



# Student disciplinary code

As amended and Approved by the Academic Board, 29 November 2017

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## Chapter 1: Definitions

<b>Academic Board</b>	An established Board (or one of its sub-committees) of Milpark where decisions of an academic nature are confirmed and changes to policy are approved, or its sub-committees
<b>CEO</b>	Chief Executive Officer of Milpark Education
<b>Employee</b>	means a permanent or temporary/contracted employee of Milpark
<b>Executive Dean</b>	means the Executive Dean of Milpark Education
<b>Exec Mngr: QA &amp; Reg</b>	means the office of the Executive Manager: Quality Assurance and Regulatory Affairs
<b>Initiator</b>	means an employee of Milpark as appointed by the Office of the Exec Mngr: QA & Reg to conduct the case for and present the evidence on behalf of Milpark at a student disciplinary hearing proceedings
<b>Milpark</b>	“Milpark” means Milpark Education in general as defined by its two teaching campuses (Claremont, Cape Town and Melville, Johannesburg), and Westville, Durban.
<b>Milpark premises</b>	means any premises or building which is the property of Milpark or is controlled by Milpark for Milpark activities including examination venues
<b>Student</b>	means any person, who at the time of the alleged misconduct is or was: <ul style="list-style-type: none"> <li>• registered for any qualification/workshop on Milpark’s Student Administration System, or</li> <li>• taught or evaluated on any Milpark premises by an employee or someone contracted by Milpark for that purpose</li> </ul>
<b>Student Disciplinary Committee</b>	means a committee constituted by the Office Exec Mngr: QA & Reg to adjudicate charges of misconduct relating to students
<b>Student Disciplinary Appeals Committee</b>	means the committee constituted by the Office of the Exec Mngr: QA & Reg to consider cases of student appeals from decisions of a student Disciplinary Committee
<b>Students’ Representative</b>	means a student selected to act as a representative for another student of Milpark

## Chapter 2: General principles and rules

- 2.1. The Student Disciplinary Code is aimed at:**
- 2.1.1 upholding the name and reputation of Milpark.
  - 2.1.2 maintaining order, discipline, safety and security at Milpark.
  - 2.1.3 ensuring the integrity of the academic processes of Milpark and
  - 2.1.4 assuring the quality of the assessment processes at Milpark.
- 2.2. Any conduct of a student which contravenes the Disciplinary Code and/or negatively impacts on these goals may be regarded as misconduct and subject to disciplinary measures.**
- 2.3. The general supervision and control of student discipline at Milpark vests with the Office of the Exec Mngr: QA & Reg and is administered in terms of the *Student Disciplinary Code* of Milpark.**

## Chapter 3: Misconduct

- 3.1. A student is guilty of misconduct if s/he conducts himself/herself in a way that negatively impacts on the goals in Chapter 2, which includes but is not limited to if she/he:**
- 3.1.1 intentionally or negligently contravenes or undermines, or attempts to contravene or undermine, or assists, encourages or persuades any other person to contravene or undermine a code, regulation, rule or instruction of Milpark;
  - 3.1.2 refuses or fails to comply with a lawful instruction or request of an employee of Milpark authorised to give such instruction or to make such request, or acts contrary to such instruction or request;
  - 3.1.3 commits any statutory or common law crime while on the premises of Milpark;
  - 3.1.4 intentionally or negligently misuses, damages, defaces, destroys or alienates, or without authorisation, uses any building, furniture or equipment, computer, vehicle, notes, documents or any other thing owned or controlled by Milpark or by any employee of Milpark or by any registered student of Milpark;
  - 3.1.5 intentionally or negligently mismanages and/or misappropriates funds of Milpark;
  - 3.1.6 introduces intoxicating liquor onto the premises of Milpark without the consent of the CEO (or a person duly authorised by the CEO) or consumes or abuses intoxicating liquor and/or is under the influence of such liquor while on the premises of Milpark;
  - 3.1.7 unlawfully uses or has in his or her possession a “dependence-producing substance” or “dangerous dependence-producing substance” (as defined in section 1 of the *Drugs and Drug Trafficking Act, 1992*) on the premises of Milpark or introduces such substance onto the premises of Milpark;
  - 3.1.8 without proper prior authorisation:
    - 3.1.8.1 brings onto or stores on the premises of Milpark a firearm, other dangerous weapon, fuel that cannot reasonably be shown to be required for the operation of a motor vehicle, or any explosive device; or
    - 3.1.8.2 allows or arranges for the foregoing (as per 3.1.8.1) to be brought onto or stored on the premises of Milpark;
  - 3.1.9 sexually or otherwise harasses any person (as defined in the Sexual Harassment Policy (students)) while on Milpark premises, as attached hereto as Annexure “B”;
  - 3.1.10 acts in a racist manner or other manner which constitutes unfair discrimination in terms of the Constitution of SA or any other law, towards any person while on Milpark premises or in communication with fellow students or with Milpark or its staff;
  - 3.1.11 commits an indecent act on the premises of Milpark;

