irrespective of the outcome of the first complaint.

### **6.2 Misconduct**

- (1) In terms of The IIE's approach to student discipline and conduct, misconduct is wrongful, improper, or unlawful behaviour committed intentionally, or at least without regard for the reasonably accepted consequences of one's acts. It includes specific acts which violate specific rules or principles, as well as any conduct that undermines the proper functioning of The IIE in any way. It is recognised that misconduct may be unintentional. Lack of intent to do harm may be a mitigating factor only if, against the test of reasonable expectations held of students, it would be unreasonable to have expected the student to be aware of the potential harm. Nevertheless, with or without intent, the extent of harm or potential harm remains material in considering appropriate penalties.

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<sup>6</sup> S16: 2008-07-23 Item 8.17.5

- (2) A student may therefore be guilty of misconduct if the student fails to act positively in terms of the Rules below or commits, or assists, or conceals any conduct as specified in the Rules below.

### **6.3 Framework for Penalties/ Guidelines for Sanctions**

- (1) The penalty imposed must be consonant with the conduct and its impact or potential impact on the Complainant or others, and naturally or logically associated with the conduct wherever possible. Therefore, for example, a penalty of suspension for a period or a limitation of rights to participate in campus based social activities or similar penalty would be an appropriate sanction where the conduct has resulted in fear or anxiety on the part of the Complainant or others. A verbal warning would be inappropriate in this context.
- (2) The penalty imposed must be restorative wherever possible, so for instance, if a student is found guilty of being under the influence of substances on campus, a penalty that includes compliance with a rehabilitation programme for a first offense would be appropriate, but would not be appropriate if a person is supplying or selling those same substances to other people.
- (3) A penalty should have time related consequences that are appropriate for the offence. For instance, a period of suspension should allow a student to successfully complete his or her qualification unless she or he has been found guilty of gross dishonesty, or of causing serious harm to others with little indication of remorse, and a high possibility of re-offending.
- (4) Penalties should be graduated and should be more serious for repeat offences even if the conduct for which a penalty is imposed does differ from the first offence, as long as there is a period of 12 months or less between offenses.
- (5) More than one penalty can be imposed if there is a logical fit between penalties and the misconduct and together the penalties create an appropriate sanction for the conduct. The aim of the penalty/ penalties should be to restore harmony and potentially deter similar conduct on the part of the Accused or other persons.

### **6.4 Penalties that may be Imposed**

- (1) The following penalties are ranked in order of seriousness up to and including point *i*). Penalties that follow point *i*) relate to academic misconduct only.
- (2) One or more of the following are the typical penalties that can be imposed when a student is found guilty of misconduct:
  - a) Verbal warning (of which a written record needs to be kept).
  - b) Written warning.

- c) Requirement to submit a written apology to another person/ persons or to apologise to another person/ s in a prescribed manner.
  - d) Participation in some form of restorative activity as agreed with the Complainant<sup>7</sup>.
  - e) Participation in an approved rehabilitation or treatment programme at the expense of the student and in the framework as determined by The IIE.
  - f) Final written warning.
  - g) Restitution for damages caused at The IIE campus or to the personal property of any member of The IIE.
  - h) Suspension of all or some of the student's rights and privileges, including exclusion from classes, access to facilities and/ or examinations, or other forms of assessment; attendance at graduation or other events for a specified period of time.
  - i) Suspension of the student's enrolment for one or two semesters from the campus concerned or from all campuses of The IIE, with or without the option to complete the current semester before the suspension is effected;
  - j) Expulsion from The IIE.
  - k) Withholding the student's assessment results for a specified period or until a specified outcome has been demonstrated.
  - l) The requirement to rewrite and resubmit an assignment or other assessment component, or to write and submit another assignment in its place.
  - m) Failure in an assessment component of a module, or a reduced mark for that component.
  - n) Failure of a module.
- (3) The penalties indicated in *j), k), l), m) and n)* above shall only be applied for misconduct involving dishonesty in assessment. In determining what penalty to impose in such cases, officers shall take into account any guidelines approved by Senate or penalties already imposed as a result of action under other policies such as the Intellectual Integrity Policy (IIE023).

## 6.5 Further Requirements in Relation to All Penalties

- (1) Any penalty imposed under this Policy may be suspended by the person or body imposing it:
- a) until the time for appealing against it has expired; or
  - b) for a longer period or indefinitely. Any such suspension may be subject to such terms and conditions (including undertakings by the student) as the person or body granting it deems fit.

