

UNIVERSITY COLLEGE DUBLIN

NATIONAL UNIVERSITY OF IRELAND

STATUTE 28

(REPLACEMENT OF STATUTE 26)

Universities Act 1997

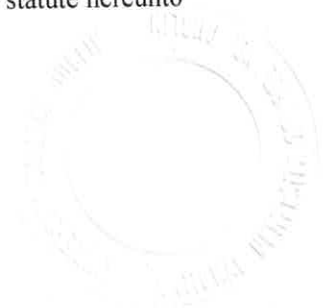
Disciplinary Statute

Universities Act 1997

We, the Governing Authority of University College Dublin, National University of Ireland, Dublin, a constituent University of the National University of Ireland, under and by virtue of the powers conferred on us by the above Act, having taken into consideration as respects the statutes for the aforesaid University, the representations by all persons who appeared to us to be interested in the making of statutes for the said University, do by this present instrument under our seal, make the statute hereunto annexed for University College Dublin, National University of Ireland, Dublin.

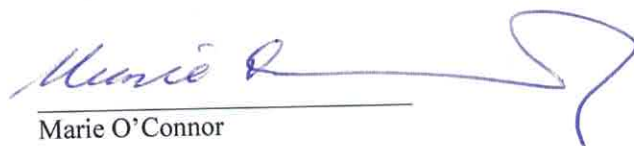
Given under the Common Seal
of University College Dublin, National University
the 20 day of February 2019

Legal Seal

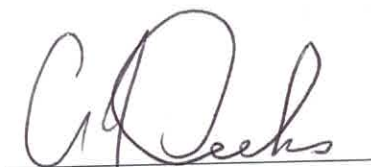


Present when the Common Seal of University College Dublin,
National University of Ireland, Dublin
was affixed:

Chairperson of the Governing
Authority


Marie O'Connor

President of the University:


Andrew J Deeks

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CHAPTER 1: REPLACEMENT OF STATUTE 6, CHAPTER 21

Chapter 21 of Statute 6 is hereby replaced by the following amended text:

DISCIPLINARY PROCEDURES

General Principles

1. All employees of the University should be managed appropriately, fairly and consistently in all aspects of their work. Most problems relating to performance and conduct can be dealt with before reaching the point at which disciplinary action is contemplated by University management within normal management procedures. Failure to deal with problems of underperformance and misconduct is liable to undermine the effective operations of the University and places an unfair burden on other employees. UCD will ensure that all employees who may be required to carry out a disciplinary process in accordance with this statute will be adequately trained to do so.
2. Where performance and conduct problems cannot be resolved informally, they must be managed in accordance with these Disciplinary Procedures, set out in this Statute in a manner that protects the dignity of the employee concerned and of all members of the UCD community
3. Misconduct encompasses a breach of standards of conduct in the workplace or in the course of employment, failure in performance of duties and may include the failure to follow relevant University policies and procedures. Misconduct may also include inappropriate behaviour outside the workplace which has an impact or could reasonably be likely to have an impact within the workplace.
4. Where disciplinary action is proposed the University must ensure that employees, against whom disciplinary action is proposed are dealt with in a fair and equitable manner in accordance with the Universities Act 1997, and the Industrial Relations Act 1990 (Code of Practice on Grievance and Disciplinary Procedures) (Declaration) Order, 2000, which has these general principles:
 - 4.1 details of any allegations or complaints are put to the employee concerned;
 - 4.2 the employee concerned is given the opportunity to respond fully to any such allegations or complaints;
 - 4.3 the employee concerned is given the opportunity to avail of the right to be represented during the procedure; and
 - 4.4 the employee concerned has the right to a fair and impartial determination of the issues concerned, taking into account any representations made by, or on behalf of, the employee and any other relevant or appropriate evidence, factors, or circumstances.
5. A member of the academic staff of the University shall have the freedom, within the law, in their teaching, research and any other activities either in or outside the University, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions and shall not be disadvantaged, or subject to less favourable treatment by the University, for the exercise of that freedom, consistent with section 14(2) of the Universities Act 1997.
6. It is essential for the operation of these Disciplinary Procedures set out in this Statute that all employees cooperate fully in any disciplinary process in a timely manner. An employee who

fails to co-operate in a disciplinary process shall be in breach of the employee's terms of employment and subject to appropriate disciplinary action.