## STUDENT DISCIPLINARY CODE

- 3.1.12 unlawfully expresses, publishes or disseminates in speech, writing, print, electronic or other medium at Milpark any views, beliefs or ideology which infringes upon the dignity or other human rights of any student or groups of students, or any employee of Milpark or person invited by Milpark as a guest of Milpark;
- 3.1.13 without the written permission of the CEO or a person duly authorised by the CEO uses the name and/or logo of Milpark, or displays it;
- 3.1.14 convenes an assembly on the premises of Milpark without obtaining the prior consent of the CEO (or the person duly authorised by him/her), or attends a gathering prohibited by the CEO;
- 3.1.15 knowingly makes a false statement about Milpark or otherwise intentionally provides materially false information to anyone inside or outside of Milpark about Milpark;
- 3.1.16 intentionally or negligently tenders or presents to any employee of Milpark any document which he or she knows or ought reasonably to know to be false or a forgery and which causes or has the potential to cause prejudice to the administrative, financial or academic interests of Milpark;
- 3.1.17 accepts or offers a bribe to students, employees or any other official of Milpark;
- 3.1.18 reproduces or transmits in any form or manner, whether electronically or mechanically (including photocopying and faxing), any study guide, book, thesis, dissertation, article, examination paper, lecture, printed tutorial matter or any other study aids in respect of which copyright exists, unless such reproduction or transmission is done in a manner authorised in terms of the *Copyright Act, 1978 (as amended)*, and unless the copyright owner's permission for the reproduction or transmission is obtained;
- 3.1.19 plagiarises, which means representing the ideas or work of another as one's own without appropriately acknowledging the source(s);
- 3.1.20 collects money or offers goods for sale or advertises goods on the premises of Milpark without the permission of the CEO (or a person duly authorised by him/her);
- 3.1.21 neglects or refuses to return library material borrowed from Milpark library;
- 3.1.22 behaves in any way that leads or may lead to the consequences described below, if such consequences were or should reasonably have been foreseen at the time when such behaviour occurred. Such behaviour includes conduct by which:
  - 3.1.22.1 the good name and reputation of Milpark is or may be impaired,
  - 3.1.22.2 the maintenance of order, discipline and security at Milpark is or may be prejudiced or imperilled, or
  - 3.1.22.3 the process of tuition, research and administration and general Milpark activities are or may be prejudiced or imperilled;
- 3.1.23 knowingly makes a false statement or otherwise intentionally provides materially false information in any formal Milpark investigation, proceedings or document;
- 3.1.24 incites or attempts to incite another student to commit an act of misconduct;
- 3.1.25 intimidates or attempts to intimidate another student or staff member; or
- 3.1.26 prevents or attempts to prevent another student or a staff member from accessing Milpark premises or attending classes at Milpark.

