MULUNGUSHI UNIVERSITY

DISCIPLINARY CODE AND GRIEVANCE PROCEDURES FOR MEMBERS OF STAFF

DECEMBER, 2024

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FOREWORD

The Disciplinary Code and Grievance Procedures has been developed as a document to be used by Management and employees to address employee's conduct and performance and to deal with employee's complaints. This Disciplinary Code and Grievance Procedures will therefore aim to provide mechanisms to correct unacceptable behaviour and to create certainty and consistency in the application of discipline as well as grievances.

This document contains elaborate and transparent procedures that are designed to be a guide to the entire University and to Management in the best human resource practices as well as to promote efficient service delivery.

Accordingly, the University is committed to achieving and maintaining a high standard in its performance of the core functions of research, consultancy, teaching and service to society, supported by a high calibre of academic and non-academic staff. To achieve its core functions, therefore, behaviour and employee's conduct have to be observed and employee's complaints have to be attended to in good time.

Changes in the internal and external environment such as economic conditions, demographic trends, technology, and statutory obligations require that the Policy is monitored and updated on a regular basis and a revised document issued to users.

It is the responsibility of every line manager to ensure strict adherence to the provisions of this Disciplinary Code and Grievance Procedures when making decisions. Where there is doubt as to the preciseness, correctness, and application of the Disciplinary Code and Grievance Procedures, the Registrar's Office must be consulted for interpretation.

Signed:
Vice-Chancellor

1.0 POLICY STATEMENT

1.1 Mulungushi University, hereinafter called **"the University",** recognises the need for sound disciplinary and grievance procedures. This will contribute to strengthening the effectiveness of the operations of the University and provide a positive employee relations atmosphere at place of work. This Disciplinary Code and Grievance Procedure has therefore been formulated for that purpose and will apply appropriately to all categories of employees of the University. To ensure the protection of workers against unfair treatment, it is imperative that the rules of natural justice are strictly adhered to.

1.2 The procedures stipulated herein **MUST** be followed in order to maintain impartiality and uniformity. This Disciplinary Code and Grievance Procedures is not intended as a substitute for good management. It is an expression of the University's policy on Disciplinary Code and Grievance and Procedures and serves as a guide to both Management and the employees.

2.0 INTERPRETATION

In this Disciplinary Code and Grievance Procedures, unless the context otherwise specifies:

"Academic Staff" means staff falling under salary grades ACS/01 to ACS/07;

"Administrative Staff" means staff falling under salary grades SMS/03 to SMS/05, and ADS/PTS 01 to ADS/PTS 06;

"Chairperson" means the person appointed as Chairperson of the Disciplinary Committee;

"Charge" means an alleged offence;

"Charging Officer" means the officer who raises the charge against the accused employee;

"Complainant" means the Chairperson of University Council, Vice-Chancellor, Dean of School, a principal officer, the Director of an institute or Directorate or immediate supervisor, being the person or body who refers a complaint to the Disciplinary Committee;

"Complaint" means a statement regarding misconduct or failure by a member of staff to perform the functions of office;

"Council" means the Council of Mulungushi University;

"Disciplinary Committee" means the Mulungushi University Staff Disciplinary Committee applicable to the specific category of staff;

"Deputy Vice-Chancellor" means a person appointed by the Minister in line with the Higher Education Act, No. 4 of 2013 and as amended;

Desertion/Abandonment – an employee shall be deemed to have abandoned or terminated his or her contract of employment after a period of absence of 10 consecutive

working days.

"Exculpatory note" means an initial defence to be submitted, in writing, by an accused employee prior to being charged;
"Grievance" means a complaint, grief or pain sustained by an employee as a result of an act or omission made by the employer. In short, a grievance arises when an employee feels that their rights and agreed privileges have been denied or tempered with;

"Hate speech" means abusive or threatening speech or writing that expresses or intends to vilify, humiliate, or incite hatred against a group or class of persons on the basis of race, religion, skin colour, gender identity, ethnicity, disability or national origin;

"Legal practitioner" has the meaning assigned to it in the Legal Practitioners' Act, Cap 30;

"Live period" means the period during which the warning sanction is running;

"Other Staff" means staff falling under salary grades ADS/PTS 07 to ADS/PTS 15, otherwise called "Allied Workers";

"Party" means either the employee charged with an offence or the charging officer;

"Principal Officer" means Vice-Chancellor, Deputy Vice-Chancellor, Registrar, Chief Financial Officer, Chief Librarian and Dean of Students;

"Registrar" means a person appointed to be responsible for the general administration of the University assets;

"Respondent" means a member of staff whom a complaint is raised against;

"Secretary" means the Secretary to the Disciplinary Committee;

"University" means the Mulungushi University;

Surcharge – An extra charge imposed on an employee for loss stemming from negligent or mismanagement of responsibility or to require an employee to repay from personal finances University funds spent without authority or for damage caused to University property

"Vice-Chancellor" means a person appointed by the Minister in line with the Higher Education Act, No. 4 of 2013 and as amended.

3.0 PURPOSE

The purpose of this Disciplinary Code and Grievance Procedures is to:-

i. ensure fair and equal treatment of all employees;

ii. encourage timely corrective action where the performance and conduct of an employee is unsatisfactory or unacceptable;

iii. ensure that the principles of natural justice are applied before an employee is disciplined;

iv. to give freedom to employees to challenge unfair and inconsistence action of the employer as well as the action which is not consistent with the conditions of service of the employee;

v. to act as safety valve for employees against unfair managers in the handling of people at work; and

vi. to provide to employees an appellant machinery through which grievances could be redressed

It must be appreciated that in order for the Grievance Procedure to be meaningful, it is expected of all employees to be fully aware of their conditions of service and privileges as prescribed in their individual contracts and in the respective Collective Agreements as well as in different pieces of legislation that govern work and the workplace.

4.0 PRINCIPLES

The principles of this Disciplinary Code and Grievances Procedures are as follows:-

i. it shall be the responsibility of all employees to maintain discipline at all times;

ii. it shall be the responsibility of employees to report any grievances that arise in the course of their duty through the laid down procedure, and such reports should not border on malice;

iii. Management commits itself to resolving staff grievances in good time when they arise in order to keep a motivated workforce;

iv. an employee subject to action in terms of this Disciplinary Code and Grievances Procedures shall be at liberty to be accompanied by a fellow employee of his or her own choice;

v. any employee who is aggrieved by disciplinary action taken against him or her may invoke clause 10 of this Disciplinary Code and Grievance Procedures;

vi. this Disciplinary Code and Grievance Procedures shall not be applied for the purpose of intimidation or victimisation; and

vii. Management shall apply this Disciplinary Code and Grievance Procedures for all cases referred for disciplinary action.

