

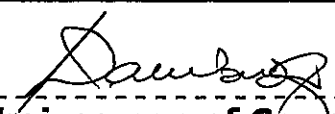


**WALTER SISULU UNIVERSITY
STUDENT DISCIPLINARY CODE OF
CONDUCT
POLICY**

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WSU Student Disciplinary Code of Conduct

Sponsor division	Student Development and Support Services
Responsible Department	Student Governance Unit
Related WSU policies	
Policy name	Policy Name
General Prospectus	SRC Constitution
Policy on Room Allocations	
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TITLE	STUDENT DISCIPLINARY CODE OF CONDUCT		
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DATE:	28 Aug 2015	MINUTE	28 Aug 2015
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Preamble

Student Discipline is an integral part of the University's quest to produce well-rounded students who are grounded in the philosophy of human rights. From time to time students find themselves contravening University rules and regulations for whatever reason. The Student Disciplinary Code is the central document on all aspects of disciplinary conduct at the university. Any policy pertaining to student disciplinary issues inconsistent with it shall not be regarded as valid.

ARTICLE 1

1. GENERAL RULES AND REGULATIONS

1.1 Purpose

The primary purpose of the Student Disciplinary Code of Conduct is to promote a culture of learning and teaching in a disciplined and dignified environment as an institution of higher learning.

1.2 Provisions of the Walter Sisulu University Act.

Article 79 of the Statute of Walter Sisulu University (WSU) provides that:

- (a) The disciplinary procedures applicable to students are determined by the Council after consultation with the SRC and the Senate as set out in the applicable rules of the University.
- (b) The disciplinary measures and disciplinary provisions applicable to

students as set out in the Rules may be changed by the Council in consultation with the Senate, Student Support Services Committee and the SRC.

- (c) Each of the disciplinary bodies, as determined by the Rules of the University, is required to submit an annual report to Council, listing the offences and penalties imposed by them". In the interest of justice and fairness, a student has to be given an opportunity to be heard.

1.3

- (a) Students are subject to the WSU Student Disciplinary Code.
- (b) Students have an obligation to acquaint themselves with WSU Student Disciplinary Code, Rules and Regulations.
- (c) Ignorance of the WSU Student Disciplinary Code, Rules and Regulations cannot be raised as a defense in disciplinary proceedings.

ARTICLE 2

DEFINITIONS

Council	means the Council of the University;
Employee	means a permanent or temporary employee of the University;
Prosecutor	means an employee of the University Appointed by Student Affairs to conduct the case for and present the evidence on behalf of the University at the Disciplinary Tribunal;

Perjury	means the willful giving of false testimony either under oath or affirmation with the intention of misleading the university, employee, functionary, the student/s or any disciplinary body;
Principal	means Principal and Vice Chancellor of the University;
Campus Rector	means the Head of Campus;
Registrar	means the Registrar of the University;
Student	means any person, who at the time of the alleged misconduct is or was <ul style="list-style-type: none"> (i) Registered as a student at the University;* (ii) A registered student in the previous years and has not completed his or her studies at the University. (iii) A registered student in the previous years but has committed a misconduct prior to his/her graduation from the institution. (iv) A representative and participant of the university in sport, cultural and academic activities on and off the campus. (v) A student studying in terms of the agreement between WSU and other institutions or organizations.
Occupant	means any person who unlawfully occupies any university property, building and unused land.
Student Disciplinary Appeals Committee	means the committee constituted by the Registrar to consider cases of student appeals from decisions of the Student Disciplinary Tribunal;
Student Disciplinary Tribunal	means a committee/panel constituted by the Registrar to adjudicate charges of misconduct relating to students;

Students' Representative Council	means a structure composed of students as determined by the University SRC Constitution;
University	means Walter Sisulu University;
University premises	means any premises or building which is the property of the University or is controlled by the University for University activities including leased properties.
Student Organization	means a student society, council, committee, union, club or other association or organization of students.
University functionary	means any person who represents the university or is a service provider to the university in terms of an agreement between the university and such a person.
Student email	means the official e-mail address as provided by the university to a registered student or previously registered student;
Student Affairs	means the University Division that is responsible for the welfare, governance and regulation of student matters and is the custodian of this Code.