7. These Disciplinary Procedures apply to all UCD employees except any employee who is within their probationary period. Employees within their probationary period will be managed appropriately through the University's probation policy. These Disciplinary Procedures will not operate to deprive any employee of any of their entitlements which continue by reason of section 25(8) of the Universities Act 1997.

Suspension of Employee

8. In certain cases, the University may have to consider suspending an employee with pay pending the conclusion of an investigation and/or a disciplinary process. Any suspension shall be neutral in nature and not infer any wrong doing on the part of the suspended employee nor shall it influence or infer any finding of the investigation. The suspension should be kept under review during the investigation and should not be unnecessarily protracted. The decision to suspend an employee as a precautionary measure should depend on the seriousness of the situation. Employees may be suspended where there are legitimate concerns relating to a range of issues, such as, but not limited to, the employer's reputation; the safety, health and welfare of employees; the potential for intimidation or interference with witnesses or evidence, etc. This list is illustrative only, and cases should be assessed on their own merits. Prior to deciding to suspend an employee, the employee should, where circumstances reasonably allow, be advised of the reasons why suspension is being considered. The employee should be given the opportunity, if the employee wishes, to respond to that proposal and afforded the right of representation by a colleague of their choice or a whole-time official of a recognised union. As an alternative to suspension, an employee may be given the option of taking voluntary leave. Suspension can occur at any stage during the disciplinary process.
9. During any period of suspension, an employee shall not be permitted to attend at the University's premises and/or make contact with employees or students of the University regarding University business, or matters relating to their suspension, without the prior written consent of the University and should ordinarily not be permitted, unless the University consider it feasible, to have access to the University information technology systems. Any employee being placed on suspension must confirm their non-UCD email address prior to access to University IT systems being denied.

Assignment of Functions

10. In this Statute where "President" or "Director of Human Resources" appears in the text, the term should be taken to include any other employee of appropriate seniority to whom relevant functions have been assigned by the President or Director of Human Resources as appropriate. In the case of dismissal, the nominee must be a member of Senior Management. In this Statute when reference is made to a "Line Manager" the function may be exercised by the employees designated manager or by the designated manager's manager. For academic staff, this function will be carried out by the relevant Head of School, College Principal and then the President or Director of Human Resources. When issues concerning a potential conflict of interest arise, the University will be responsible for ensuring that the decision-maker is an objective party in the disciplinary process. If a decision-maker resigns from their post but remains in UCD or completes their term of office (e.g. Head of School) they will complete the disciplinary process that has commenced. If the decision-maker resigns and leaves UCD or is incapacitated, then a 'de novo' hearing will take place.

Disciplinary Sanctions

11. In this Statute, the term “disciplinary sanction” means action taken by reason of, or as a consequence of a finding that the employee concerned has failed to perform their duties to an adequate or appropriate standard or has been guilty of misconduct, irregularity, neglect or unsatisfactory behaviour. Disciplinary sanctions may comprise one or more of the following actions:

- 11.1 formal warnings;
- 11.2 deferral of an increment for the period of the incremental cycle;
- 11.3 reducing the employee to a specified lower grade or rank on a temporary or permanent basis;
- 11.4 dismissal.

The sanctions referred to at 11.2 to 11.4 will be imposed at the conclusion of Stage 4 of the disciplinary process. The disciplinary sanctions referred to at 11.1 to 11.3 may be suspended or deferred at the discretion of the Director of Human Resources, or nominee, if the employee concerned is absent from work for any reason. Upon the employee’s return to work, the sanction(s) may be reinstated or resumed.