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<sup>7</sup> Such as cleaning up a campus where damage was done or vandalism took place or providing after hours support in the library when the learning of other students have been disrupted or a set number of hours of community service.

- (2) Subject to the rights of appeal provided for in this Policy, any decision under this Policy that a student has been found guilty of misconduct and any imposition of a penalty on a student is final and conclusive.
- (3) A student expelled from The IIE's campus shall not be re-enrolled on any campus of The IIE except with the prior written approval of the Registrar.
- (4) In case of misconduct resulting in any of the penalties provided for in 6.4 (2) (j), k), l), m) and n)), and where the student concerned is a bursary holder, the provider of the bursary and any other appropriate parent(s)/ guardian(s)/ fee-payer(s) will be advised accordingly.
- (5) The conditions associated with penalties in 6.4 (2) (a), (b) and f) will be stipulated alongside those penalties.
- (6) Warnings have different impacts.
  - a) Normally a verbal warning will remain in force for a stipulated period not exceeding 6 months. If there is further misconduct of a similar nature before the warning has lapsed, it will be taken in to consideration when penalising the repeated misconduct.
  - b) A written warning is considered more serious and will remain in force for a stipulated period not exceeding 12 months. If there is further misconduct of any nature this will be taken into account when determining further penalties.
  - c) Misconduct following a final written warning will result, if guilt is proven, in penalties 6.4 (2) (g), (h), (i) or (j).

## 6.6 Specific Rules Related to Respect

- (1) Students are expected to conduct themselves in accordance with these rules and may be guilty of misconduct if they do not.
- (2) A student shall:
  - a) Respect and comply with reasonable instructions given to him or her by a member of staff/ independent contractor, or other person designated by The Independent Institute of Education, to carry out any official function or action.
  - b) Comply with any traffic, parking, access or appropriate use facility rules of any campus of The IIE, or any other facility in use by The IIE.
  - c) Report any offence or misconduct committed within the precincts of The IIE's campus within a reasonable period of time.
  - d) Conduct themselves in a manner that will not bring The IIE in to disrepute at all times; including when engaged in work-integrated learning or any activity in which he/ she represents The IIE or can be identified as a student of The IIE. This includes, but is not limited to; refraining from misconduct and

conducting oneself in accordance with the appropriate conventions of the context concerned<sup>8</sup>.

- e) Respect the rights of all individuals with whom she or he engages as a student of The IIE.
- f) Demonstrate through her or his conduct respect for the Constitution and the Bill of Rights.

(3) A student shall not:

- a) Bring, or be in possession of, or consume alcohol within the precincts of The IIE campus except in the case of official functions convened by the educational brand of The IIE that has consent to serve or allow the use of alcohol, or with the written permission of the Principal.
- b) Be drunk, inebriated or under the influence of alcohol or any other substance on campus<sup>9</sup> under any conditions or at any time.
- c) Use, be in possession of, or under the influence of, a dependence producing substance within the precincts of The IIE campus without a medical prescription. In the latter case, the Principal must be notified and a copy of the prescription produced.
- d) Smoke (including e-cigarettes) on any IIE campuses, except in spaces specifically designated and clearly marked for that purpose.
- e) Use a cellular telephone or any other device in such a manner as to disrupt the teaching and learning process, or to use such a device in violation of any of the requirements of the Assessment Strategy and Policy (IIE009).
- f) Bring within the precincts of The IIE's campus or any other facility in use at the time by The IIE, or have in his/ her possession or control, or supply or dispose of to any other person within the precincts of The IIE campus, or any other facility in use at the time by The IIE, any firearm or any object which is capable of being used for the infliction of bodily harm of any kind.
- g) Have in his or her possession, or share, in any format any prejudicial or pornographic material or any material that would violate any SA law, or access any internet site that contains; nor view, download or save any such material from such a site or any other source using The IIE's equipment<sup>10</sup> or infrastructure.
- h) Bring any material covered in the item above onto any IIE campus without the permission of the Principal, and then only for appropriate and pre-approved academic work. Such permission will be denied if the work request violates any other provision of the rules and policies of The IIE.
- i) Obstruct or disrupt any teaching, study, research, examination, or test or any official meeting, proceeding, or ceremony, or any other activity of The IIE's campus.

