

**IN THE HIGH COURT OF SOUTH AFRICA
EASTERN CAPE LOCAL DIVISION, MTHATHA**

CASE NO. 1170 / 2018

In the matter between:

NATIONAL TERTIARTY EDUCATION UNION First Applicant

DAPHNEY GUMBI Second Applicant

NOMBULE INNOCENTIA MONOANA Third Applicant

and

WALTER SISULU UNIVERSITY First Respondent

NAMBITHA DAMBUZA Second Respondent

ROBERT JOHN MIDGLEY Third Respondent

MICHAEL CRAIG KIRCHMANN Fourth Respondent

ADV FT PRETORIUS Fifth Respondent

NATIONAL HEALTH AND ALLIED WORKERS UNION Sixth Respondent

**ALL EMPLOYEES OF WALTER SISULU WHO ARE NOT
AFFILIATED TO ANY EMPLOYEES ORGANISATION
AND WHO WERE EMPLOYED BY THE LEGACY
INSTITUTIONS PRIOR TO THE MERGER** Seventh Respondent

NOTICE OF COUNTER APPLICATION

KINDLY TAKE NOTICE THAT on the date set aside for the hearing of the main application, the first, second and third respondents will apply for an order in the following terms:

1. Subject to the provisions of s 2(2)(2E) of the Higher Education Act, 1997 (Act No. 101 of 1997), it is declared that the old disciplinary codes and procedures that previously applied and were in use at the University of Transkei, Eastern Cape and Border Technikon (the legacy institutions) at the time of their merger to form Walter Sisulu University are, with effect from 12 September 2008, no longer applicable.
2. That the applicable Disciplinary Code and Procedure approved by the first respondents' Council on 12 September 2008 ("the new code") applies to all employees of the first respondent.
3. That the first, second and third applicants, in the main application, shall pay costs of this counterapplication only in the event of opposition together with the costs of the main application.
4. That further and/or alternative relief be granted.

KINDLY TAKE NOTICE FURTHER THAT the supporting affidavit of **ROBERT JOHN MIDGLEY** and annexures thereto will be used in support of this application.

DATED AT MTHATHA ON THIS FRIDAY, 11TH DAY OF APRIL 2018.



**M.C. KIRCHMANN
KIRCHMANN INC.**

First, Second & Third Respondents' Attorneys
c/o Messrs Keightley Sigadla Nonkonyana
No. 60 Cumberland Street
MTHATHA

TO : THE REGISTRAR
High Court
MTHATHA

AND TO : MESSRS MAFUNGO TSHAKA INC
1st, 2nd & 3rd Applicants' Attorneys
No. 27 Victoria Street
MTHATHA

AND TO : NEHAWU
Sixth Respondent

Walter Sisulu University
Nelson Mandela Drive Site
Old Library Building
Mthatha Campus
Mthatha

(Ref: Mr S Tshangela contact no. 082 523 5432)

**AND TO : ALL EMPLOYEES OF WALTER SISULU WHO ARE NOT
AFFILIATED TO ANY EMPLOYEES ORGANISATION
AND WHO WERE EMPLOYED BY THE LEGACY
INSTITUTIONS PRIOR TO THE MERGER**

Seventh Respondent

Nelson Mandela Drive Campus of WSU, Mthatha

Zamukulungisa Campus of WSU, Mthatha

Ibika Campus of WSU, Butterworth

Postdam Campus of WSU, East London

Queenstown Campus of WSU, Queenstown