### **3.2. With specific regard to assessments, a student is guilty of misconduct if he/she cheats in any Milpark examination/assignment.**

- 3.2.1 For purposes of this rule, "examination/assignment" includes all assessments of a student's performance organised and/or conducted in the name of Milpark.
- 3.2.2 Further for the purposes of this rule, "cheating" includes:
  - 3.2.2.1 the possession of any unauthorised notes and/or aid(s) in the examination venue after the first answer book or question paper is made available to students, which may assist a student in the examination;
  - 3.2.2.2 the use or attempted use during an examination of any note, device, equipment or aid, the use of which is not authorised by the examiner, examination officer or examination instruction;

- 3.2.2.3 the communication or attempted communication of any information relating to an examination with any other candidate while the examination is in progress;
- 3.2.2.4 the removal or attempted removal from an examination room of any examination paper, examination book or writing paper supplied by Milpark for the purposes of answering an examination;
- 3.2.2.5 the use of a false name, identity number or student number in an examination;
- 3.2.2.6 the submission for examination as own work any matter that has been copied, reproduced, or extracted in whole or in part from the work of another student or some other person, or which is substantially the same in whole or in part as the work of another student;
- 3.2.2.7 deliberately or negligently assisting or attempting to assist another student to cheat as defined in 3.2.2;
- 3.2.2.8 accessing or attempting to access any assessment, test, or examination paper, or marking memorandum or model answer of Milpark prior to an examination or assignment without authorisation;
- 3.2.2.9 accessing or attempting to access the work of another person during an examination without authorisation; and
- 3.2.2.10 the commission of any other fraudulent or dishonest practice whereby a student, while being examined by Milpark, seeks to mislead or deceive the examiner or the examination officer.

## Chapter 4: A Student Disciplinary Committee (SDC)

### 4.1. The SDC

- 4.1.1 The SDC consists of three persons identified and appointed by the Exec Mngr: QA & Reg, or in the case of less serious misconduct, one person identified by the Exec Mngr: QA & Reg, from amongst the following:
  - 4.1.1.1 a person duly authorised or appointed by the CEO;
  - 4.1.1.2 the Executive Manager: Tuition and Research or a person duly authorised or appointed by such Executive Manager;
  - 4.1.1.3 a person duly authorised or appointed by the Exec Mngr: QA & Reg;
  - 4.1.1.4 a member of the Academic or senior Administrative staff;
  - 4.1.1.5 an external person due to his/her expertise, which could include legal expertise.
- 4.1.2 The Exec Mngr: QA & Reg will, where applicable, nominate any person on the SDC as the Chairperson of the SDC. Reference to the Chairperson herein shall include a one-person committee.
- 4.1.3 No person who has lodged a complaint against the student against whom disciplinary charges are brought or involved in the disciplinary investigation of the charges may be part of the SDC.
- 4.1.4 A student representative may be invited by the Exec Mngr: QA & Reg to attend an SDC meeting, not as a member but with observer status.

### 4.2. Quorum

All persons appointed to the SDC must be present at all proceedings before the SDC.

### 4.3. Non-Availability of Disciplinary SDC Members

- 4.3.1 If at any stage during the sitting of the SDC a member of the Committee is no longer able to participate in the proceedings, the hearing shall be terminated and shall commence de novo before a newly constituted SDC, provided that if the student agrees, the member may be substituted by another member nominated by the Exec Mngr: QA & Reg.

- 4.3.2 If at any stage during the sitting of the SDC a member of the Committee is not available for any reason, the Committee must adjourn until that person is available.
- 4.3.3 The Exec Mnger: QA & Reg shall decide whether to apply 4.3.1 or 4.3.2 in his or her sole discretion after considering the relevant facts and consulting with the student and members of the Committee.

#### **4.4. Chairperson to Determine Procedures**

Subject to the provisions of this *Code*, the procedure adopted at the SDC is determined by the Chairperson of the SDC.