12. The outcome of an investigation under the University’s Dignity and Respect Policy, Research Integrity Policy, Child Protection or other policies may result in referral to this Disciplinary Process. The investigation report will constitute a finding of fact and any subsequent disciplinary process will be carried out by the line manager/Head of School. If it is determined by the line manager/Head of School following a disciplinary hearing that a serious infringement or act of gross misconduct may have occurred, then the matter will be referred to the Director of Human Resources as per paragraph 30 of this statute.

Acts of gross misconduct are construed as being deliberate acts by the employee, or the neglect/failure of the employee to act, to the detriment of UCD.

Examples of gross misconduct are as follows:

- Gross incompetence/negligence
- Physical violence or threatening behaviour
- Bullying/harassment/intimidation/discrimination
- Sexual harassment
- Falsifying university documents
- Deliberate disregard for health and safety precautions likely to endanger any person

This list is not exhaustive, see appendix 1.

General Management of Conduct and Performance

13. It is expected that, if the conduct or performance of an employee is not of a standard required by the College/School/Unit or any other recognised area, the line manager/Head of School should bring this to the employee's attention at the earliest opportunity. Wherever possible, this should be carried out informally with the employee being informed of the matter and given the opportunity to offer explanation and comment before any decision to invoke the disciplinary process is taken. The line manager/Head of School should ensure that the employee understands in what way their performance/conduct has fallen below reasonable expectations. Where an improvement might be effected without recourse to disciplinary action, guidance should be provided as appropriate.
14. Where it has not proved possible or where by reason of the gravity of the matter it is not appropriate to deal with misconduct, irregularity, neglect, omission or unsatisfactory behaviour informally to the satisfaction of management, the matter shall be dealt with under the Formal Disciplinary Procedures set out in this Statute.

Formal Disciplinary Procedures

15. Where an employee's conduct and/or performance does not meet the required standard, (despite informal discussion where appropriate), the matter shall be dealt with as set out in paragraphs 19 - 36 below. The University may commence the disciplinary process other than at Stage 1 (Verbal Warning) and thereafter may escalate beyond what would otherwise be the next Stage. This should only be done when, in the reasonable opinion of the decision-maker, the circumstances of the case justify such escalation. Having instituted formal disciplinary proceedings at a particular stage, the decision-maker may, at their absolute discretion, decide to issue a disciplinary sanction at a stage lower than those in which the proceedings were originally instituted.
16. Employees need to give at least three days' notice if they are unable to attend the scheduled hearing and three days' notice of any intention to be accompanied by a third party to the hearing.
17. If any party, including an employee, is not available to fully engage in the disciplinary process for any reason, the Director of Human Resources, or nominee, may postpone or defer the disciplinary process in the interests of thoroughness and fair procedures for a reasonable period.

Failure of an Employee to Cooperate with Formal Disciplinary Procedures

18. Employees are required to attend disciplinary hearings and cooperate with all aspects of the disciplinary processes detailed in this Statute. Disciplinary hearings may be conducted, and sanctions may be imposed on an employee, notwithstanding the employee's failure to attend a disciplinary hearing(s) and/or cooperate with these disciplinary procedures.

Stage 1 - Verbal Warning

19. If an issue of conduct or performance arises in respect of which a Verbal Warning may be appropriate, a formal disciplinary investigation meeting with the employee should be conducted by the line manager/Head of School or a nominee of the Director of Human Resources. The line manager/Head of School may be accompanied by an appropriate HR representative. The employee should be given at least five working days' notice of the meeting. The notice should state the purpose of the meeting and a clear statement of the areas where the employee's conduct and/or performance is considered unsatisfactory. The employee must confirm attendance at the hearing at least three days before the scheduled hearing date. The employee may be accompanied at any such meeting by a colleague of their choice or by a whole-time official of a recognised union. The line manager/Head of School conducting the disciplinary hearing will

determine what witnesses, if any, will be called. The employee can submit suggestions for witnesses, which will be considered by the line manager/Head of School.