The recognition of this Disciplinary Code and Grievance Procedures by both members of staff and Management, and the prudent exercise of the tenets of discipline is intended to encourage members of staff and Management to promote a culture that enhances the following values and attributes:-

i. Team work
ii. Responsiveness
iii. Achievement orientation
iv. Flexibility/adaptability

v. Initiative
vi. Applied learning
vii. Integrity
viii. Professionalism

5.0 SCOPE

This Disciplinary Code and Grievance Procedures shall apply to all members of staff of the University.

6.0 CORRECTIVE ACTION AND COUNSELLING

As discipline is aimed at correction, prevention and rehabilitation rather than punishment, counselling will follow all disciplinary action from relevant Supervisors, Line Managers or Departmental Heads. Any subsequent improvement in the performance or conduct of an employee shall be noted and recorded in the personal file of the employee.

7.0 RESPONSIBILITIES

The following shall be the levels of responsibility:-

i. The Office of the Registrar shall provide guidance in the application of this Disciplinary Code and Grievance Procedures;

ii. The responsibility for taking disciplinary action shall lie with the immediate Supervisor, Line Manager or Departmental Head; and

iii. When initiating disciplinary action, supervisors and management shall comply with the provisions of this Code.

8.0 SCHEDULE OF OFFENCES AND PENALTIES

The following schedule of offences and penalties is provided to establish broad uniformity in the description of offences and application of sanctions:-

CLAUSE	NO	OFFENCE	1ST BREACH	2ND BREACH	3RD BREACH	AUTHORITY
1.0	1.1	**ABSENTEEISM** Absence from work without reasonable excuse or prior permission during a working day or 1-3 days	Written Warning	Final Warning	Discharge	Supervisor Head of Department University Disciplinary Committee (Tribunal)
	1.2	Absenteeism of more than 3 consecutive days but less than ten (10) days	Severe Warning	Final Warning	Discharge	Supervisor Head of Department University Disciplinary Committee (Tribunal)
	1.3	Absence from work without permission	Shall be deemed as			University Disciplinary Committee (Tribunal)

		and justification for ten (10) or more consecutive days	desertion Summary dismissal			
	1.4	Absence from work for a period of 12 days within any one calendar year without reasonable causes	Discharge			University Disciplinary Committee (Tribunal)
2.0		**SUB-STANDARD PERFORMANCE**				
	2.1	Lateness or poor time keeping Leaving work before time	Recorded Warning	Final Warning	Discharge	Supervisor Head of Department University Disciplinary Committee (Tribunal)
	2.2	Extended or unauthorized breaks during working hours without reasonable justification or permission, including abandoning one's place of work during working hours and before the arrival of another shift.	Recorded Warning	Final Warning	Discharge	Supervisor Head of Department University Disciplinary Committee (Tribunal)
	2.3	Unsatisfactory work performance such as carelessness	Recorded Warning	Final Warning	Discharge	Supervisor Head of Department University Disciplinary Committee (Tribunal)
	2.4	Reporting back late from leave without permission	1-3 days Recorded Warning	4-9 days Final Warning	10 days and above Discharge	Supervisor Head of Department University Disciplinary Committee (Tribunal)
	2.5	Incompetence in the performance of duties	Written Warning	Demotion	Discharge	Supervisor Head of Department University Disciplinary Committee (Tribunal)
3.0		**SLEEPING ON DUTY**				
		(Applicable only to Security Guards)	Severe Warning with 5 days suspension without pay	Final Warning	Discharge	Supervisor Head of Department University Disciplinary Committee (Tribunal)
4.0		Damage to or loss of University property or resources without acceptable reason	Recorded Warning plus surcharge	Discharge		Supervisor Head of Department University Disciplinary Committee (Tribunal)
5.0		Using University	Final	Discharge		Supervisor

		time and transport for personal monetary gain (trading during University working hours)	Warning			Head of Department University Disciplinary Committee (Tribunal)
6.0		Insubordination or refusal to obey lawful instructions shown by action or words	Recorded Warning with 5 days suspension	Final Warning	Discharge	Supervisor Head of Department University Disciplinary Committee (Tribunal)
7.0	7.1	Using abusive language on duty	Severe Warning	Final Warning	Discharge	Supervisor Head of Department University Disciplinary Committee (Tribunal)
	7.2	Use or utter a sound of dismissive contempt	Severe Warning	Final Warning	Discharge	Supervisor Head of Department University Disciplinary Committee (Tribunal)
	7.3	Failure or refusal to wear protective clothing or uniform	Recorded Warning	Final Warning	Discharge	Supervisor Head of Department University Disciplinary Committee (Tribunal)
8.0		Loss/Damage, Misuse of University property	Final Warning	Summary Dismissal		Supervisor Head of Department University Disciplinary Committee (Tribunal)
9.0		Malicious damage to University property and/or sabotage	Summary Dismissal and repayment			University Disciplinary Committee (Tribunal)
10.0		Issuing unauthorized press statement or leaking University documents. Supplying of information to outsiders without permission	Summary dismissal			University Disciplinary Committee (Tribunal)
11.0		Reporting for work under the influence of alcohol or intoxicating liquor/drugs or taking alcoholic drinks during working hours except at officially authorized function	Summary dismissal			University Disciplinary Committee (Tribunal)
12.0		Gross negligence resulting in loss or	Summary dismissal			University Disciplinary Committee (Tribunal)