#### **4.5. The Initiator**

The Executive Dean's office appoints the initiator to present the case for Milpark at all disciplinary hearing proceedings to be brought against students, who may also investigate the complaint of misconduct and frame the charges. The Executive Dean's office may substitute or replace the initiator at any time. The executive Dean may be appointed as initiator. A legal representative may be appointed as initiator or may assist the initiator.

#### **4.6. Decision of the SDC**

- 4.6.1 At the conclusion of the evidence, the SDC decides, in light of all the evidence led, whether or not a student is guilty of the misconduct, as charged. A finding of guilty will only be returned if:
  - 4.6.1.1 the misconduct charged has, in the opinion of the SDC, been proved on a balance of probabilities; or
  - 4.6.1.2 a student has freely and voluntarily admitted guilt and the SDC is satisfied that there is information from the accused or from another source to substantiate the admission. Should the SDC not be satisfied with the evidence presented, it may of its own accord call for further evidence to be led in respect of the charge.
- 4.6.2 If the SDC does not find a student guilty as provided for under Rule 4.6.1.2, a student is acquitted of the charge.
- 4.6.3 The decision of the SDC is determined by a majority vote of the members present, where applicable.
- 4.6.4 In the event of an equality of votes, the Chairperson of the SDC has a casting vote in addition to his/her ordinary vote.

#### **4.7. Student's Absence from Hearing**

If a student charged with misconduct does not attend his/her disciplinary hearing, in the absence of good cause for not attending provided to the SDC by no later than 30 minutes after the scheduled starting time, such hearing shall proceed in his/her absence and the proceedings of the SDC will not be invalid as a result thereof.

#### **4.8. Recusal from Proceedings**

A member of the SDC who has laid a complaint of misconduct against the student or who is involved in the disciplinary investigation of the charges or who has a conflict of interest in the matter must recuse him/herself from the proceedings of the SDC which has been constituted for the purpose of adjudicating a charge emanating from the complaint.

#### **4.9. Obstruction of Proceedings**

If a student charged with misconduct interferes with or obstructs any proceedings of the SDC or refuses to carry out a reasonable instruction of the Chairperson of such SDC, the Chairperson may take such reasonable and proportional steps as he/she may consider necessary to ensure the orderly conduct of proceedings, which ultimately may include continuing in the absence of the student, provided that the student shall be offered the opportunity to make representations before the decision is taken.



**4.10. Record of Proceedings**

- 4.10.1 The Office of the Exec Mngr: QA & Reg must appoint a person to record, by means of digital recording, the proceedings of the SDC and all the oral evidence tendered, and to keep on record all documents forming part of the proceedings.
- 4.10.2 If for any reason the digital recording fails, the Chairperson shall take all reasonable steps to reconstruct the record in consultation with the SDC, the initiator and the student. Where the record cannot be adequately reconstructed, the hearing must be heard *de novo* unless alternative arrangements are made by agreement with the student.

**Chapter 5: Procedure in the case of a complaint of misconduct****5.1. Notification of Misconduct**

A student will not be formally charged with misconduct until a written and signed statement containing an accusation, complaint or allegation made against a student has been submitted to the Office of the Exec Mngr: QA & Reg or a person authorised by him/her to receive such complaint, provided that nothing contained herein will prevent the Office of the Exec Mngr: QA & Reg from laying a complaint of misconduct against a student.

**5.2. Preliminary Investigation**

- 5.2.1 The Executive Dean may appoint one or more persons to conduct a preliminary investigation into an accusation, complaint or allegation brought to his/her attention.
- 5.2.2 Such person(s) so appointed may submit a written report and/or charge sheet to the Executive Dean.
- 5.2.3 The person(s) appointed to conduct the preliminary investigation may consult with or obtain information from any person, including a student against whom the accusation, complaint or allegation has been made.