At the meeting, the employee will be given an opportunity to respond. This response may involve written evidence, including witness statements, in support of their case. Full consideration shall be given to the employee's responses. The outcome of the disciplinary investigation meeting should ordinarily be communicated to the employee within ten working days of the conclusion of the meeting. Where a Verbal Warning is given, it should state the improvement required, where appropriate the timescale for improvement, and the consequences of failure to improve. The warning should inform the employee that further sanction(s) may be considered if there is no sustained, satisfactory improvement. A record of the Verbal Warning shall be retained on the employee's HR file. This record shall be removed from the file after six months, subject to satisfactory improvement and/or no reoccurrence during this period. The six months period relates to a continuous period of the employee being at work and any period of absence arising from sick leave will be discounted during this period. If in the opinion of the line manager/Head of School or a nominee of the Director of Human Resources, following the holding of the disciplinary investigation meeting, there is no basis for the issue of a Verbal Warning, then the person concerned may decide that no further action should be taken in the matter, no record of the investigation proceedings shall be held on the employee's record in this instance. Hearings may be conducted, and disciplinary sanctions may be imposed on an employee notwithstanding the employee's failure to attend hearings or cooperate with the investigation process.

20. The line-manager/Head of School should ensure that the employee is made aware of their right to appeal any disciplinary sanction imposed within 10 working days. This appeal will be considered without prejudice.

Stage 2 - Written Warning

21. If, during the currency of a Verbal Warning, an employee fails to make the necessary improvement or if the matter is such as to possibly merit a Written Warning, whether or not there was previously a Verbal Warning, the matter will ordinarily proceed to or commence at Stage 2. A formal disciplinary investigation meeting with the employee shall be conducted by the line manager/Head of School or a nominee of the Director of Human Resources. The line manager/Head of School may be accompanied by an appropriate HR representative. The employee shall be given at least five working days' notice of any meeting. The notice should state the purpose of the meeting and a clear statement of the areas where the employee's conduct and/or performance is considered unsatisfactory. The employee must confirm attendance at the hearing at least three days before the scheduled hearing date. The employee may be accompanied at any such meeting by a colleague of the employee's choice or by a whole-time official of a recognised union. The line manager/Head of School conducting the disciplinary hearing will determine what witnesses, if any, will be called. The employee can submit suggestions for witnesses, which will be considered by the line manager/Head of School.
22. At the meeting, the employee shall be given an opportunity to respond. This response may involve written evidence, including witness statements, in support of their case. Full consideration shall be given to the employee's responses. The outcome of the disciplinary investigation meeting should ordinarily be communicated to the employee within ten working days of the conclusion of the meeting. Where a Written Warning is given, it should state the improvement required, where appropriate the timescale for improvement and the consequences of failure to improve. The warning should inform the employee that further sanction(s) may be considered if there is no sustained, satisfactory improvement. A record shall be retained of the Written Warning in the employee's HR file. The Written Warning shall be removed from the HR file after 12 months, subject to satisfactory improvement and/or no reoccurrence during this period. If in the opinion of the line manager/Head of School or a nominee of the Director of

Human Resources, following the holding of the disciplinary investigation meeting, there is no basis for the issue of a Written Warning, then the person concerned may decide that no further action should be taken in the matter, no record of the investigation proceedings shall be held on the employee's record in this instance. Hearings may be conducted, and disciplinary sanctions may be imposed on an employee notwithstanding the employee's failure to attend hearings or cooperate with the investigation process.

23. The line-manager/Head of School should ensure that the employee is made aware of their right to appeal any disciplinary sanction imposed within 10 working days. This appeal will be considered without prejudice.