		damage to University property				
13.0		Being found with University property without authority	Summary dismissal			University Disciplinary Committee (Tribunal)
14.0		Hate speech at place of work	Summary dismissal			University Disciplinary Committee (Tribunal)
15.0		Conduct likely to bring the University into disrepute	Recorded warning	Final warning	Discharge	Supervisor/Head of Department University Disciplinary Committee (Tribunal)
16.0		Misappropriation of funds, theft, fraud, forgery or falsifying University documents	Summary dismissal			University Disciplinary Committee (Tribunal)
17.0		Conspiracy to defraud or remove University property without authority	Summary dismissal			University Disciplinary Committee (Tribunal)
18.0		Dishonest conduct, corruption, bribery (as evidenced)	Summary dismissal			University Disciplinary Committee (Tribunal)
19.0		Abuse of Office	Discharge			University Disciplinary Committee (Tribunal)
20.0		Assault, starting a fight, physical combat at place of work for whatever reason	Final warning, 14 days suspension without pay	Summary dismissal		Head of Department University Disciplinary Committee (Tribunal)
21.0		Inciting riotous behaviour or illegal strike	Summary dismissal			University Disciplinary Committee (Tribunal)
22.0		Disorderly behaviour or fighting in retaliation	Recorded warning	Final warning	Summary dismissal	Supervisor Head of Department University Disciplinary Committee (Tribunal)
23.0		Giving false information or spreading rumours with intent to deceive or mislead calculated to cause injury to the University or its officer	Summary dismissal			Head of Department University Disciplinary Committee (Tribunal)

8.1 If an employee commits a criminal offence, the University shall be obliged to report such a case to the Police. This shall however, not in any way preclude the employer from taking own disciplinary action first if the organisation rules and conditions of employment have been clearly contravened.

8.2 All the disciplinary verdicts other than dismissal, discharge and demotion shall have the following life span:

i. Recorded warning - 6 months
ii. Severe warning - 12 months
iii. Final warning - 18 months

8.3 During the period of Final Warnings the employee shall not have access to financial assistance, from the University, such as assistance under the Staff Loan Scheme or a Salary Advance. Similarly, the employee shall not be considered for promotion.

9.0 DEFINITION OF OFFENCES

S/NO.	OFFENCE	DEFINITION
1	Reporting late for work	Reporting for work after the stipulated starting times of 08:00 hours in the morning and 14:00hours in the afternoon without reasonable cause. In the case of shift workers, this would be the times instructed to the employee when the particular employee's shift is to start.
2	Leaving work place early	Leaving work place before the stipulated times of 13:00 hours and 17:00hours without verbal or written permission from the employee's supervisor.
3	Leaving work place without permission	Leaving work place during working hours without verbal or written permission from the employee's supervisor.
4	Sleeping on duty	Sleeping on duty or during working hours by an employee who is seen sleeping by at least two witnesses.
5	Absenteeism for periods up to 2 days	The staying away from duty by an employee without verbal or written permission or acceptable reason for a period of up to two days.
6	Absenteeism of more than 2 days but less than 10 days	The staying away from duty by an employee without verbal or written permission or acceptable reason for more than two days but less than ten days.
7	Desertion	The deliberate act of abandoning duty by an employee without verbal or written permission for a period exceeding ten consecutive working days.
8	Negligence of duty	The lack of proper care and attention in the performance of duties by an employee.
9	Sub-standard performance	Consistently failing to meet performance expectations/standards or objectives/targets.
10	Incompetence	An act indicating lack of effective utilisation of skill or ability in performance of duties. Failure to achieve a satisfactory standard of performance in the grade and/or capacity for which a member of staff is employed.
11	Gross negligence of duty resulting in loss of University funds or property, public funds or damage to University property	The lack of proper care and attention in the performance of duties by an employee which leads to loss of money or damage to property or injury to life of an employee of the University or other third party affected by the employee's act. The employee's act covers loss incurred but later recovered by other officers of the University or private

		persons.
12	Failure to wear protective clothing or uniform/Disregarding health and/or safety/security rules	An act or conduct that puts the life, health or security of other employees or persons at risk e.g., unhygienic practices, not wearing protective clothing, the failure to wear any uniform, safety equipment or identity card.
13	Being under the influence of alcohol or drugs or drinking alcohol or using illicit drugs on University premises or during working hours	State of being under the influence of drugs or alcohol as indicated or observed by one's abnormal behaviour and performance of duties. This must be verified by laboratory tests on blood or urine by a recognised clinic or hospital.
14	Drinking alcoholic beverages whilst on duty (except at officially authorised functions)	The unauthorised consumption of alcoholic beverages by an employee whilst on active duty.
15	Failure to follow lawful instructions, established channels or procedures or fulfil assigned duties	An act or conduct that disregards the authorised method or formula in performing a task, duty or obligation. An act or conduct that disregards lawful instructions or the established authority protocol in discharging one's duties or in fulfilling assigned duties.
16	Using University time for personal monetary gain	The unauthorised use of working hours by an employee to pursue private work or assignments for monetary gain.
17	Insubordination	An act of disobedience, defiance and non-compliance by an employee to a superior officer's reasonable instructions or lawful directions.
18	Threatening violence or intimidating employees or supervisors	Physical or verbal act tending to instil fear or apprehension in other employees or third persons.
19	Use of abusive language	Verbal act involving the use of offensive, foul or insulting language.
20	Indulging in rough and unruly behaviour	An act of physical conduct, that is forceful, disruptive, disorderly or rowdy.
21	Fighting or causing a fight at work	The use of physical violence by an employee against other employees or third parties, or utter of dismissive contempt.
22	Assault at place of work	Wilfully causing injury or bodily harm to another person at place of work.
23	Sabotage or malicious damage to University property	The deliberate or wilful causing of damage to University property or such property lawfully under the care of the University.
24	Sexual harassment or immoral conduct	Uninvited lewd, sexually explicit or suggestive acts or words.
25	Issuing unauthorised press statements to the public or mass media on University business without the Vice Chancellor's authority	The issuing of unauthorised statements to the public, the press or third persons without the authority of the Vice Chancellor.
26	Disclosure of confidential information to unauthorised persons	The disclosure of confidential information to unauthorised persons.
27	Misuse of University property	Use of University property for non-University activities without permission. Where prior permission was obtained, such use must be restricted to the purpose for which