**5.3. Referral to the SDC**

- 5.3.1 If the Executive Dean is of the opinion that there is a prima facie case and that there are reasonable grounds for a charge of misconduct, he/she may refer the matter to be heard by the SDC.
- 5.3.2 If the Executive Dean is of the opinion that an alleged misconduct of a student constitutes a less serious contravention of the Code, he/she may agree in writing with the student concerning an appropriate disciplinary sanction.

**5.4. Notice to the Accused Student**

- 5.4.1 When proceedings against a student are instituted in terms of clause 5.3.1 above, a student's notice must be in writing and prescribe a period of not less than 14 calendar days stating the date, time and place of the hearing by the SDC, unless the student agrees to a shorter period.
- 5.4.2 The Notice under this rule will inform a student:
- 5.4.2.1 that proceedings under a Student Disciplinary Code are to be instituted against him/her and that a copy of the Code is available for inspection in the Office of the Exec Mngr: QA & Reg or in the Brochure provided to all students.
- 5.4.2.2 of the Rule that a student is alleged to have breached and/or the act(s) of misconduct that a student is alleged to have committed. The Notice must set out the charge with sufficient particularity and documentation to enable a student to prepare for his/her defence.
- 5.4.2.3 of his/her right to answer the charge in writing at least four days before the hearing.
- 5.4.2.4 of his/her right to attend the hearing to present his/her case, or to be represented at the hearing by a registered legal practitioner subject to 5.4.2.5; another student; if it exists, a member of a student Representative Council; or an employee of Milpark.

- 5.4.2.5 that a student may be represented by a legal practitioner provided that he/she gives the Executive Dean notice in writing no less than seven (7) days prior to the hearing of his/her intention to be legally represented; and
- 5.4.2.6 of his/her right if he/she is a minor to be assisted by his/her parent or guardian or, at the discretion of the SDC, to be assisted by any other person appointed by such parent or guardian, provided that nothing contained in this Rule renders the conduct of the SDC void if a student is not so assisted on the date set for the hearing.

### 5.5. Service of Notice

- 5.5.1 Service of any written notice and the furnishing of particulars in terms of this Code will be by prepaid, registered post to the residential/postal address or to the fax or email address as provided either on the most recent application form completed by a student for the purpose of registration or on any later written notice submitted by a student to Milpark of a change of address.
- 5.5.2 In the case of such service, a student will be deemed to have received the Notice and particulars within five days of the date of posting thereof, or within one day of emailing or faxing thereof.

### 5.6. Suspension

- 5.6.1 A student who has been served a notice in terms of 5.5.1 may be suspended from Milpark if it is necessary to safeguard the interests of Milpark or an/other student/s to prohibit such student from:
  - 5.6.1.1 entering onto the premises of Milpark or any part thereof, and/or
  - 5.6.1.2 exercising a right or privilege resulting from his/her enrolment as a student.
- 5.6.2 A temporary suspension in terms of paragraph 5.6.1 remains in force for the period not exceeding thirty days or until the disciplinary proceedings in terms of this Code have been completed, whichever instance may first occur.
- 5.6.3 The Executive Manager: QA & Regulatory or a person authorised by him/her shall, before suspending a student, give the student no less than 24 hours' notice of intention to suspend the student, with brief reasons and the proposed terms of suspension, and invite the student to make written representations advancing reasons why s/he should not be suspended.
- 5.6.4 The Exec Mngr: QA & Reg or person authorised by him/her shall as soon as practicable consider the student's representations before deciding on the suspension, and advise the student of the decision in writing and the reasons for the decision once it has been taken, as well as the conditions of suspension.
- 5.6.5 No such suspension shall prevent a student from taking an examination or submitting an assignment.
- 5.6.6 The Executive Manager: QA & Regulatory or a person authorised by him/her, may at his/her discretion revoke a suspension at any time.
- 5.6.7 Suspension in urgent circumstances.
  - 5.6.7.1 The Exec Mngr: QA & Reg or person authorised by him/her may suspend a student and thereafter allow the student to make representations concerning the suspension and its revocation.
  - 5.6.7.2 A written notice of suspension stating the reasons therefor and the conditions of suspension must be delivered to the student and afford the student the opportunity to make written representations within 12 hours of receipt thereof regarding the revocation of the suspension, or such longer period as the student may request.
  - 5.6.7.3 The student must be notified of the decision regarding the revocation or continued suspension and the reasons therefor as soon as practicable after the student's representations have been considered and a decision has been taken.