ARTICLE 3
MISCONDUCT

A student will be guilty of Misconduct if he or she:

- 3.1 Wrongfully infringes on the fundamental rights of another person as enshrined in the Bill of Rights, Chapter 2 of the Constitution, 1996 of the Republic of South Africa, or acts in a way that breaches any other laws of the land, or the rules, regulations of the University. The university observes all international protocols in relation to human rights;
- 3.2 Acts in a manner that is contrary to the Disciplinary Code, Rules and Regulations of the University;
- 3.3
 - (a) Acts in breach of any University examination Rules by supplying or attempting to supply or introduce into the examination room any material intended to assist him/her which is not authorized by the examiner, or examinations officer;
 - (b) writes an examination for another student under false pretenses and/or for gain;
 - (c) commits an act of plagiarism which is in breach of university policy.
- 3.4 Consumes and is in possession of and under the influence of liquor on university premises without prior approval of the Vice-Chancellor or a functionary with delegated authority.
- 3.5 Introduces, consumes and is in possession of and under the influence of an illegal dependence producing drug (as defined in section 1 of the Drugs and Drug Trafficking Act of 1992);
- 3.6 Acts in such a way that the conduct results in, or in a manner that could be detrimental to the normal pursuit of teaching, research and/or study at the University, or to the general activities of the University;
- 3.7 Assaults or causes physical or mental harm to another student, employee, university functionary or member of the public on or off the university premises;
- 3.8 Acts in a violent, indecent or improper manner, in the vicinity of University premises or at a function organized by the University or any organization permitted by the university;

- 3.9 Acts in an insulting, indecent or improper manner towards another student, employee or functionary of the university, or a member of the public on or off the campus;
- 3.10 Acts in a manner that amounts to sexual harassment against fellow students, employees, university functionary and members of the public (see Protection from Sexual Harassment Act);
- 3.11 Unlawfully expresses, publishes or disseminates in speech, writing, print or other medium on the premises of the University any views, beliefs or ideology which would infringe on the dignity of other human rights of any student or groups of students, or any employee of the University, or a person invited by the University as a guest of the University,
- 3.12 Acts in a racist, tribalistic or xenophobic manner towards any student, employee, university functionary or any member of the public on the university premises;
- 3.13 Makes noise either by singing, dancing, shouting, clapping or use of instruments that disturb the academic activities of other students, employees or members of the public within the learning facilities of the institution without authorization from the University;
- 3.14 (a) Convenes an assembly on the premises of the University without prior approval of the Campus Rector, a functionary with delegated authority, and;
- (b) Disturbs or disrupts a legal, formal or authorized student or employees' management or council meetings;
- 3.15 Intimidates students with intent to compel them to participate in any unlawful activity, or unlawful protest on the university premises or to act against his/her will;
- 3.16 Intimidates or hinders university employee/s, fellow students or university functionaries from doing his/her/their work or blocks and prevents entrance to University premises;
- 3.17 (a) Without authorization stores or brings into university premises a firearm, explosives or other dangerous weapon, fuel that cannot reasonably be shown to be required for the normal operation of a motor vehicle or any explosive device;

- (b) Brandishing or pointing of a firearm or other dangerous weapon with intent to intimidate or cause to a student, employee or any university functionary,
 - (c) Brandishing of any dangerous instrument (e.g. a knife) with intent to intimidate or hurt a student, employee or any university functionary;
- 3.18 Uses the name of the University, logos, symbols or any intellectual property of the University without prior approval of the relevant authority;
- 3.19 Accepts, elicits or offers a bribe from/to students, employees or any functionary of the university;
- 3.20 Infringes on the privacy and freedom of any student, university functionary or employee of the university;
- 3.21 Assists or encourages another student to commit or conceal misconduct;
- 3.22 Commits a perjury in relation to acts committed against students, employees or any functionary of the University;
- 3.23 Uses university property for purposes other than its intended purpose;
- 3.24 Allows another student or any person to use their student card for any purpose other than its intended purpose;
- 3.25 Fails to appear before a disciplinary tribunal without any valid reason being advanced;
- 3.25 Fails to comply with or ignores an order or verdict of a disciplinary tribunal;
- 3.26 Refuses to produce a student card upon lawful request by a university employee or functionary
- 3.27 Uses emergency equipment for purposes other than in an emergency situation or uses any university resources for purposes other than their intended purpose;
- 3.28 Intentionally or negligently removes, misuses, damages, defaces or uses or enters, without permission, any asset or property owned or controlled by the university, or by any employee or student of the university;