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<sup>8</sup> S22: 2009-12-01 Item 8.26

<sup>9</sup> S13: 2007-11-23 Item 8.1

<sup>10</sup> S18: 2008-11-20 Item 8.10

- j) Discriminate unfairly or act in any other manner prejudicial to any person within The IIE on any grounds, including but not limited to, race (colour, ethnicity, national origin, nationality or descent), gender, sex, pregnancy, marital status, age, sexual orientation, family responsibility, family status, political conviction, religion, belief or culture, language, birth and disability or medical condition).
- k) Interfere unduly with the freedom of speech within The IIE; of any member of The IIE, or of any speaker invited by any member of The IIE to express their views.
- l) Interfere with the freedom of movement within The IIE or of any member of The IIE, or any guest or visitor.
- m) Obstruct or attempt to obstruct or deter any staff members/ independent contractor or other authorised person of The IIE in the performance of their duties.
- n) Damage, destroy, attempt to damage or destroy, wrongly deal with, sell or wrongly use, unlawfully possess<sup>11</sup> or misappropriate any property of The IIE, or the property of any person within The IIE.
- o) Physically, verbally or sexually assault or injure, or attempt to assault or injure, or threaten any person within The IIE, or cause any person to hold reasonable fears for her or his safety, or physical or psychological well-being;
- p) Engage in any conduct towards or with a minor or any other person with whom she or he makes contact while carrying out an activity sanctioned by or associated with The IIE that can reasonably be considered inappropriate for the context, and/ or violates any of the rules or principles in this Code.
- q) Conduct him or herself in such a manner as to create a hostile environment for others.
- r) Refuse the instructions or authority of, or be insubordinate to, any staff member or independent contractors, office bearer or official body of The IIE carrying out their roles and duties.
- s) Intentionally or negligently contravene this Code or encourage any other person to contravene this Code.
- t) Conduct himself/ herself in a way which is or could be prejudicial, or is or could bring in to disrepute the good name of The IIE, the maintenance of order and discipline at The IIE campus, or the proper performance of the work of The IIE.
- u) Conduct him or herself in a way which is or could be prejudicial, or is or could bring in to disrepute the good name of any person within The IIE, without having accorded that person their due rights in terms of this policy or any other policy of The IIE.
- v) Refuse to submit to the authority of any legitimate decision of an authoritative body of The IIE or staff member/ independent contractor of The IIE.
- w) Conduct himself/ herself in an unbecoming, improper or disgraceful manner on the campus or elsewhere as a student of The IIE.

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<sup>11</sup> S13: 2007-11-23 Item 8.1

- x) Engage in inappropriate behaviour of a sexual nature on an IIE campus which shall include but is not limited to engaging in sexual activity on the campus; sexually crude and/ or otherwise offensive commentary, or any other form of conduct of a sexual nature, particularly where such conduct impinges on the dignity or privacy of any other person/ s.
- y) Use any illegal drugs, or have in his/ her possession or control, or supply or attempt to supply, or dispose of or attempt to dispose of any illegal drugs to any person within the precincts of The IIE campus.
- z) Compromise the privacy of any individual.
- aa) Use any information they have to cause harm (reputational or otherwise) to any person, particularly in violation of these rules or other rules of The IIE or any appropriate legislation.
- bb) Fail to comply with any penalty imposed under any, Policy, Regulation, Rule or Senate resolution of The IIE.

## **6.7 Specific rules related to Accountability**

- (1) A student shall:
  - a) At all times when within the precincts of a campus of The IIE carry his/ her official identity card and produce it when called upon to do so by a member of staff/ independent contractor or other official.
  - b) Honour deadlines, timetables and schedules assigned to classes, assignments, and tests, and other events on campus so as not to undermine teaching and learning on the campus.
  - c) Consult the examination and other assessment timetables available on the student portal or displayed on site before each examination session. Misreading the examination or assessment timetable will not be condoned as a reason for not complying with an academic policy.
  - d) Pay all fees and monies due to The IIE, noting that results obtained by a student in any examination and/ or graduation certificate shall not be published or provided unless and until all fees and other monies due have been paid.
  - e) Maintain proper care and oversight of their possessions as The IIE does not accept responsibility for loss, theft of, or damage to vehicles or property arising out of a student's attendance at an IIE campus, howsoever caused.
- (2) A student shall not:
  - a) Without prior permission of The IIE, register or be registered with another educational institution unless registration with the other institution is a requirement for receiving tuition services from a brand of The IIE.
  - b) Obstruct or disrupt any teaching, study, research, assessment, or any official meeting, proceeding or ceremony or any other activity of The IIE's campus.
  - c) Enter, or remain in or on any building or land of The IIE where students are forbidden to enter or remain.