## Chapter 6: General procedures at the hearing of a charge of misconduct

- 6.1 In the interest of transparency, all hearings are open to staff and students of Milpark unless the Chairperson of the SDC is persuaded by the circumstances of the case to direct that the hearing be closed, or that access may be allowed subject to stated conditions.
- 6.2 The initiator leads evidence against the accused student and generally conducts the case for Milpark.
- 6.3 The SDC allows a student or such person representing a student a reasonable opportunity to present a defence and to answer the charges.
- 6.4 Both the initiator and the accused student are allowed to adduce all relevant evidence and call witnesses and to examine and cross-examine witnesses, as appropriate. The initiator and the accused student may at any time agree to facts that are common cause.
- 6.5 The SDC may ask the parties which facts are common cause at the start of proceedings and record any agreement in this regard, and also ask the witnesses questions for clarity, but must remain unbiased and shall not create any reasonable apprehension of bias.
- 6.6 The SDC may further, of its own accord, call upon either the initiator or the student to adduce evidence that it may deem relevant to a determination of the issue(s) before it.
- 6.7 The hearing of the SDC is conducted in an informal manner, according to the principles of natural justice and with due regard for the rights of the accused student. The rules of procedure and rules of evidence as applied in the ordinary courts do not apply.
- 6.8 If a student is a minor, no disciplinary action(s) will be taken against that student before his/her parent or guardian has also been informed in writing of his/her alleged misconduct and has been given a proper opportunity to make a written statement and, if he/she so wishes, to appear before the SDC in person.
- 6.9 The Milpark standard procedures serve as a guideline.

## Chapter 7: Sanctions

- 7.1 When considering an appropriate sanction, the SDC must take into account all mitigating and aggravating factors presented during the hearing. Further, when considering the appropriateness of the disciplinary measures to be imposed, the SDC must ensure that such disciplinary measures are, as far as possible, appropriate to and commensurate with the nature and gravity of the misconduct of which a student has been found guilty. The Guidelines to be used in imposing appropriate sanctions are hereto attached as Annexure "A". And still further, it is noted that the SDC is also bound by the rules of administrative law and natural justice and the principles of precedent.
- 7.2 After finding a student guilty of misconduct, the SDC may impose one or more of the following sanctions in no particular order:
  - 7.2.1 revocation of a degree, diploma or other qualification obtained from Milpark in an improper manner;
  - 7.2.2 a written reprimand and/or warning;
  - 7.2.3 denial of a right or privilege resulting from enrolment as a student at Milpark for a specific period;
  - 7.2.4 a fine not exceeding twice the annual tuition fee for the full first semester/year of study of the qualification for which a student is registered;
  - 7.2.5 payment of compensation or requiring the accused student to repair the damage caused by his/her misconduct;
  - 7.2.6 denial of the right or privilege to register for a particular study module offered by Milpark;
  - 7.2.7 annulments of examination results and/or withdrawal of a credit(s) obtained on a study module in question;

- 7.2.8 refusal of admission to an examination for a specified period;
- 7.2.9 confirmation of the temporary suspension of a student, and/or the suspension of a student for a specified period or further period subject to any condition(s) which the SDC deems reasonable;
- 7.2.10 denial of the privilege to register or enrol again as a student at Milpark for a specified period;
- 7.2.11 expulsion as a student from Milpark;
- 7.2.12 any other appropriate sanction(s) which the SDC deems suitable in the particular circumstances; and/or