		permission was obtained and proof of that permission must be provided.
28	Causing road traffic accident while driving University vehicle	Causing road traffic accident due to negligence, failure to observe road safety rules and regulations or due to disorderly conduct.
29	Carrying unauthorised passengers on University vehicle	Carrying passengers without prior authority of the supervisor.
30	Driving University vehicle without competence certificate	Driving University vehicle without a competence certificate issued by the University.
31	Driving University vehicle without authority	Driving without the verbal or written authority of an employee's supervisor.
32	Permitting unauthorised person(s) to drive University vehicle	Permitting unauthorised person(s) to drive University vehicle.
33	Serious and/or gross misconduct	This includes the following: (i) theft; (ii) misappropriation of University funds; (iii) defrauding or attempting to defraud the University; (iv) accepting or offering bribe(s) in respect of any University business; (v) corruption – an act or conduct done in exchange for personal monetary or material gain; (vi) unauthorised removal of property from University premises; (vii) removing, altering or destroying official records; (viii) illegal importation or exportation of goods; (ix) abuse of office – use of one's position, authority and office resources for personal monetary and material gain; (x) being convicted of a criminal offence with a custodial sentence; (xi) drug trafficking or abetting drug trafficking; and (xii) providing false or misleading information (even to external and internal auditors when conducting audits) or evidence for University records.
34	Taking part in an illegal or other industrial action	Taking part in an illegal or other industrial action.
35	Inciting others to take illegal industrial action	Inciting others to take unconstitutional industrial action (strike).
36	Hate speech	Hate speech means abusive or threatening speech or writing that expresses or intends to vilify, humiliate, or incite hatred against a group or class of persons on the basis of race, religion, skin colour, gender identity, ethnicity, disability or national origin

10.0 DISCIPLINARY PROCEDURE

It is the responsibility of the Deans of School, Directors and Departmental Heads, through function supervisors, to maintain discipline in their respective units. They are, therefore,

expected to discipline their subordinates in accordance with the University's laid down procedures or guidelines. The Registrar's department may be consulted for advice to ensure consistent application of discipline at every stage.

Where a breach has been committed by an employee, the following disciplinary procedure shall be followed:-

i. The immediate supervisor should commission preliminary investigations to establish the alleged offence by requesting the alleged ailing officer to exculpate him/herself within forty-eight (48) hours or two (2) working days.

ii. If the immediate supervisor is not satisfied with the exculpatory statement, he/she will charge the employee with an appropriate offence.

    The reference of the case record for further processing in form of raising of appropriate charges against the offending employee is meant to ensure consistence in the manner discipline is discharged in the University.

    There shall be no exception to this particular rule no matter how obvious the offence may be (with the exception of an employee who absconds or desserts without returning to work and without reason. Such a commission shall be considered as an automatic dismissal).

iii. If it is considered that the continued presence at work of an employee under investigation will be obstructive to the investigation or pose a further risk to the University, the employee(s) under investigation may be suspended by the Registrar. The employee suspended shall be required to hand over all work and any property of the University in their possession.

    An employee on suspension shall be paid half of their basic salary and housing allowance only.

    A suspended employee shall remain within the locality of the employee's duty station until the determination of the employee's case by the Disciplinary Committee, as the employee may be required to report to the Supervisor as and when the need may arise.

    Where an employee on suspension is required to report to the Supervisor for any reason, his or her reporting shall be strictly confined to the Supervisor's office and he or she shall thereafter be immediately required to leave the premises of the University. Any movement outside the locality shall be with the express permission of the Supervisor.

iv. Where an employee is found with a case to answer, he/she has the right to appear in person before a Disciplinary Committee to plead his/her case and the appearance shall be expedited.

    No disciplinary case shall be determined without the accused employee being accorded a hearing in person before a Disciplinary Committee.

v. An employee found guilty of an offence by a Disciplinary Committee shall receive the appropriate penalty in accordance with this Disciplinary Code and Grievance Procedures, and the relevant clause of this Code shall be cited.

vi. The proceedings of the Disciplinary Committee shall be recorded and a summary of the verdict be compiled and submitted to the Registrar.

vii. The Registrar shall communicated the verdict to the employee in writing.

viii. The record and summary shall be kept for record purposes and used for reference in the event of an appeal.

ix. Where an accused employee fails to attend two consecutive hearings of which the employee has had notice, the Disciplinary Committee shall determine the case in the absence of the accused employee at the third sitting.

11.0 THE DISCIPLINARY PROCESS

11.1 Cases involving the Vice-Chancellor and Deputy Vice-Chancellor

There shall be an ad-hoc joint committee constituted in line with the Higher Education Act, No. 4 of 2013 of the Third Schedule, Part I, which shall conduct an inquiry into the removal of the Vice-Chancellor or the Deputy Vice-Chancellor. Council shall, on the advice of the ad-hoc joint committee, recommend to the Minister the removal of the Vice-Chancellor or Deputy Vice-Chancellor.

The Chairperson of the Disciplinary Committee shall preside over the meetings of the ad-hoc joint committee.

Where disciplinary proceedings are to be taken against the Vice Chancellor or Deputy Vice Chancellor, the appropriate procedure shall commence as soon as possible according to the following procedure:-

i. Whenever the Chairperson of the University Council has reason to believe that the Vice Chancellor or Deputy Vice Chancellor has committed a misconduct or has failed to perform his/her duties as expected and may warrant disciplinary proceedings, the University Council Chairperson shall convene a Special Meeting of Council at which such perceived misconduct or failure to perform duties as expected shall be discussed;

ii. Where the Council is satisfied that the Vice Chancellor or Deputy Vice Chancellor has misconducted himself/herself or has failed to perform his/her duties as expected and may warrant disciplinary proceedings, the University Council shall resolve:-

   a. to formally charge and suspend the Vice Chancellor or Deputy Vice Chancellor with immediate effect
   b. to constitute an ad-hoc Disciplinary Joint Committee in line with the Higher Education Act, No. 4 of 2013 of the Third Schedule, Part I to hear the matter and make appropriate recommendations to Council for determination

iii. Where the University Council has reasonable grounds to believe that the Vice-Chancellor or Deputy Vice-Chancellor should be removed from office on grounds of misconduct or inability to perform the functions of the office, the Council shall, on the advice of the ad-hoc joint committee constituted under the Higher Education Act, No. 4 of 2014, recommend to the Minister the removal of the Vice- Chancellor or Deputy Vice-Chancellor, as the case may be.