- 3.29 Acts in a dishonest manner which causes, or has a potential to cause loss or prejudice to another student, employee, university functionary or the University;
- 3.30 Downloads pornographic material on university premises and use of university resources or assets (e.g. Wi-Fi);
- 3.31 Makes himself/herself guilty of hate speech on the grounds of race, ethnicity, political affiliation and religion;
- 3.32 Misrepresents himself/herself through his/her action to any employee or the functionary of the university (knowing full well that it is a misrepresentation);
- 3.33 Infringes on another person's patent right to a design or copyright;
- 3.34 Acts in such a way that his/her conduct results in or could reasonably be expected to result in prejudice to or endangerment of the maintenance of order, discipline or safety of the University;
- 3.35 (a) Impedes freedom of movement of another student, employee or the functionary of the University;
(b) Seeks to undermine the right to freedom of association or any other right recognized in the Constitution of the Republic of South Africa;
- 3.36 Humiliates another student, employee or functionary of the University in a way that undermines the dignity of the aforesaid student, employee or functionary of the University;
- 3.37 Intentionally or negligently mismanages and or misappropriates funds of the students, university, university functionary or employees of the university;
- 3.38 Uses abusive or offensive language when engaging with university employees or university functionaries during official/business hours or ignoring common courtesy, and etiquette or during a meeting, conference or any gathering organized by or whilst representing the university;
- 3.39 Makes a false declaration or misrepresentation in relation to certificates or documents for the purpose of being admitted to university or its residences;
- 3.40 Writes, draws, or scratches on the walls or pillars of university premises;

- 3.41 Smokes during lectures or in the examination room or in university premises that are not designated areas for that purpose;
- 3.42 (i) Masquerades as a student leader for purposes of gaining political or other advantage,
(ii) Misleads the student community to create chaos from which he/she intends to benefit materially or otherwise;
(iii) Compromises the safety of the university community in general and that of the students in particular;
- 3.43 Puts the image of the University into disrepute by promoting activities that can cause harm to the brand name of the University;
- 3.44 Disposes of waste in an improper manner on the university premises.

3.45 **Misconduct by Student Organizations**

- 3.45 (i) If it appears that misconduct has been committed by students while engaged in the business, affairs, or activities of a student organization, the Prosecutor may charge such student organization with the misconduct that has been committed, and the student organization shall appear before the disciplinary Tribunal in the form of its President or Chairperson and the Secretary or any office-bearer of the organization;

ARTICLE 4

INTERPRETATION OF THE CODE

- 4.1 All forms of student misconduct shall be dealt with in terms of this Code and other university policies. The provisions of **this Code** shall be interpreted in a manner that considers all approaches of interpretation as recognized by the law of the land during disciplinary hearings.

ARTICLE 5

REPORTING OF MISCONDUCT

- 5.1 (a) Incidents of misconduct shall be reported to the Head of Security and/or Student Affairs on each campus,
- (b) The Head of Security shall investigate all such incidents and compile a report of their investigations for transmission to the Student Affairs within a reasonable time;
- (c) In the event where a student reports a complaint directly to Student Affairs, Student Affairs may transmit such complaint to Head of Security and/or the Prosecutor for investigation.

STUDENT AFFAIRS

- 5.2 The Deputy Director: Student Affairs in each campus shall have administrative responsibility to handle and process all disciplinary reports from the Head of Security in each campus;
- 5.3 The Executive Director Student Affairs shall appoint presiding officer/s:
- (i) To preside over a student disciplinary tribunal;
 - (ii) To assess, evaluate and analyze evidence adduced during proceedings, and
 - (iii) Give a verdict and judgment at the close of the proceedings.
- 5.4 The Executive Director: Student Affairs shall appoint a prosecutor/s for a student disciplinary tribunal whose responsibility it is to:
- a) Outline specific procedures of a hearing, prosecute student cases and/or decline to prosecute;
 - b) Advise the tribunal of the venues at which a tribunal may seat;
 - c) Advise the tribunal whether to continue with the hearing in the absence or presence of the accused student;
 - d) Refer some cases to the Counseling Unit;
 - e) Request further investigation of the case,
 - f) Issue a prosecutors warning,
 - g) Refer the matter to a disciplinary tribunal,
 - h) Consider the matter for settlement.