Stage 3 - Final Written Warning

24. If, during the currency of a Written Warning, an employee fails to make the necessary improvement or if the matter is such as to possibly merit a Final Written Warning, whether or not there was previously a Verbal and/or Written Warning, a formal disciplinary hearing with the employee shall be conducted by a more senior manager (original line manager's manager/College Principal) or a nominee of the Director of Human Resources. The decision-maker may be accompanied by an appropriate HR representative. The employee shall be given at least five working days' notice of any hearing; the notice should state the purpose of the hearing and a clear statement of the areas where their conduct and/or performance is considered unsatisfactory. The employee must confirm attendance at the hearing at least three days before the scheduled hearing date. The employee concerned may be accompanied at any such hearing by a colleague of the employee's choice or by a whole-time official of a recognised union. The decision-maker conducting the disciplinary hearing will determine what witnesses, if any, will be called. The employee can submit suggestions for witnesses, which will be considered by the decision-maker.
25. At the hearing, the employee shall be given an opportunity to respond. This response may involve written evidence, including witness statements, in support of their case. Full consideration shall be given to the employee's response. The outcome of the disciplinary hearing should ordinarily be communicated to the employee within ten working days of the conclusion of the hearing. Where a Final Written Warning is given, it should include full details of the unsatisfactory conduct or performance, it should state the improvement required, where appropriate the timescale for improvement and the consequences of failure to improve and should inform the employee that failure to modify their conduct or performance should lead to further disciplinary action up to and possibly including dismissal. A record shall be retained of the Final Written Warning in the employee's HR file. The Final Written Warning shall be removed after 12 months, subject to satisfactory improvement and/or no reoccurrence during this period. If in the opinion of the senior manager or nominee of the Director of Human Resources, following the holding of the disciplinary hearing, there is no basis for the issue of a final Written Warning, then the person concerned may decide that no further action should be taken in the matter, no record of the investigation proceedings shall be held on the employee's record in this instance. Hearings may be conducted, and disciplinary sanctions may be imposed on an employee notwithstanding the employee's failure to attend hearings or cooperate with the investigation process.
26. The decision-maker should ensure that the employee is made aware of their right to appeal any disciplinary sanction imposed within 10 working days. This appeal will be considered without prejudice.

Stage 4 - Further Disciplinary Action up to and including Dismissal and Gross Misconduct

27. Where an employee has failed to make adequate improvements to their behaviour, conduct or performance, or continues any act(s) or omission(s) that has resulted in disciplinary sanction(s) being issued under paragraphs 19 to 26, further disciplinary sanctions, as provided for in paragraph 11.2 to 11.4, up to and including dismissal, may be taken in accordance with the procedures in paragraphs 28 to 36 below.
28. Gross misconduct¹ is a serious breach of the University's rules and procedures or of recognised and accepted standards of behaviour which results in a breakdown of the relationship of trust and confidence between the University and the employee concerned. The line manager/Head of School will determine what constitutes a 'serious breach' as per paragraph 12 of this statute. Gross misconduct shall justify disciplinary action set out in these Disciplinary Procedures, up to and including dismissal, in accordance with the procedures in paragraphs 29 to 35 below, without giving verbal or written warnings as provided for in paragraphs 19 to 26 above.
29. Where further disciplinary action up to and including dismissal, as described at paragraph 27, is contemplated, or an allegation of gross misconduct, as described at paragraph 28, has occurred, the Director of Human Resources, or nominee, may give effect to the process set out at paragraphs 30 to 36 below.
30.
 - 30.1 Where a disciplinary investigation has not already occurred and where an allegation or suspicion of gross misconduct has been raised against an employee, or a Final Written Warning in relation to misconduct, irregularity, neglect, unsatisfactory behaviour or underperformance has failed to result in an improvement, and further disciplinary action is contemplated, the Director of Human Resources, or nominee, shall consider the matter and shall cause an investigation to be undertaken. Any investigation shall be carried out by such a person or persons as may be appointed by the Director of Human Resources, or nominee, from inside or outside the University. The investigation should be a fact-finding exercise; it should not make any binding decisions on the imposition of sanctions or the outcome of the disciplinary process.
 - 30.2 Where a disciplinary investigation has been carried out by the line manager/Head of School following findings of fact of a breach of the UCD Dignity and Respect Policy, Research Integrity Policy, Child Protection Policy or any other UCD policy and they have concluded that a serious infringement or act of gross misconduct may have occurred, then the matter will be referred to the Director of Human Resources for consideration under paragraph 32.
 - 30.3 Where the employee has admitted to wrongdoing which may constitute gross misconduct, the Director of Human Resources, or nominee, may, at their absolute discretion, having invited written representations from the employee and considered same, decide whether or not an investigation is necessary and shall advise the employee accordingly. Should the Director of Human Resources, or nominee, decide that an investigation is not necessary, they shall consider the matter under paragraph 32 below.
31. Any investigation carried out under paragraph 30 will be carried out under Terms of Reference (which may provide for an oral hearing) on which the employee will be consulted and will be completed as soon as possible. Employees are required to cooperate fully with all investigations and attend hearings as required. Hearings may be conducted, and disciplinary sanctions may be imposed on an employee notwithstanding the employee's failure to attend hearings or cooperate with the investigation process. It is not expected that investigations should take longer than