11.2 Cases involving Academic and Administrative Staff

There shall be established a Staff Disciplinary Committee to investigate and consider disciplinary cases referred to it and make recommendations to the Council as provided for under the Higher Education Act, No. 4 of 2013 of the Third Schedule, Part I, and as amended, read together with the Mulungushi University Tribunal Rules

The Disciplinary Committee appointed by the Chairperson of Mulungushi University Council shall consist of the following:-

i. A legal practitioner with not less than ten years legal experience, who shall be the Chairperson;
ii. Two (2) persons from the non-academic members of staff;
iii. Two (2) persons nominated by the academic; and
iv. A secretary to the Disciplinary Committee.

The members of a Disciplinary Committee shall hold office for a period of three (3) years and shall be eligible for reappointment for a further like period.

The disciplinary procedure for academic and administrative staff shall be as outlined below:-

The Vice-Chancellor shall, where the Vice-Chancellor has reasonable grounds to believe that the Registrar, the Chief Financial Officer, the Dean of Students, the Chief Internal Auditor, the Chief Librarian and the Dean of School or a Director should be removed from office on grounds of incompetence or misconduct:-

i. give notice, in writing, of the grounds to the officer in question;
ii. in writing, suspend the officer in question from office pending investigations;
iii. refer the matter to the Disciplinary Committee; and
iv. make arrangements for the officer in question to be afforded an opportunity to appear before, and be heard by, the Disciplinary Committee with respect to the matter.

The Dean, Director, principal officer or immediate supervisor shall, where the Dean, Director, principal officer or immediate supervisor has reasonable grounds to believe that a member of the academic or administrative staff for whom the Dean, Director or principal officer or supervisor has direct responsibility should be removed from office or employment on grounds of misconduct or failure to perform the functions of office or employment—

i. give notice, in writing, of the grounds to the member in question;

ii. in writing, suspend the member in question from office or employment pending investigations;

iii. refer the matter to the Disciplinary Committee; and

iv. make arrangements for the member in question to be afforded an opportunity to appear before, and be heard by, the Disciplinary Committee with respect to the matter.

In administering the disciplinary process, the Staff Disciplinary Committee will undertake the following:-

i. The Disciplinary Committee may request any senior member of a department to assist it in the assessment of any particular case;

ii. The Disciplinary Committee shall complete its work within a period of six months from the date from which the suspension of a member of staff takes effect;

iii. The Council shall implement the decisions of the Disciplinary Committee;

iv. The Secretary shall, where the Disciplinary Committee receives a complaint within seven days of receipt of the complaint, notify the respondent;

v. The notification required to be made to the respondent shall be served personally upon the respondent or by registered post or by leaving it at the last known address of the respondent;

vi. The respondent shall, within seven days of receipt of a complaint, file a reply with the Secretary, and the Secretary shall send a copy of the reply to the complainant;

vii. The Secretary may, subject to any direction by the Chairperson, at any time after receiving a complaint, require the complainant to furnish a statement setting out further and better particulars of the grounds on which the complainant intends to rely and any relevant facts and contentions;

viii. The complainant shall send the statement referred to in duplicate to the Secretary within such time as the Chairperson may direct, not being more than fourteen days from the date of the requirement, together with copies of the statement to such other persons who are parties to the complaint as the Secretary may determine;

ix. The Secretary shall, upon receiving the statement, send the duplicate statement to the respondent;

x. The Secretary shall cause the notice of the date, time and place of the Disciplinary Committee to be served upon the complainant and the respondent;

xi. A party to whom notice is sent may apply to the Secretary for an alteration of the place or date of hearing;

xii. The Disciplinary Committee shall sit at such place and times as the Disciplinary Committee Chairperson may determine;

xiii. The Chairperson, the Disciplinary Committee may regulate its own procedure;

xiv. The Disciplinary Committee shall hold its proceedings in camera;

xv. Three (3) members of the Disciplinary Committee shall constitute a quorum provided that a meeting shall not commence without the Chairperson;

xvi. The complainant shall appear in person before the before Disciplinary Committee;

xvii. The respondent shall be afforded an opportunity to appear in person and be heard by the Disciplinary Committee or be represented by a legal practitioner or union representative of the respondent's choice;

xviii. If the complainant, respondent or any other party to the Default of proceedings does not appear at the time and place appointed for appearance the hearing, the Disciplinary Committee may-

a. dismiss the complaint;
b. adjourn the hearing on such terms as the Disciplinary Committee considers appropriate; or
c. hear and determine the complaint in the absence of the party or parties and may make such order as to costs as it thinks fit.

ixx. Where proceedings are dismissed or determined in the absence of a party, that party may, on an application made by that party within fourteen days of the dismissal or determination, apply to the Disciplinary Committee to set aside the dismissal or determination, and give the reasons for their absence from the hearing;

xx. Where the Disciplinary Committee is satisfied that the reasons given by a party are sufficient to set aside the dismissal or determination, the Disciplinary Committee may set aside that dismissal or determination;

At the hearing:

a. the complainant shall present the facts on which the complaint is based;
b. the respondent shall adduce evidence to rebut the evidence of the complainant;
c. the complainant may address the Disciplinary Committee by way of reply; to the respondent's evidence;
d. the complainant and the respondent may call a witness to adduce evidence;
e. both parties may, at the conclusion of the hearing, present oral or written submissions to the Disciplinary Committee;
f. The Disciplinary Committee may receive, as evidence, any statement, document, information or other matter that may assist it to deal effectively with a complaint, whether or not the evidence would be admissible in a court of law;
g. The Disciplinary Committee may take judicial notice of any fact; and
h. Evidence before the Disciplinary Committee may be given orally or, if the parties to the proceedings consent or the Chairperson of the Disciplinary Committee so orders, by affidavit.