## Chapter 8: Implementations of the findings of the SDC

- 8.1. If the SDC finds an accused student:
  - 8.1.1 guilty, a student is notified in writing of the finding and the sanction(s) imposed by the SDC. In the Notice, a student is further informed of his/her right to appeal against the finding(s) and/or the sanction(s) imposed.
  - 8.1.2 not guilty, a student is notified in writing of the finding of the SDC.
- 8.2 If a student is a minor, no disciplinary measure/s will be taken against that student before his/her parent or guardian has also been informed in writing of his/her alleged misconduct and has been given a proper opportunity to make a written statement and, if he/she so wishes, to appear before the SDC in person.
- 8.3 The initiator is notified in writing of the finding of the SDC at the same time that the student is notified in terms of 8.1.

## Chapter 9: Appeals

### A Student Disciplinary Appeals Committee (SDAC) hears appeals in respect of findings of the SDC.

#### 9.1. Functions and Powers of the SDAC

- 9.1.1 The SDAC is responsible for the hearing of all appeals in respect of the SDC decisions in determining whether based on factual findings, matters relating to procedure and/or the sanctions imposed.
- 9.1.2 The SDAC has wide powers of appeal and may uphold, review, reverse, nullify or substitute its own decision for the decision of the SDC in any respect, and may cure any defects in the SDC hearing and may hear new evidence in addition to the record of the SDC proceedings.

#### 9.2. Composition of the SDAC

- 9.2.1 The SDAC consists of two members identified from the following groups of persons, as per Academic Policies:
  - 9.2.1.1 a person duly authorised or appointed by the Executive Dean;
  - 9.2.1.2 the Executive Manager: Tuition and Research or duly authorised or appointed person by such Executive Manager;
  - 9.2.1.3 the Exec Mngr: QA & Reg or duly authorised or appointed person by the Exec Mngr: QA & Reg;
  - 9.2.1.4 a member of the Academic or senior Administrative staff;
  - 9.2.1.5 an external person due to his/her expertise, which could include legal expertise.

- 9.2.2 The Exec Mngr: QA & Reg will, where applicable, nominate any person on the SDAC as the Chairperson of the SDAC and may nominate herself or himself.
- 9.2.3 No person who has lodged a complaint against the student against whom disciplinary charges are brought or involved in the disciplinary investigation of the charges or in the SDC may be part of the SDAC.
- 9.2.4 A student representative may be nominated, with observer status, to attend an SDAC meeting.

### **9.3. Quorum**

All persons appointed to the SDAC must be present at all proceedings before the SDAC.

### **9.4. Functioning**

The provisions of Chapters 4 to 7 apply with the necessary changes to the functioning of the SDAC.