¹ See the Appendix 1 for examples of gross misconduct.

forty working days after being commissioned by the Director of Human Resources, or nominee, but there may be cases where, because of the circumstances, the timeline for the investigation is extended by the Director of Human Resources, or nominee, in the interests of thoroughness and fair procedures.

32. Where the Director of Human Resources, or nominee, is satisfied on the basis of their consideration of the matter and such investigation or further investigation, if any, as they have had undertaken that further disciplinary action as provided for in these Disciplinary Procedures may be warranted, they shall furnish the employee with:
 - 32.1 the probative material gathered in the course of any investigation supporting the allegation or suspicion (including but not limited to an investigation under paragraph 30 above) which they should take into account when considering their decision;
 - 32.2 a statement of the potential penalty which, having regard to the matters at issue, they consider may be appropriate; and
 - 32.3 a copy of this Statute.
33. The employee concerned shall submit a response in writing to the matters at issue, to be received no later than ten working days from the date of issue to the employee of the material in paragraph 32 above.
34. The employee concerned may include, in the employee's response, a request for meeting with the Director of Human Resources, or nominee, to consider the allegation in the light of the material gathered in the course of the investigation. In the event of such a request, the Director of Human Resources, or nominee, shall arrange a meeting with the employee within ten working days of the expiration of the ten-day period referred to at paragraph 33 above. The employee concerned may be accompanied at any such meeting by a colleague of their choice or by a whole-time official of a recognised union or a third party of the employee's choice.
35. Having considered any response by the employee concerned, and any written or oral representations made by or on behalf of the employee concerned, the Director of Human Resources, or nominee, shall decide whether circumstances warranting disciplinary action has been established. The Director of Human Resources, or nominee, shall inform the employee concerned in writing not later than ten working days after the ten working day period referred to at paragraph 33, or where a meeting has taken place, as described at paragraph 34, not later than ten working days after the date of the meeting, of the decision reached and of the action that it is proposed to be recommend to the President. At the same time, the employee should be informed that the employee may make written representations to the President.
36. Where termination of employment or other disciplinary action as provided for at paragraph 11.2 to 11.3 above is proposed under Stage 4 and/or Gross Misconduct proceedings, the Director of Human Resources, or nominee, shall make a recommendation to the President and provide the President with a written report on the circumstances of the case. A decision to dismiss an employee, or impose any other sanctions shall be made by the President following their consideration of the report and recommendation made to the President and written representations (if any) made by the employee concerned. The decision shall be communicated to the employee in writing. Where the decision to dismiss is made other than for reasons of gross misconduct, notice of termination shall be given in accordance with the employee's terms of employment. Where the President decides to impose a sanction(s) other than dismissal, a record of the sanction shall be retained in the employee's HR file. This record shall be removed after the specified time appropriate to the relevant sanction, subject to satisfactory improvement and/or no reoccurrence during the relevant period.