xxi. The Disciplinary Committee may, at any stage of the proceedings, make an order requiring the personal attendance of any deponent for examination and cross-examination;

xxii. A party may, at any time during the hearing, give to the other party notice to produce any document to which the complaint relates alleged to be in possession of that party;

xxiii. A party to the proceedings shall, on request, produce to the Secretary, any document or other information which the Disciplinary Committee may require and which is in the power of that party to produce, and shall afford to every party to the proceedings an opportunity to inspect those documents or copies of the documents and to take copies of the documents;

xxiv. The Committee may, during the hearing receive such additional information relating to the complaint as it may consider necessary to enable it dispose of a matter;

xxv. An interlocutory application shall be made in writing and shall state the title of the proceedings and the grounds upon which the application is made;

xxvi. Where an interlocutory application is made with the consent of all the parties it shall be accompanied by consents signed by, or on behalf of, the parties;

xxvii. Where an interlocutory application is not made with the consent of every party, a copy shall, before it is made, be served on every other party and the interlocutory application shall state that this has been done;

xxiix. A party who objects to an interlocutory application may, within fourteen days after the service of a copy on the party, send written notice of objection to the Secretary and a copy to the applicant;

xxix. The Secretary shall, before making an order on an interlocutory application, consider all the objections received in relation to the interlocutory application and, if any party wishes to be heard, the Secretary shall give the party and every other party an opportunity to be heard;

xxx. The Secretary may, and shall, if required by the applicant or by a party objecting to an interlocutory application under this Disciplinary Code and Grievance Procedures, refer an interlocutory application to the Chairperson for decision;

xxxi. A party aggrieved with a decision of the Secretary on an interlocutory application under this rule may appeal to the Chairperson by giving notice, in writing, to the Secretary and to every other party, within fourteen days after service on the party of the notice of the decision or within such further time as may be allowed by the Secretary;

xxxii. An appeal from a decision of the Secretary shall not act as a stay of proceedings unless so ordered by the Chairperson;

xxxiii. The powers of the Chairperson under this rule may be exercised and discharged in relation to the application by any member of the Disciplinary Committee authorised by the Chairperson;

xxxiv. The Disciplinary Committee shall observe the principles of natural justice and shall hear all the evidence tendered and representations made by, or on behalf of, the parties;

xxxv. The Disciplinary Committee may summon any member of staff of the University or request any other person to appear before it to-

a. testify to all matters within that person's knowledge;
b. produce any document, book or record in that person's possession or control; or
c. be examined or cross-examined in relation to the complaint.

xxxvi. The Disciplinary Committee may administer oaths or affirmations for the purpose of proceedings;

xxxvii. Where the parties agree upon the terms of an order to be made by the Disciplinary Committee, particulars of the terms, signed by all the parties or by their legal representatives or agents, shall be sent to the Secretary, and an order may be made by the Disciplinary Committee in accordance with those terms in the absence of the parties;

xxxiix. The Disciplinary Committee may, at any time before a decision is made, by certificate signed by the Chairperson, correct any error or omission in the record of proceedings;

xxxix. A decision of the Disciplinary Committee shall be in writing and shall contain **Decision of** the following:

a. the finding of the Disciplinary Committee on each issue of fact or law;
b. raised in the proceedings; and
c. the reason for the Disciplinary Committee's findings.

xxxx. The Secretary shall, within seven days of the date of the decision of the Disciplinary Committee, send the decision of the Disciplinary Committee to the parties and to the Office of the Registrar.

xxxxi. The Secretary shall send a copy of the decision of the Disciplinary Committee to the Council for implementation;

xxxii. The Council may implement the recommendations of the Disciplinary Committee;

xxxxiii. Where a party changes their address they shall, by notice, in writing, to the Secretary and to every other party inform the Secretary and the parties of the change;

xxxxiv. An application or communication to be made to the Disciplinary Committee in respect of any matter before the Disciplinary Committee shall be addressed to the Secretary;

xxxxvi. Where a person to whom any notice or other document is required to be sent cannot be found, is dead, has no personal representative or is out of Zambia, or if for any other reason service upon the party cannot be readily effected, the Chairperson may make an order for substituted service upon such other person or in such other form as the Chairperson may think fit;

xxxxv. A person aggrieved with the decision of the Disciplinary Committee may, within thirty days of receiving the decision, appeal to the Industrial Relations Court;

xxxxvi A person aggrieved by the decision of the Council may appeal to the High Court.

11.3 Cases involving Other Staff (Allied Workers)

There shall be a standing Disciplinary Committee appointed by Management. Where the Respondent is unionised, the standing Disciplinary Committee will include at least two (2) Union representatives.

The application of disciplinary measures to other staff members shall be in accordance with their conditions and terms of service, in line with the Higher Education Act, No. 4 of 2013 and as amended, as follows:

i. If the conduct or work of an employee is unsatisfactory, he/she may be required to show cause why disciplinary action should not be taken against him/her. If the reasons given are not satisfactory, action may be taken against the employee;

ii. Any employee whose conduct or work is unsatisfactory shall be warned at least twice in writing before being finally discharged, unless he/she is discharged in accordance with the appropriate disciplinary provision or his/her appointment is terminated on the grounds of redundancy;

iii. When an offence is alleged to have been committed by an employee the immediate supervisor shall immediately raise a complaint form/charge sheet in the presence of a Union Official. The Accused shall be given forty eight (48) hours within which to exculpate himself/herself;

iv. The Complainant's statements and those of the Accused and the Witnesses shall be referred to the Disciplinary Committee, which after hearing both oral and written submissions will make its recommendations to the Office of the Registrar. The disciplinary process by the Disciplinary Committee shall be concluded within sixty (60) days after the alleged offence was committed;

v. Non-dismissible offences shall be dealt with at Supervisory/Departmental levels in conjunction with the Office of the Registrar in the presence of a Shop Steward or Union Official;

vi. The disciplinary process by the Disciplinary Committee shall be concluded within sixty (60) days after the alleged offence was committed;

vii. Decisions of the Disciplinary Committee shall be recommended to the Office of the Registrar;

viii. The employee shall have the right to appeal to the Vice Chancellor within fourteen (14) days of the receipt of the dismissal letter;

ix. If not satisfied with the Vice-Chancellor's verdict, the employee shall have the right to appeal to the University Council;

x. In the event that Council upholds the Disciplinary Committee's verdict, the employee will be deemed to have exhausted the internal disciplinary process and may take the matter to the Courts of Law.

12.0 RIGHTS OF THE ACCUSED EMPLOYEE

The following shall accrue to employees:-

i. Any statement given by an employee shall be recorded in writing and signed by the accused employee;

ii. A colleague who is a fellow employee, may witness any statement taken if the accused employee requests such presence;

iii. The employee shall be given a copy of any statement given and recorded from him or her;

iv. Where the accused employee refuses to sign a written statement for incorrectness, he or she may then write one of his or her own accord, a copy of which he or she may retain;

v. The employee must be given a copy of the investigation report so that they are given an opportunity to prepare their defence;

vi. If, on completion of investigations the allegations cannot be conclusively proved and the employee who was suspended is instructed to resume work, he or she will be entitled to be paid the withheld part of the salary for the period of the suspension; and

vii. An employee who is summarily dismissed shall be paid, on dismissal, the wages and other accrued benefits due to the employee up to the date of dismissal.