- d) Intentionally or negligently contravene this Code or encourage any other person to contravene this Code.
- e) Use The IIE's computers, educational facilities or communication equipment in an unauthorised or inappropriate manner.
- f) Compromise the privacy or dignity of any individual.
- g) Fail to comply with any penalty imposed under any Policy, Regulation, Rule or Senate resolution of The IIE.
- h) Advertise, distribute, or display a banner, placard, notice, circular, letter or pamphlet on The IIE campus without the prior written consent of the Principal.
- i) Advertise goods, offer goods for sale, fundraise or collect money on the campus without the prior written consent of the Principal.

## 6.8 Specific Rules Related to Integrity

- (1) A student shall at all times conduct him or herself honestly.
- (2) A student shall not:
  - a) Engage in any cheating or dishonesty in any form of assessment or other prescribed work<sup>12</sup>.
  - b) Falsify or exaggerate any evidence or report or statement to any member of The IIE and in particular to any person involved in a complaint or disciplinary process.
  - c) Attempt to mislead any person legitimately seeking an accurate account of any event or occurrence.
  - d) Falsify an academic record or research results, furnish false or misleading information to The IIE or its educational brands, or its staff/ independent contractors, or use The IIE's/ educational brand's name, symbol or seal without due authority.
  - e) Commit any fraudulent act such as presenting false doctor's/parents' notes, misrepresenting the facts about a situation or forging any official documentation.
  - f) Make false or incorrect statements or provide incorrect information about The IIE or its educational brands, to any person.
  - g) Take into an assessment venue, or has in his/ her possession whilst in the venue, any books, memoranda, notes, devices, or any paper whatsoever, except such answer books or other books or papers or devices as have been authorised by the Invigilator or for an open book assessment.
  - h) Aid or attempt to aid another candidate, or obtain or attempt to obtain aid from another candidate, or communicate or attempt to communicate in any way with another candidate during an assessment.

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<sup>12</sup> S20: 2009-06-30 Item 8.11.2

- i) Commit an act of plagiarism, including the copying of another student's assignment, or any copyright infringement, as provided for in the Intellectual Integrity Policy (IIE023).

## **7 Complaint and Initial Investigation**

### **7.1 Complaint**

- (1) Whenever misconduct is alleged, or if any person has reason to believe that misconduct in terms of this Code is being or has been committed, a complaint must be logged on the Student Hub and the relevant Academic Operations Coordinator (AOC) will assign the query relevant Principal or Campus Disciplinary Officer. After receiving the complaint, the Principal or Campus Disciplinary Officer must initiate the investigation of the matter by selecting an Investigating Officer who may be the Campus Disciplinary Officer.
- (2) In designating an Investigating Officer (see Annexure A: Designation of Investigating Officer), due regard to the capacity, ability and experience of the person is critical as the Investigating Officer is often also the Prosecutor and should be equipped to investigate and then lead the case if the matter goes to hearing.

### **7.2 Preliminary Evaluation, Scope and Outcomes**

- (1) On receipt of the complaint and designation of the Investigating Officer, the Investigating Officer is required to conduct a very limited initial evaluation in a period of no more than one working day, which should be limited in scope to only ascertaining whether or not there is sufficient evidence to:
  - a) Consult with the Complainant about attempting the complaints resolution process first;
  - b) Proceed to a formal investigation;
  - c) Recommend to the Principal that the matter not be pursued as there is insufficient evidence in the complaint to suggest that the matter could result in a disciplinary enquiry. In this case the Complainant should be informed in writing and referred to the complaints procedure (see Annexure B: Notice to Complainant on Outcome of Preliminary Investigation).
- (2) If the conclusion is in terms of 7.2 (1) b), an initial formal investigation follows and in terms of 7.2 (1) a), if the Complainant objects to the matter being referred to the complaints procedure or does not accept that the matter will not be pursued an initial investigation will also follow.