ARTICLE 6

SUMMARY PROCEDURE

- 6.1 Where a charge of having committed an offence as defined in these Rules is pending against a student or when in the opinion of the Campus Rector such a charge ought to be instituted against a student or when a student has been charged with a serious crime, as listed in Schedule 1 of the Criminal Procedure Act 51 of 1977, (as amended) in a court of law, the Campus Rector may order that, until the final disposition of the charge, the student shall:
- (i) cease attending lectures or tutorials;
 - (ii) cease participating in such other activities of the University;
 - (iii) not enter the premises of the University;
 - (iv) not bring any motor vehicle onto the grounds of the University;
 - (v) cease to reside in any University residence;
 - (vi) cease to hold any leadership position in any university recognized structures.
- 6.2 The Campus Rector shall not make any order in terms of Article 6.1 above unless:
- (a) The student has been given an opportunity to appear before the Campus Rector to show cause why the order should not be made and;
 - (b) The Campus Rector considers it to be in the interest of the student community or employees or the University to make the order.

ARTICLE 7

THE RIGHTS OF A STUDENT IN A DISCIPLINARY TRIBUNAL

- 7.1
- (i) A student has a right to be represented by a fellow student in a hearing,
 - (ii) A student has a right to appeal a decision of the tribunal;
 - iii) The presiding officer may consider and grant such an appeal where in his/her opinion; it is not merely aimed at delaying the effect of the judgment of the tribunal.

ARTICLE 8

THE CONSTITUTION OF THE STUDENT DISCIPLINARY TRIBUNAL

- 8.1 The Student Disciplinary Tribunal consists of the Presiding Officer who shall be a person appointed by the Executive Director: Student Affairs for such purpose.
- 8.2 Be a lawyer or a person in the opinion of the Executive Director Student Affairs, of sufficient standing and experience;
- 8.3 A member of the SRC, nominated by the SRC who shall sit as an observer, save in instances where he/she has been mandated to represent the accused student in the hearing;
- 8.4 An employee who has been personally involved in any significant way in the events which are the subject of the enquiry, shall not be appointed as a member of the Tribunal that inquiries into the matter.
- 8.5 The presence of the Presiding Officer shall render the tribunal quorate.
- 8.6 The Prosecutor shall prosecute as a representative of the University in the disciplinary tribunal.
- 8.7 (i) A student who represents a fellow student in a disciplinary hearing shall be a law student or any other student as chosen by the accused student;
(ii) An accused student may personally conduct defense, but may not be legally represented by a lawyer/attorney who is not a student;

ARTICLE 9

SERVICE OF NOTICE

- 9.1 Service of any written notice and the furnishing of particulars in terms of this Code will be by prepaid, registered post to the address provided either on the recent application form completed by the student for purpose of registration or on any later written notice submitted by the student to the University of a change of address;

- 9.2 A service of notice shall be deemed to have been served if the student has been contacted through a mobile number or student email address and fast mail where the student's postal address is not clear or found;
- 9.3 A service of notice shall also be posted in the general student Notice Board
- 9.4 In case of such services as stated above, the student shall be deemed to have received the notice and particulars within five calendar days from the date of posting, calling or emailing.
- 9.5 A student has been served if the notice has been sent or delivered to the room in which he/she stays in university residences and the notice may also be served to the Faculty or Department in which the student is registered.

ARTICLE 10

PROCEDURE AT THE TRIBUNAL

- 10.1 All hearings are open meetings unless the Presiding Officer is persuaded that it is not in the interest of justice to do so. In such a case, the hearing may be closed to the university community;
- 10.2 The prosecutor leads evidence against the accused student and conducts the case for the university;
- 10.3 Both the prosecutor and the accused student are free to adduce evidence and call witnesses and to examine and cross-examine witnesses;
- 10.4 The Presiding Officer may ask questions for purpose of clarity during a hearing;
- 10.5 The hearings shall be conducted according to the principles of natural justice taking into account the rights of the accused student. An accused student shall not be prejudiced by reason of a failure to comply with the rules of procedure as is the case in the ordinary courts;

- 10.6 No disciplinary action shall be taken against the student below the age of 18 years before his/her parent or guardian has been informed in writing of his/her alleged misconduct. Such a student shall be given an opportunity to make a written statement or can elect to appear in person before a tribunal.
- 10.7 The Deputy Director Student Affairs shall appoint a person for the recording of the proceedings of the student disciplinary hearing.