Appeals

37. The right to appeal a sanction is applicable at all stages of the disciplinary process. Where a decision has been made to impose on an employee a disciplinary sanction(s) as set out at paragraphs 11.1 to 11.3 of these Disciplinary Procedures, an appeal on one or more of the grounds specified in paragraph 39 below may be notified to the Director of Human Resources, in writing, within ten working days of the communication of the decision concerned. The Director of Human Resources or nominee shall consider the appeal and convene an appeal hearing where possible within 28 working days of the date on which the appeal was filed. The Director of Human Resources, or nominee, shall communicate the outcome of this appeal no later than ten working days after the conclusion of the appeal hearing. The nominee will be a senior manager with no conflict of interest in respect of the disciplinary process. The employee concerned may be accompanied at any such hearing by a colleague of the employee's choice or by a whole-time official of a recognised union.
38. Where a decision has been made to dismiss an employee as provided for at paragraph 11.4 of this Statute, an appeal may be made to the Disciplinary Appeal Board, as described at paragraph 39, within ten working days of notification of that decision to the employee concerned.
39. An employee may appeal a disciplinary sanction on one or more of the following grounds:
- 39.1 the provisions of this Statute were not adhered to;
 - 39.2 all the relevant facts were not ascertained in the course of the disciplinary process;
 - 39.3 all the relevant facts were not considered, or not considered reasonably in the course of an investigation or disciplinary process;
 - 39.4 the employee concerned was not afforded a reasonable opportunity to answer the matter(s) at issue;
 - 39.5 the employee concerned could not reasonably be expected to have understood that the performance, conduct, act or omission concerned would attract disciplinary action; and/or
 - 39.6 the sanction recommended is disproportionate to the performance or conduct concerned.
40. If notification of an appeal is not received from the employee concerned within the period of ten working days the Director of Human Resources, or nominee, or President as appropriate may proceed to impose the disciplinary sanction proposed.

Disciplinary Appeal Board

41. The Disciplinary Appeal Board (the Board) shall operate independently and shall comprise:
- 41.1 a Chairperson and Deputy Chairperson appointed by the Governing Authority; and
 - 41.2 a panel of independent external experts, nominated by the Governing Authority.
42. A Secretary to the Board shall be appointed by the Chairperson of the Board and shall be responsible for the management of the work of the Board on the advice and instruction of the Chairperson or Deputy Chairperson of the Board. Where the Chairperson of the Board considers it necessary or beneficial for the effective operation of the Board's proceedings, they may appoint an independent expert(s) as an advisor to the Board.

43. The composition of a Board, in any case, should be decided by the Chairperson of the Board and shall be the Chairperson or Deputy Chairperson of the Board and two members of the panel appointed by the Governing Authority.
44. No member shall be appointed to the Board to consider a case referred to the Board if that person has had any prior interest or involvement in or dealings with that particular case.
45. Where an employee appeals to the Board, the following submissions shall be made:
 - 45.1 a written statement by the employee concerned of the ground(s) of appeal, as set out in paragraph 39 of this Statute, must be furnished to the Board and the Director of Human Resources within ten working days of the submission of the request for an appeal referred to in paragraph 39 above;
 - 45.2 a written response by the Director of Human Resources, or nominee, must be submitted to the Board and the employee concerned within ten working days of the receipt by the Director of Human Resources, or nominee, of the employee's statement, referred to in paragraph 45.1 above; and
 - 45.3 any other submission which the Board may request from the employee concerned or from the Director of Human Resources, or nominee, must be furnished in such form and within such time as the Board may specify in its request.
46. The Board, having considered the submissions made under paragraph 45 above, shall set a date for hearing within thirty working days of receipt by the Board of the appeal, or such a longer period as the Board may prescribe.
47. The Board may, at its sole discretion, invite any person to give evidence orally or in writing. The Board shall consider and decide on any request from a party to the procedure to give evidence orally or in writing.
48. The employee making an appeal is entitled, if the employee wishes, to make oral submissions to the Board, either in person or through a colleague of the employee's choice, a whole-time official of a recognised union or another third party of the employee's choice.
49. Where the Board meets for the purpose of taking oral evidence or hearing oral submissions the following are entitled to be present:
 - 49.1 the employee concerned;
 - 49.2 any person in accordance with paragraph 45 above who is entitled to make submissions on behalf of the employee concerned;
 - 49.3 the Director of Human Resources, or nominee, and a person appointed by the Director of Human Resources to assist the Director of Human Resources, or nominee, and/or to present the case on behalf of the Director of Human Resources; and
 - 49.4 any other person whom the Board agrees may be present.
50. Having made such enquiries as it considers necessary, and having considered all matters put before, the Board shall form an opinion as to whether or not a case has been made out on one or more of the grounds set out in paragraph 39 above and shall make a decision within ten working days of the conclusion of the hearing and communicate same to the Director of Human Resources, or nominee, the employee concerned and their representative.
51. Where that decision is to the effect that such a case has been made out by the employee concerned, the Board may, at its sole discretion, decide as the case may be that:

- 51.1 no further action should be taken in the matter,
- 51.2 the disciplinary sanction decided upon by the Director of Human Resources, or nominee, or President should be amended in a specified manner, or
- 51.3 the case should be considered by the University so as to address a specified deficiency in the disciplinary proceedings to ensure that the employee's rights are vindicated (in which case the provisions of this Statute shall continue to apply). Where that decision is to reject the appeal such that the decision appealed against should be upheld the disciplinary sanction concerned shall be applied by the University and the decision of the Board will be final.

Appendix 1 – Gross Misconduct

Examples of gross misconduct include, but are not limited to:

1. serious criminal behaviour (including conviction in respect of or pleading guilty to any criminal offence(s)) and/or knowingly acting in an illegal way which is prejudicial to the University's interests or reputation;
2. serious and/or repeated non-adherence to the University codes of practice/policies;
3. serious and/or repeated non-adherence to the University's e-mail, internet, IT, telephone policies;
4. serious breaches of health and safety rules/policies, fighting and/or assault on another person;
5. serious and/or repeat incapability through alcohol or being under the influence of illegal drugs or misuse of prescribed medication, possession and/or sale of illegal drugs;
6. serious and/or repeated acts of negligence which causes unacceptable loss, damage and/or injury;
7. serious and/or repeat disruptive/offensive behaviour;
8. serious and/or repeat misrepresentation or misuse of authority abuse of position;
9. serious breaches of research integrity requirements and/or policies;
10. breaches of child protection policies;
11. deliberate falsification of records, and/or violation(s), misuse and/or improper sharing of confidential information and/or serious misuse of organisational property, material or equipment;
12. theft, fraud, embezzlement, misappropriation of funds, bribery and/or corruption;
13. unauthorised entry/access to computer and/or other confidential records/files;
14. discrimination, bullying, harassment, sexual harassment or other conduct of a sexual nature;
15. unauthorised absence/unacceptable attendance levels and/or repeat failure to comply with sick leave policies;
16. failure to disclose potential and/or actual serious conflicts of interest including where such conflicts include family members or connected persons;
17. improper influence, to make personal gain (including financial gain) and improper influence to make gain (including financial gain) for family and other connected persons;
18. acceptance of improper gifts/hospitality, e.g. from commercial organisations.

CHAPTER 2 DATE OF COMMENCEMENT

This Statute shall come into operation on xxxxx , but the Governing Authority may by regulation bring this Statute or any part thereof into operation on an earlier date should it so decide. Disciplinary proceedings in being on the date of commencement shall be brought to conclusion under Statute 6, Chapter 21 but this Statute 28 shall apply to any further Stages in any such disciplinary process thereafter. It may be cited as Statute 28 of University College Dublin, National University of Ireland, Dublin.

CHAPTER 3 DATE OF ENACTMENT

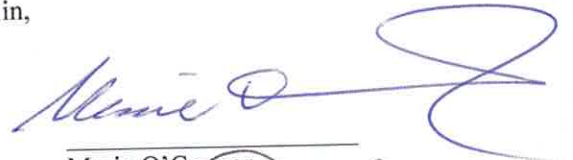
Given under the Common Seal of University College Dublin,
National University of Ireland, Dublin

2019 20 February 2020

Legal Seal

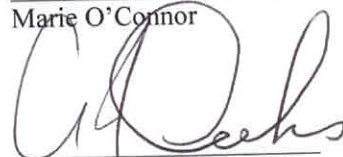
Present when the Common Seal of University College Dublin,
National University of Ireland, Dublin
was affixed:

Chairperson of the Governing Authority:



Marie O'Connor

President of the University:



Andrew J. Deeks