### **9.5. Procedures**

- 9.5.1 A student who has been found guilty of misconduct or the Initiator, where there has been an irregularity in proceedings or where new evidence has come to light, may, within fourteen days of being informed of the finding of the SDC, appeal in writing by lodging a written Notice of Appeal to the Exec Mngr: QA & Reg, provided that a student who has been found guilty of misconduct after having pleaded guilty to the charge against him/her has no right of appeal against such finding, but may still appeal against the sanction.
- 9.5.2 The person appealing must furnish, in writing, detailed grounds for his/her appeal in the Notice of Appeal.
- 9.5.3 Upon receipt of a Notice of Appeal, the Exec Mngr: QA & Reg must forward a copy of such Notice to the Chairperson of the SDC who adjudicated the charge, who within 7 days must compile a response to the grounds for appeal and submit it to the Chairperson of the SDAC and to the other parties, i.e. the student and the Initiator, who may submit a reply thereto to the SDAC within 7 days.
- 9.5.4 When an appeal is lodged against a decision of the SDC in terms of Chapter 9, the enforcement of any disciplinary measure imposed by the SDC is automatically suspended pending the outcome of the appeal.
- 9.5.5 An appeal will be based on the record of the proceedings of the SDC, together with any document(s) and exhibit(s) submitted during the SDC hearing, and such new evidence as the student or the initiator may decide to lead, or save where new evidence has come to light, in which case the new evidence may be heard.
- 9.5.6 The SDAC may request the student and the initiator to lead evidence and/or make submissions in respect of any matter it may consider relevant.
- 9.5.7 The SDAC shall consider the record of the SDC, any new evidence, and the representations of the student and the initiator. After considering an appeal, the SDAC may: uphold, review, reverse, nullify or substitute its own decision for the decision of the SDC in any respect.
- 9.5.8 Prior to reaching a final decision concerning the appeal, the SDAC may refer any question pertaining to the hearing of the SDC back to the SDC concerned and order that a report be submitted, in which case the student and the initiator shall be given a copy of the question and the report, and have the opportunity to make representations in connection therewith to the SDAC.
- 9.5.9 The SDAC will not increase any sanction(s) imposed by the SDC unless the SDAC has given the accused student prior reasonable written notice of its intention to do so and has further considered the appellant's written representations, if any, in this regard.
- 9.5.10 All SDAC decisions are final and there is no further forum for appeal within Milpark structures after the SDAC.

## Chapter 10: Reporting and disclosure of findings

- 10.1 If a student in respect of whom the SDC has imposed a sanction or the initiator fails to exercise his/her right of appeal as set out in Chapter 9, the SDC submits a written report on the matter to the Executive Dean or a person duly authorised/ by the Executive Dean, who shall implement the decision of the SDC.
- 10.2 If a student in respect of whom the SDC has imposed a sanction exercises his/her right of appeal as set out in Chapter 9, the SDAC will submit a written report on the matter after disposing of the appeal to the Executive Dean or a person duly authorised by the Executive Dean, who shall implement the decision of the SDAC.
- 10.3 Final decisions in respect of student disciplinary hearings may be made public (without identifying a student) by any other means determined by Exec Mngr: QA & Reg, save where exceptional circumstances are found to exist.
- 10.4 The Exec Mngr: QA & Reg shall maintain a central register of all disciplinary proceedings and sanctions.
- 10.5 The CEO or duly authorised/appointed person by the CEO shall at any time have discretion to request and to be provided with a report/feedback on a particular disciplinary matter pending before SDC or SDAC.

## Chapter 11: Safekeeping of the record of proceedings

- 11.1 All documents and records pertaining to a disciplinary matter will be kept in safe custody by the Exec Mngr: QA & Reg. A student or person authorised by the student is, however, entitled to receive copies of such documents and records at his/her own expense.
- 11.2 Such documents and records will be held by Milpark for a period of three years after a matter has been finalised.

## Chapter 12: Commencement of this code

- 12.1 This Code and any amendment hereto comes into operation on the date on which it is approved by the Academic Board.
- 12.2 This Code is the relevant Code for all students registered at Milpark from the commencement date of this Code or any amendment hereto and repeals all previous Student Disciplinary Codes, policies and procedures that may have been previously adopted and utilised.

## Chapter 13: Operational guidelines

- 13.1 It shall be the responsibility of the Exec Mngr: QA & Reg for the purposes of ensuring consistency to prepare, if necessary, operational guidelines regarding:
  - a) minimum and maximum sanctions to be imposed by the SDC and SDAC;
  - b) any matter required to be prescribed in terms of this Code; and
  - c) any other matter which the Academic Board deems necessary or expedient to be prescribed in order to achieve the objects of this Code.
- 13.2 Guidelines relating to paragraph (a) are attached hereto as Annexure "A".
- 13.3 The Milpark Sexual Harassment Policy in terms of (c) is attached hereto as Annexure "B".
- 13.4 Standard proceedings for hearings in terms of (c) are attached hereto as Annexure "C".