ARTICLE 11

PROCEDURE UPON CONVICTION OF A STUDENT

- 11 Upon the conviction of a student of misconduct, the tribunal shall impose one or more of the following sanctions:
- 11.1 A warning or reprimand, or both;
 - 11.2 (i) An order for reparation for any damage caused by a student or student organization shall be stipulated by the tribunal including the date on which reparation costs shall be paid;
(ii) the cost of reparation as incurred by the university, shall be borne by the student responsible for such damage;
 - 11.3 A fine of a R1000 up to R2500 for individual students and R2500 up to R5000 for student organizations payable by a date stipulated by a tribunal;
 - 11.4 Exclusion from participating in specified activities of the University for a stated period;
 - 11.5 Exclusion from the University for a Specified Period of time;
 - 11.6 Expulsion from the University, in which event a student shall not be readmitted to the University, except as provided for in these Rules,
 - 11.7 Disqualification from entry to any examination or test;
 - 11.8 Forfeiture of test, assignment, tutorial or other assessment marks;

- 11.9 (i) A student who has been found guilty of false declaration or misrepresentation in relation to certificates or documents shall have his/her qualification revoked.
(ii) The revocation of qualification in terms of article 11.9 (i) applies in relation to plagiarism.
- 11.10 Punitive service to the University imposed as a condition of the suspension of a sentence under articles 11 (1) to 11 (9) shall be referred to Facilities Division for supervision;
- 11.11 Where the accused before the tribunal is a student organization charged in terms of article 3.39, the tribunal may impose any of the punishments provided for under articles 11 (1) to 11 (9) inclusive, provided that where the punishment is reparation or a fine in terms of article 11.2 or 11.3 the tribunal may direct that it be collectively levied upon all members of the student organization, provided further that the tribunal shall specify the maximum amount an individual student may be levied, suspend the existence of such student organization for a specified period of time.
- 11.12 When considering a sanction the tribunal shall take into account all mitigating and aggravating circumstances during the hearing. When considering the appropriateness of disciplinary measure/s to be imposed, the tribunal must ensure that disciplinary measures are, as far as possible, appropriate to and consistent with the nature and gravity of the misconduct of which the student has been found guilty. The tribunal is also bound to consider the administrative law and the principles of natural justice.

ARTICLE 12

SUSPENSION OF A STUDENT

- 12.1 No student shall be suspended before a hearing is held except in circumstances outlined in article 6 provisions;
- 12.2 A suspended student may be barred from entering university premises;
- 12.3 A suspended student shall not participate in any university related activity;

- 12.4 A suspended student may make written representations to the Campus Rector within five calendar days of receipt of notice of his/her suspension, providing reasons why he/she should not be suspended;
- 12.5 The Campus Rector may at his/her discretion revoke a suspension provided that steps have been taken to proceed with the disciplinary hearing on the charge of misconduct against the student;
- 12.6 The Campus Rector may at his/her discretion confirm the suspension.

ARTICLE 13

APPEALS

- 13.1 A student or the university may appeal the decision of the tribunal.
- 13.2 An appeal has to be made to the Student Disciplinary Appeals Committee as constituted by the Registrar as Chairperson. The Committee shall include the Executive Director: Student Affairs and 3 (three) other members.
- 13.3 A student who lodges an appeal must provide sound reasons for his/her appeal in writing;
- 13.4 The Student Disciplinary Appeals Committee may withdraw the decision of the tribunal, where it deems fit that certain points of law have not been considered during the hearing;
- 13.5 The Student Disciplinary Appeals Committee may also dismiss or confirm an appeal at its discretion;
- 13.6 Members of the Student Disciplinary Appeals Committee shall not serve on the Student Disciplinary Tribunal in the interest of justice and fairness.
- 13.7 The Student Disciplinary Appeals Committee may serve for a period of two years.

ARTICLE 14

COMPOSITION OF APPEALS COMMITTEE

- 14.1 The Appeals Committee shall be constituted of five persons including a legally qualified person;
- 14.2 An SRC member serves as an observer in the appeals proceedings;
- 14.3 Three members of the Appeals Committee shall constitute a quorum.