13.0 AMENDMENTS TO THE CHARGE SHEET AND EXCULPATORY NOTE

It shall not be the role of the Disciplinary Committee to amend charges before it nor to advise thereof as its role will exclusively be to sit as an independent and impartial arbiter to hear and determine the charge(s) and not to speak to the appropriateness of a charge/charges or its/their lack thereof as it is not the supervising authority on the employees charged. The Committee shall only inquire and determine the charges that are brought before it.

The Supervisor or other charging officer may amend the charge sheet at any time before the scheduled date of hearing.

The employee shall be given five (5) working days to submit his or her defence after the Charge Sheet has been amended.

Any amendment to an Exculpatory Note by an accused employee shall be made at least twenty-four (24) hours before the scheduled date of hearing or before the hearing starts if made on the date of the hearing.

14.0 DETERMINATION OF THE MATTER

The determination of any matter before the Committee shall be according to the opinion of the majority of the members of the Committee present at the hearing.

15.0 DECLARATION OF INTEREST

A member shall not sit or act as a member of the Committee if he or she has any interest, direct or indirect, personal or pecuniary, in any matter before the Committee.

16.0 PROCEDURE FOR CRIMINAL OFFENCES

Where the Supervisor is satisfied that an offence committed by an employee may lead to criminal prosecution, the Supervisor shall initiate the process of reporting the matter to the Police immediately. The Supervisor shall subsequently decide whether to institute disciplinary proceedings against the employee.

A Supervisor may initiate or take any disciplinary action against any employee who is facing criminal proceedings in accordance with this Code and the other rules and regulations of the University. A criminal prosecution shall be separate and distinct from any proceedings that may be taken against an employee. The determination of the criminal proceeding shall have no bearing whatsoever on any case of an employee who contravenes the disciplinary rules and regulations of the University and the University reserves the right to take appropriate disciplinary action in accordance with this Code and the other rules and regulations of the University.

If an employee is convicted of any offence and is sentenced to a term of imprisonment and incarcerated, such employee will be deemed unable to execute the contract of employment and shall be dismissed from the date the term of imprisonment runs or from the date the employee is held in lawful custody, whichever is the earlier.

Where an employee is acquitted by a court of law, such an acquittal shall not affect, nor have a bearing on any disciplinary action taken against the employee by the University.

17.0 OBSERVANCE OF THE PROVISIONS OF LAWS OF ZAMBIA

The Disciplinary Committees shall at all times observe the provisions of the Constitution and the Labour Laws.

18.0 PERNALTIES AND MODES OF TERMINATION OF EMPLOYMENT

There are various ways in which a contract of employment may be terminated. While some of them come at the instigation of the employee, others are as a result of a disciplinary process.

In the case of the latter scenario, there could be associated penalties as discussed in some in stances below.

i. **Resignation** - An employee may terminate his or her employment by giving appropriate period of notice or pay in lieu of such notice. The employer has no right to decline a notice of resignation under any circumstances.

The employee shall be entitled to any terminal benefits payable e.g. wages earned up to date of termination, monetary value of the accrued leave days, pension monies contributed by both the employee and the employer or a deferred pension as the case may be which is payable after attainment of pensionable age.

An employees who resigns shall **NOT** qualify for repatriation allowance of whatever form.

ii. **Dismissal** - The term, as used in the Code, shall mean termination of contract of employment of an employee by the employer with or without notice on grounds of breach as provided for in the Code, contract of employment and Employment Code Act No.3 of 2019 of the Laws of Zambia or the employee terminates the contract with or without notice in circumstances such that he or she is entitled to terminate it without notice by reason of the employer's conduct.

Remuneration will be paid up to the date of termination with monetary value for accrued leave days. Benefits accrued from contributory Pension Schemes and other schemes, if applicable, shall be payable up to amounts so contributed or as prescribed under the University's pension scheme rules. Staff under non-contributory schemes shall lose all such terminal benefits.

In the case of dismissal with financial loss stemming from an employee's dishonest conduct, negligence or mismanagement of responsibility, the University will recover the lost funds from the employee's terminal benefits and if there is any balance unpaid, the employee will be required to pay from personal finances before clearing from the University. Dismissed employees will **NOT** qualify for repatriation.

iii. **Summary Dismissal** - The term, as used in the Code, shall mean termination of contract of employment of an employee summarily and without notice by the employer on the grounds of gross misconduct as provided for in the Code and Employment Code Act No. 3 of 2019 of the Laws of Zambia.

Remuneration will be paid up to date of termination with monetary value for accrued leave. Benefits accrued from contributory Pension Schemes and other schemes shall be payable up to amounts so contributed or as prescribed under the University's pension scheme rules. Staff under non-contributory schemes shall lose all such terminal benefits.

In the case of summary dismissal with financial loss stemming from an employee's dishonest conduct, negligence or mismanagement of responsibility, the University will recover the lost funds from the employee's terminal benefits and if there is any balance unpaid, the employee will be required to pay from personal finances before clearing from the University.

An employee that has been summarily dismissed shall **NOT** qualify for payment of repatriation allowance of whatever form.

iv. **Verbal Reprimand or warning** - A verbal reprimand is a penalty given to an employee for minor transgressions and usually for first breaches. It is the least serious formal disciplinary action that may be taken against an employee. The Supervisor formally talks to the employee on the nature of the transgression, the

need for behaviour change and warning against repetition, and may maintain a record for reference but no copy is maintained in the Personal File.

v. **Recorded/Written Warning** – It is imposed as penalty following disciplinary hearing for serious offences of poor time keeping and unsatisfactory work performance or repeated violation of University rules while serving verbal or severe reprimand. It is a call for concern and watchfulness that the employee needs immediate change of behaviour and work performance. The first warning lasts for six (6) months during which period more severe disciplinary action would be taken should further infraction of the same type or any other type of offence occurs. The second warning lasts for 12 months. A copy of the letter of Written Warning is kept on the Personal File and is reviewed at the end of the live period with a view to 'wipe the slate clean' if the employee's behaviour or performance is satisfactory;

vi. **Severe Written Warning** - Severe warning is one step up in severity of penalty from a recorded warning. It is used to correct significant transgression/rule breaking and repeated minor offences. The letter of severe warning is issued following a disciplinary hearing and lasts for twelve (12) months during which period more severe disciplinary action would be taken should further infraction of the same type of offence or any other type of offence occurs. A copy of the letter is maintained on the employee's Personal File and is reviewed at the end of the twelve months with a view to 'wipe the slate clean' if the employee's behaviour or performance is satisfactory.