### 7.3 Initial Investigation – Principles and Process

- (1) Any investigation under this Code shall be in accordance with the principles of natural justice and will not be bound by the rules of evidence required for court proceedings. Decisions are made on the facts as presented which lead to a rational inference of reasonable suspicion/ comfort that an alleged act did, or did not, occur.
- (2) The principles of natural justice as they apply to the investigation include the right to:
  - a) a fair hearing;
  - b) the opportunity to present a case; and
  - c) a decision by an unbiased person.
- (3) All parties involved in an investigation shall be treated with respect, dignity and impartiality.
- (4) Any investigation under this Code shall have due regard for confidentiality and privacy subject to legal requirements for disclosure and the need for a full investigation.
- (5) The procedures for conducting the investigation are detailed in the Student Code of Conduct, Dispute, Grievance and Disciplinary Procedure (PDII015), and are to be shared with both the Respondent and the Complainant.

### 7.4 Initial Investigation Outcomes and Subsequent Action

- (1) If the Investigating Officer decides to proceed with a formal investigation after the preliminary evaluation, she/ he must serve the Respondent and the Complainant with a notice to that effect within two working days of the allegation having been made (see Annexures C (i) and C (ii) - Notice of Disciplinary Investigation – Respondent/ Complainant).
- (2) The Respondent and the Complainant must be made aware of their rights; namely:
  - a) The right to attend/ **not attend** an information gathering where the allegations will be examined by the Investigating Officer.
  - b) The right to submit/ **not submit** a written statement and or supporting information in support/ defence of the case.
  - c) The right to submit/ **not submit** a witness list or witness statements, and to determine whether or not these witnesses can be contacted prior to a formal charge being laid if any.
  - d) The right to be assisted by a fellow student or staff member/ independent contractor during the information gathering meeting, in interactions with the Investigating Officer and in engagement with witnesses (representative).
  - e) The right to appropriate levels of confidentiality.

**Note:** Regardless of the choices made in 7.4 (2) (a), (b) and (c) above, the investigation will proceed as normal.

- (3) The investigation shall include and is limited to:
  - a) A review of relevant documentation or other physical evidence such as a voice or video record, if any.
  - b) Separate discussions with the student and the initiator of the allegation for which the Complainant and the Respondent need to be given 72 hours' notice, but which must in any case happen no later than five working days after notice of the investigation has been given to the Respondent.
  - c) Creation and maintenance of a complete file of all evidence.
  
- (4) In any discussion about the matter:
  - a) The Investigating Officer may ask questions of clarity from the Complainant or Respondent.
  - b) The Investigating Officer may speak to witnesses identified by the Respondent or Complainant at this point, recognising that both the Respondent and Complainant can add additional witnesses if the matter proceeds to a hearing if they so wish
  
- (5) Upon conclusion of the investigation, the Investigating Officer shall refer the file of evidence to the Principal with a recommendation (see Annexure D: Conclusion of Investigation: Recommendation of Investigation Officer), based on the balance of probabilities, that the event as described by the Complainant did occur as described, that:
  - a) the matter not be pursued on the basis of insufficient grounds for proceeding against the Respondent; in which case the Principal will inform the person(s) having raised the allegation (Complainant) accordingly (see Annexure E: Conclusion of Investigation: Withdrawal Based on Insufficient Grounds for Proceeding Against the Student on the Basis of Allegations). The case can only be re-opened if additional corroborating evidence is produced by this person within 48 hours of the decision being communicated to the Complainant by the Principal or Campus Disciplinary Officer; or
  - b) a penalty (as outlined in 6.4 (2) a, b, c or d) be imposed subject to the Respondent accepting this penalty without a verdict of guilty being filed against the person, failing which the matter would proceed to a disciplinary hearing (see Annexure F: Conclusion of Investigation: Recommendation of Investigating Officer);
  - c) a penalty as outlined in as outlined in 6.4 (2) a – g or j – m be imposed as a result of a student admitting guilt during or upon conclusion of the investigation and the student waiving, in writing, his/ her right to a formal disciplinary hearing (see Annexure G: Notice of Penalty- Student Admitted Guilt During Investigation Phase and Waived Right to Hearing);
  - d) the student be formally charged with misconduct as; on the balance of probabilities that the conduct did occur, and was of sufficiently a serious

nature that if the Respondent is found guilty a penalty of suspension or expulsion may follow, and/ or the student has not accepted an alternative resolution as per options b and d of this section.

- (6) Should an investigation reveal apparent or suspected criminal conduct, The IIE or the Complainant may report the matter to the SAPS, but will in any case proceed as per one of the above options. The Complainant will be consulted before any such report is made and a report may not be made if the Complainant does not wish it to be made, if it was an alleged crime of a personal nature that the Complainant does not want to report.