ARTICLE 15

FINES AND REPARATIONS

- 15.1 Any fine or reparation levied in terms of this Code shall be paid by the student or Student Organization to the Finance Division of the university within the time stipulated in that order, or where an appeal has been lodged within 30 days of final disposal of the appeal;
- 15.2 On application to the Registrar by the student or Student Organization, an extension for time of payment of a fine or reparation may be granted, or the payment of a fine or reparation in installments may be permitted, at the discretion of the Registrar in consultation with the Proctor;
- 15.3 In cases where the student fails to honour his/her commitment to pay a fine or reparation as imposed by the tribunal or by the extended date as granted by the Registrar, the amount in question shall be debited to the student's fees account;
- 15.4 In the event of a Student Organization failing to honour its commitment to make payment within the period as ordered by the tribunal, the Registrar after a written warning to the Student Organization, may suspend such organization until the fine is paid;
- 15.5 All fines or reparations paid in terms of the order of the tribunal shall accrue to the funds of the university.

ARTICLE 16

EXPUNGING OF CONVICTION AND SENTENCE FROM THE STUDENT ACADEMIC RECORD

- 16.1 Any student convicted and sentenced by a tribunal or another disciplinary body of the university in respect of any misconduct, may apply to the Registrar for the conviction and sentence to be expunged from his/her Academic Record;
- 16.2 The Registrar shall consult the Rector or the Dean of the Faculty in which the student is registered, thereafter, after having considered all relevant facts and circumstances including the nature of the misconduct and the period of time that has elapsed, may direct that the conviction and sentence be expunged from the Academic Record.

ARTICLE 17

APPLICATION FOR READMISSION BY EXPELLED STUDENT

- 17.1 A student expelled in terms of this disciplinary code may apply for readmission to the university after a period of three years;
- 17.2 Such an application shall not be considered as an application for the setting aside of any finding, conviction or sentence;
- 17.3 The application must be in writing setting out in full the grounds on which the applicant bases his/her case and must be lodged with the Registrar;
- 17.4 The application shall be heard by a committee of three persons (including a legally qualified person) appointed by the Chairperson of the University Council;
- 17.5 The Committee may require additional information and may call upon the Registrar, any complainant/victim, any other interested party to file written replies and make written submissions in relation to the application. The applicant would be entitled to receive copies of such replies and submissions and to respond to them in writing;

- 17.6 The Committee shall determine its procedures and its time-frames for replies, submissions and responses;
- 17.7 The Committee may decide the matter in terms of the written submissions or it may elect to hold an oral inquiry. Such an application must be dealt with on its merits in accordance with the relevant academic rules;
- 17.8 The Committee may grant the application if it is satisfied that readmission is necessary in view of the relevant circumstances. In determining this question, the Committee must have regard to the following factors in addition to any other relevant factors:
- (i) The nature and gravity of the offence;
 - (ii) The length of the period or the period that has elapsed since expulsion;
 - (iii) The views and attitude of the Registrar in relation to the application;
 - (iv) The views and attitude of the complainant/victim and any other interested party in relation to the application;
 - (v) The degree of remorse if any shown by the applicant;
 - (vi) Any steps taken by the applicant such as counseling, therapy and training to rehabilitate himself/herself;
 - (vii) The conduct of the applicant after the expulsion.
- 17.9 If the Committee dismisses the application, no further application shall be entertained or considered by the university;
- 17.10 If the committee grants the application, the effect would be to allow the applicant to apply for readmission to the university;

ARTICLE 18

NOTIFICATION TO A STUDENT OF THE DECISION

- 18.1 A student shall be given a notice in relation to the outcome of the disciplinary inquiry. The notification to the student may be in writing;
- 18.2 The notification to the student may also be verbal but followed by a written notification at a later date;

- 18.3 The notification shall be delivered to the student in terms of article 9 provisions of this Code;
- 18.4 If the student is a minor a parent/guardian shall be consulted in relation to the outcome of the hearing.

ARTICLE 19

COMMENCEMENT OF THE CODE

- 19.1 This Student Disciplinary Code becomes effective on the date it is approved by the Council;
- 19.2 On the date of commencement this Code is the applicable to student disciplinary matters and repeals all previous student disciplinary codes, policies and rules that were previously in operation.