vii. **Final Written Warning** - It is imposed as penalty following a disciplinary hearing for offences of indiscipline, disorderly behaviour, incompetence or repeated violation of University rules. A Final Written Warning shall be given where the employee is serving Severe Written Warning. It lasts for eighteen (18) months during which period more severe disciplinary action would be taken should further infraction of the same type or any type of offence occurs. This warning alerts and forewarns the employee that the next action for repeated breach is a dismissal. A copy of the letter of Final Written Warning is kept on the Personal File and is reviewed at the end of the 18 months with a view to 'wipe the slate clean' if the employee's behaviour or performance is satisfactory.

It must be noted that during the period the Written Warnings are running, the employee shall not have access to University financial assistance such as Staff Loan Scheme, Salary Advance, and other fringe benefits or be considered for promotion.

19.0 GRIEVANCE PROCEDURES

19.1 **Individual Grievances** - The University encourages open and honest communication at all levels. It recognises, however, that from time to time employees may wish to seek redress for grievances relating to their employment.

Although this procedure for handling grievances is in written form, it is not intended to replace any initial informal approach to try to resolve such an issue. Supervisors and staff are therefore encouraged to make every effort to resolve problems amicably before resorting to the formal procedure. Matters should be dealt with on a day-to-day basis as they occur, and be settled as near to the point of origin as possible and as quickly as is reasonably practicable.

It is, however, recognised that a formal procedure may be necessary to resolve true grievances quickly, to allow employees to pursue concerns relating to their working conditions without fear or recrimination, to prevent conflict, and to maintain positive employee relations.

19.2 **Collective grievances** - All collective grievances shall follow the same procedure as those affecting individual employees.

However, in the event that a collective dispute reaches the second stage of the grievance procedure, it may be necessary to convene a wider meeting at which departmental senior staff and an official from Human Resource will seek a resolution.

20.0 STAGES OF THE GRIEVANCE HANDLING PROCEDURE

20.1 **Stage 1**

An employee who has a grievance shall in the first instance (with or without another employee of the University of a similar level as his or hers at the employee's option) take up the matter with his or her immediate supervisor who should attend to the matter as quickly as possible but **within three (3) working days**. This may take the form of a verbal complaint.

All parties concerned, including an official from the Office of the Registrar and the Shop steward where possible, will attend the meeting. In the case of lecturers, their first contact will be the Head of Department.

A decision will be made and communicated by the immediate supervisor to the employee in writing not later than the second day after the hearing and copies will be sent to all parties concerned, including the Office of the Registrar.

20.2 **Stage 2**

If the employee is dissatisfied with the decision in stage 1, he or she may take the matter to the Departmental Head for resolution who shall be required to attend to it within five (05) working days from the date the complaint is received.

In the case of lecturers, their second contact will be the Dean of School. An officer from Office of the Registrar will be in attendance together with the Shop Steward.

A decision will be made and communicated in writing to the employee by the head of department and all other interested parties, including the Office of the Registrar.

20.3 **Stage 3**

If the employee is still dissatisfied with the decision in stage 2, he or she will have the right to appeal to the Registrar and Deputy Vice-Chancellor for administrative and academic staff, respectively, who will be expected to attend to the matter within five (05) working days from the date of receipt of the complaint.

The Registrar and Deputy Vice-Chancellor, whoever may be applicable, shall thoroughly examine all decisions made at Stages 1 and 2 and arrange for a hearing not later than ten (10) working days of receipt of the grievance to which the employee and his/her representative shall be invited to attend. Such a representative shall, in the first place, be an employee of the University serving as a Shop Steward or a colleague to the aggrieved.

20.4 **Stage 4**

If the grievance still remains unresolved, the aggrieved shall appeal to the office of the Vice Chancellor. It is expected that the grievance will be resolved at that stage.

However, in an event that the grievance still remains unresolved, the aggrieved employee shall appeal to the Chairperson of Mulungushi University Council.

21.0 **Grievance against the Vice Chancellor**

In an event that the grievance is against the Vice Chancellor, the aggrieved shall present the grievance to the Chairperson of Council.

22.0 **Grievance by the Vice-Chancellor**

The Vice-Chancellor shall present his/her grievance to the Minister of Education.

23.0 OTHER NOTES ON GRIEVANCE PROCEDURES

23.1 **Appeals Lodged Through Third Parties and Premature Legal Action**

Appeals lodged through third parties, in public, or by any form of whatsoever will not be accepted.

Where an employee has appealed but simultaneously commences legal action against the University in the Courts of law or any other forum as by law so provides, such an appeal will automatically lapse.

23.2 **Public attack on the University and the Government**

Employees are prohibited from airing grievances against the University and/or the Government through the media, including social media and any forum of whatsoever.

If an employee fails to adhere to this, the disciplinary action shall be taken against such an ailing employee.

23.3 Records of all dispute resolution meetings, at all stages, shall be kept by the Office of the Registrar and Head of Department.

23.4 An employee shall not take industrial action before the grievance procedures have been exhausted. An employee who fails to observe the above grievance procedures shall be liable to disciplinary action.

24.0 POLICY MONITORING, EVALUATION AND REVIEW

Management is cognisance of the changes in the internal and external environment such as economic conditions, demographic trends, technology, and statutory obligations, and as such the Disciplinary Code and Grievance Procedures shall be reviewed and updated every three years. When such changes occur, the office of the Registrar will monitor, evaluate, review and initiate the process of review and the normal process of approval

shall be followed.

Where changes in employment legislation occur that directly affect this Disciplinary Code and Grievance Procedures, they will be reflected with immediate effect and communicated to stakeholders.

25.0 SIGNATURES

Original document signed by the Vice-Chancellor

Signed: ---------- Date: ----------
Vice Chancellor