## 8 Representation

- (1) The Complainant and the Respondent may have a representative who may be a staff member, independent contractor or student of The IIE. The representative need not be from the same campus. The student allocates rights and responsibilities to the representative and will inform the Investigating Officer accordingly (see Annexure H: Representation During Disciplinary Process). It should be noted that if the matter goes to a hearing only one person may pose questions on each side. The Prosecutor, who may be the Investigating Officer, who may in fact be the Campus Disciplinary Officer, is the person who asks questions on behalf of the Complainant. The Respondent (or in the case of a hearing – the Accused) **or** their representative asks questions on behalf of the Respondent or the Accused. To avoid the risk of intimidation occurring from multiple people asking questions it should be reiterated that questions are asked as follows only:
  - a) during an investigation by the Investigating Officer;
  - b) during a hearing by the Prosecutor and the Accused or their representative but not both.

## 9 Suspension

- (1) Upon preliminary review of the allegations and supporting evidence from the Complainant, and following at least an initial interview with the Complainant, the Investigating Officer may recommend to the Principal that the student be suspended from The IIE's campus if the alleged misconduct poses a threat of:
  - a) disruption of activities on the campus of The IIE;
  - b) injury to a person;
  - c) damage to property;
  - d) interference with witnesses or the Complainant, any student or staff/ independent contractor or other official of The IIE; or
  - e) theft of property of The IIE or any other person on The IIE's campuses.

- (2) The Principal may then suspend the student from access to The IIE campus or activity, but not limit the Respondent's right to complete and submit assessments, contact lecturers, or access the campus under supervision to do so. The student concerned should be served a notice to that effect (see Annexure I: Notice of Suspension) within one working day of the campus having received the complaint, clearly indicating the rights of the student and the process to be followed.
- (3) The responsibility to interview the Complainant may be dispensed with and the student summarily suspended if injury or threat of injury, or danger to the wellbeing of the Complainant is immediately imminent, or has already happened, and does not appear initially to be in dispute.
- (4) As suspension is a significant inconvenience and risk to the reputation and dignity of the Respondent suspended; the Investigating Officer only has five working days from the initiation of suspension to conduct the initial investigation, and make a recommendation to the Principal in terms of 7.4 above.

## **10 Disciplinary Hearing**

### **10.1 Disciplinary Committee**

- (1) The Principal, in consultation with the Campus Disciplinary Officer, shall constitute for every site of delivery a Disciplinary Committee comprising the following members:
  - a) The Principal or his/her nominee as chair.
  - b) Two staff members/ independent contractors.
  - c) Two students selected by the Chairperson from the Student Liaison Body/ equivalent committee or the Student Forum. Students do not necessarily have to be selected from the same campus at which the alleged offence occurred.
  - d) Campus Disciplinary Officer or alternate Prosecutor.
- (2) If for any reason it is necessary to substitute one or other person for a formally nominated person (due to unavailability or a conflict of interest) once a process has started, this can only be done in consultation with the Managing Director of the brand.
- (3) At least two of the Committee members should have attended training from the Office of the Registrar on the Policy or have presided at or participated in at least two previous hearings.
- (4) All members of the Disciplinary Committee need to have been selected for the capacity, ability and experience to participate in such processes, and for their demonstrated capacity to act with objectivity, sensitivity and respect.

- (5) If all five members are not present at a hearing, the hearing is adjourned until another member is identified and added.
- (6) Decisions of the Disciplinary Committee shall be taken by majority vote.

## 10.2 Hearing

- (1) Notice
  - a) The Principal shall, within two working days of having received a recommendation to that effect from the Investigating Officer, serve the student a notice of the hearing in such a way that he/ she is certain that the student understands the notice. A notice of a hearing shall be in the form of Annexure J (i): (Notice of Disciplinary Hearing - Accused).
  - b) The date for the hearing shall be as soon as is reasonably possible after the notice but shall not be longer than 10 working days after the notice is served.
  - c) The Accused must be informed of his/ her rights and both the Accused and the Complainant should be informed of their responsibilities to conduct themselves honestly throughout the process.
  - d) The Complainant (see J (ii), Disciplinary Committee members (see J (iii), and Interpreter (if requested by the student) (see J (iv)) shall also be served with a copy of the notice of the disciplinary hearing.
- (2) Proceedings:
  - a) Proceedings will continue as set out below, and the Chairperson of the Disciplinary Committee will record essential details in the Disciplinary Case Book (see Annexure K: Disciplinary Hearing Case Book). In addition, the Scribe shall record the proceedings using an electronic device and will take detailed minutes of the meeting.
  - b) The Accused, Complainant, their representatives, Interpreter, Investigating Officer, Prosecutor and all witnesses to be called are to be present at the start of the hearing.
  - c) The Chairperson opens the hearing, introduces everyone present, explains their roles, advises that it is a disciplinary hearing, that the proceedings will be recorded, and confirms with the Accused/ Complainant and Interpreter(s) that due process has been followed leading to the disciplinary hearing.
  - d) The Chairperson explains the disciplinary proceeding process and reminds the Accused of his/ her rights during the process. The witness(es) is/ are then allowed to leave the room and will wait to be called in a venue that is sufficiently separate from the room in which the hearing is being held, to ensure that privacy of the proceedings is maintained. Witnesses may not discuss the matter while the hearing is in progress.
  - e) The witnesses for the Respondent and the Complainant should ideally wait in different rooms, and in any case should be supervised by the Campus Disciplinary Officer or someone delegated by that person to ensure appropriate conduct prevails.

- f) The Chairperson puts the charge(s) to the student who has the opportunity to plead.
- g) If the student pleads guilty, the Chairperson gives both parties an opportunity to present mitigating and aggravating factors, after which the disciplinary committee will deliberate an appropriate penalty which will be imposed by the Chairperson.
- h) If the student pleads not guilty, the Prosecutor (who may be the Complainant or the Investigating Officer) proceeds with presenting evidence supporting the charges through cross examining the Complainant and/ or any of his/ her witnesses and/ or submitting into evidence any written statements.
- i) The Accused student is allowed to cross-question the Complainant and his/ her witness(es) as each is presented.
- j) If the Accused disputes the content of a written statement, it is held over until the Campus Disciplinary Officer can contact the author and request them to present themselves for cross examination. If the author is unavailable or unwilling the written statement must be disregarded.
- k) The Prosecutor may then re-examine any witness.
- l) The Chairperson may, at any stage during this process, ask questions for clarity purposes. Any committee member who requires clarification will submit his or her question to the Chairperson who may, at his or her sole discretion, ask the question or disregard it.
- m) The student or his/ her representative is then allowed to present his/ her argument and evidence and to call any witness in this regard.
- n) The student and his/ her witness(es) in turn may be cross-questioned by the Complainant.
- o) The student or his/ her representative may re-examine any witness.
- p) The Chairperson may, at any stage during this process, ask questions for clarity purposes.
- q) Witnesses that are finished giving evidence should not return to the same room as those that have not yet given evidence, but should remain on site until it is clear they are no longer required and will not be recalled. Witnesses may not discuss the matter while the hearing is in progress - even if they have given evidence - as they may still be recalled.
- r) Upon closure of leading evidence, the student and the Complainant are allowed to summarise their cases. They must then leave the venue in order for the Committee to deliberate on the verdict.
- s) The student and Complainant should wait in a venue sufficiently separate from the room in which the hearing is being held so as not to undermine the confidentiality of the proceedings.
- t) Once the committee has reached a verdict, the parties will be requested to return to the venue in order for the verdict to be delivered.
- u) The Committee will not be obliged to reach a verdict immediately upon closure of the respective parties' cases and may adjourn the hearing to a date and time no longer than 48 hours after the hearing or the morning of the next working day if the hearing is held before a weekend or holiday.

- v) In the case of a verdict of not guilty being delivered, the case is closed and the charges dismissed.
- w) In the case of a verdict of guilty, both parties are again permitted to state mitigating or aggravating factors should they so wish. Both parties can call character witnesses in support of mitigating or aggravating factors but may not introduce new information.
- x) Thereafter, they must again leave the venue for the Committee to deliberate on an appropriate penalty, now taking the mitigating and aggravating factors in to consideration.
- y) Decisions are taken by majority vote in case of consensus not being reached.
- z) As soon as a decision on a penalty is reached, both parties will be requested to return to the venue to hear the penalty. The Chairperson will inform the student (Accused) that she/ he will also receive a written outcome (see Annexure L (i): Notice of Outcome of Disciplinary Hearing - Accused) of the disciplinary hearing, with reasons for the verdict reached, within two working days.
- aa) Further, the Chairperson will inform the Accused of his/ her right to appeal.
- bb) Should the Accused fail to cooperate at any time during the hearing, the Chairperson shall indicate to the student that his/ her conduct may be considered as an aggravating factor when a penalty is imposed. The Chairperson, in collaboration with the Disciplinary Committee, shall decide on the best possible action should a student fail to cooperate during the disciplinary hearing. This may include re-scheduling the hearing or continuing the hearing in the absence of the Accused and/ or adding charges to the list to be considered.

(3) Administrative matters:

- a) A copy of the record of proceedings shall be made available to the student (Accused) if requested.
- b) A copy of the recording of proceedings shall be made available to the student (Complainant) if requested.
- c) A copy of the outcome of the disciplinary process/ hearing (verdict and penalty) will be placed on the student's (Accused) file, given to the student and copied to the parent(s)/guardian(s)/fee-payer.
- d) The Campus Disciplinary Officer shall keep a record (see Annexure K) of all student disciplinary hearings duly signed as being an accurate record by the Chairperson.

## 11 Appeal

### 11.1 Disciplinary Appeals Committee

- (1) The Disciplinary Appeals Committee is composed of the following members:
  - a) The Group Legal Manager of The IIE (Chair)/ the Company Secretary (Chair) or Group Legal Advisor<sup>13</sup> (Chair).
  - b) The Registrar/ Deputy Registrar<sup>14</sup>.
  - c) A student representative – the Office of the Registrar will approach any campus for a student representative from its Student Liaison Body/ equivalent committee, or the Student Forum who is in at least their second year of study. The student may be selected from any IIE campus - not necessarily from the same campus at which the alleged offence occurred – with a view to ensuring that the student representative has no personal conflict of interest in terms of the case, i.e. the Accused and the Student Representative should not have a personal relationship.
- (2) The Disciplinary Committee can only hear an appeal if all three members are present and decisions are taken by majority vote if consensus cannot be reached.

### 11.2 Proceedings

- (1) Any appeal on grounds of procedural error or new evidence, the merits of the case or the penalty must be lodged with the Principal within five working days of the Appellant having received the written outcome of the disciplinary hearing in terms of Section 10.2 (3) (c) of this Code. Reasons for appeal are normally associated with one or more of the following:
  - a) The penalty imposed on the Respondent, having regard to the evidence available, was too severe.
  - b) The penalty imposed on the Respondent, with regard to the evidence available, was insubstantial or insufficient in the opinion of the Complainant.
  - c) There is new evidence to be considered.
  - d) There was a misapplication of procedures resulting in some disadvantage to the student or staff member/ independent contractor (Respondent).
- (2) The notice of appeal shall clearly state the grounds for appeal.
- (3) The Principal shall immediately dispatch the notice of appeal and the record of proceedings to the Office of the Registrar, via SATS. The Office of the Registrar shall cause the Appeals Committee to meet within three working days of receipt of the documents concerned (see Annexure M: Notice of Disciplinary Appeals

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<sup>13</sup> S22: 2009-12-01 Item 8.13

<sup>14</sup> S22: 2009-12-01 Item 8.13

Meeting). This timeline may be extended in the event of any member of the Appeals Committee being unavailable.

- (4) The Appeals Committee shall consider the documents and reach a decision to:
  - a) uphold the verdict and penalty; or
  - b) uphold the verdict and change the penalty; or
  - c) uphold the appeal and set aside the verdict and penalty; or
  - d) have the case, or part thereof, re-heard.
- (5) The Chairperson shall use the Disciplinary Appeals Case Book (see Annexure N: Disciplinary Appeals Case Book) to record the proceedings of the Disciplinary Appeals Committee meeting and shall convey the decision (see Annexure O: Findings of the Disciplinary Appeals Committee) of the Disciplinary Appeals Committee to the Principal (to forward to the Appellant) within two working days of the Appeals Committee having reached a decision.
- (6) A copy of the decision of the Appeals Committee shall be filed in the Office of the Registrar.
- (7) The Chairperson of the Disciplinary Appeals Committee shall keep a record of all appeals considered and their outcomes.

## **12 Annexures**

- (1) All of the following are detailed in the Procedure Document for this Policy (PDIIE015).

### **12.1 Protocols**

Protocol A	Computer Venue Protocol
Protocol B	Library Protocol
Protocol C	Uniform and Professional Conduct Protocol for the Bachelor of Business Administration in Hospitality Management Students
Protocol D	The IIE Varsity College Bachelor of Education Code of Ethics for Teacher Experience
Protocol E	Fair Usage Protocol

### **12.2 Notices, Process Flows and Templates**

All Annexures and process flows.