

# LINGNAN UNIVERSITY

## **Authorities and Guidelines for the Administration of Disciplinary Actions**

### **1. Interpretation**

- 1.1 The following Guidelines on the procedures for disciplinary actions, which have been approved by the Council of Lingnan University on 12 February 1998, shall be applicable to all staff members of the University and shall be administered in the manner set out below.
- 1.2 These Guidelines are not intended to negate the provisions of the Employment Ordinance. They constitute part and parcel of the service agreements entered into by the University with its staff. Where these Guidelines are inconsistent with the service agreement, the terms and conditions as set out in the service agreements shall have overriding effect.

### **2. Authority and Administrative Bodies**

- 2.1 The President may appoint an Investigation Panel to investigate allegations of offences as listed in paragraph 3 below and make a report to the Ethics and Discipline Committee (EDC).
- 2.2 The Chairman of the Investigation Panel shall be appointed by the President. The President shall not chair any Investigation Panel or be member of it.
- 2.3 The EDC shall be appointed by the Council; receive and review reports from the Investigation Panel; interview the relevant parties if the EDC in its sole discretion finds necessary; decide whether the alleged offence can be proved beyond reasonable doubt on the basis of the complaint and evidence before it; determine and pursue one or more of the disciplinary actions specified in paragraph 6 hereunder. Members of the Investigation Panel must not be members of the EDC in the subsequent disciplinary proceedings.
- 2.4 The Appeal Authority shall consist of three members of the Council appointed by the Council, who are not members of the EDC, and who are not employees of the University. The Appeal Authority reviews the reports of the EDC and decides whether the alleged offence can be proved beyond reasonable doubt and whether the disciplinary actions to be taken are appropriate. The Appeal Authority also deals with appeals against the disciplinary action of oral and/or written warning imposed by the Presidential Group. All decisions made by the Appeal Authority shall be final.
- 2.5 The Secretary to all meetings on disciplinary matters shall be the Secretary to the Council or his/her representative. In cases involving Group 1 staff as defined in the Terms of Service of the University to be amended from time to time, the Secretary shall be nominated by the President.

### **3. Need for Disciplinary Actions**

Disciplinary action may be taken against a staff member who is found to have:-

- (1) breached any of the terms and conditions of employment;
- (2) breached regulations and conditions governing fringe benefits or obtaining fringe benefits by fraud and/or by the withholding of information;
- (3) breached regulations governing ethical matters concerning research, consultancies, intellectual property, outside practice;
- (4) failed to report to the University full details of any criminal proceedings instituted against him/her;
- (5) been convicted of a criminal offence;
- (6) acted, omitted or failed to act in a manner which brings himself/herself or the University into disrepute and adversely affects the goodwill of the Council, the University and/or its affairs;
- (7) caused wilful damage to the properties of the University;
- (8) failed or refused to comply with any lawful and reasonable request or order of or decision made by the Council or any authorised officer or the relevant disciplinary authorities mentioned in paragraph 2 above, in relation to the staff member's employment; or
- (9) lodged a complaint without a justifiable cause against another employee of the University.

### **4. Procedures Leading to Disciplinary Action**

- 4.1 A complaint against a member of staff by another member of staff or by a student shall be lodged with the Head/Director of the Department/Unit of the staff concerned. If a complaint is made against the Head/Director of a Programme/Department/Unit, the complaint shall be lodged by the staff member or student with the President's Office where appropriate. A complaint against any member of the Presidential Group (President, Vice-President, and Associate Vice-Presidents) shall be made to the Chairman of the Council.
- 4.2 The Head/Director of Programme/Department/Unit or the member of the Presidential Group may orally warn a member of staff of the Department/Unit concerned in the case of a first offence in relation to any of the matters set out in paragraph 3 above which he/she, in his/her sole discretion, considers to be of a less serious nature. Where the circumstances justify and for any subsequent offence of

like nature, the Head/Director or the Presidential Group may issue a written warning to the staff member concerned. The written warning may contain a description of the offence, suggestions for redressing within a time limit, and further action to be taken for non-compliance by the recipient of the written warning. The Head/Director or member(s) of the Presidential Group are not obliged to give any oral warnings before issuing any written warnings. All records of oral warning and copies of written warning must be forwarded to the Secretary to the Council to be entered into the staff member's personnel file within five (5) working days of such disciplinary action being taken.

- 4.3 In case the Head/Director of Programme/Department/Unit considers further disciplinary proceedings to be necessary, he/she shall report the case to the President's Office, the President may appoint an Investigation Panel and the Chairman thereof to consider whether there is sufficient cause for an investigation to be conducted. If sufficient cause can be established, an investigation will be conducted. The President will report all complaints and results of all investigations by the Investigation Panel to the EDC six (6) days after receipt of the reports from the Investigation Panel. If the Investigation Panel should consider that the complainant has not shown sufficient cause or has not provided sufficient evidence to substantiate the complaint after investigation, the Investigation Panel may stop the investigation concerned and report the case to the President.
- 4.4 The EDC will consider the report and may interview parties concerned if it finds necessary. The EDC will, within sixty (60) days after the receipt of the report from the President's Office, decide whether the alleged complaint can be proved beyond reasonable doubt and the appropriate disciplinary actions to be taken. It shall then report to the Council.
- 4.5 The quorum for any meeting of any of the committees/panels described herein shall be half the nominal membership appointed to such a committee/panel. The minimum quorum of any meeting shall be two.
- 4.6 If at any time during the hearing of a case the necessary quorum is not attained, that meeting shall stand adjourned until the necessary quorum shall be present. Any member of any disciplinary committee/panel who is absent for any part of the hearing of a case shall cease to be a member of that disciplinary committee/panel for the purpose of that case.
- 4.7 A staff member who is the subject of any disciplinary proceedings shall be given one week's prior notice with sufficient particulars of the allegation made against him/her and must be given the opportunity to appear, be heard and to examine witnesses, if any, before an Investigation Panel or EDC at which any allegation made against him/her shall also be made known to the staff member concerned. Such staff member may be permitted to call witnesses, and he/she can have legal representation. The Investigation Panel or EDC may also retain the services of a counsel or solicitor(s). In such a case, each party shall bear its own costs. The EDC shall have no right to award costs, irrespective of the outcome of its decisions.
- 4.8 Neither such staff member nor any witness nor any person representing the staff member concerned in the disciplinary proceedings shall be a member of or

participate in any discussion with the members of an Investigation Panel or EDC or be a party to any report/decision subsequently made by the said Committee/panel in respect thereof.

- 4.9 If, at any stage of the investigation process or the disciplinary proceedings conducted by the Investigation Panel or EDC, one of the parties (the complainant or the complaine involved) of the allegation reports the case to the Police or institutes any legal proceedings in connection with the complaint, the Investigation Panel or EDC may stay further investigation or proceedings until after the conclusion of the investigation by the Police or legal proceedings.
- 4.10 All decisions of an Investigation Panel or EDC on any matter brought before it shall be by way of a simple majority of the members of the committee/panel present. In case of an equality of votes the chairman of the said Committee/panel shall have a casting vote.
- 4.11 The staff member concerned shall be informed by the EDC in writing of the decision and, if applicable, the disciplinary action determined. Such written notification shall be given to the staff member concerned within five working days from the date of the decision-making. Where a decision for dismissal has been made in respect of a staff member, the Council shall be informed of such decision during the said five working day period.
- 4.12 Disciplinary actions determined by the EDC shall not be enforced for a period of two weeks from the date on which the said written notification has been served on the staff member concerned so as to enable him/her to appeal pursuant to paragraph 5 below. Where an appeal is lodged the enforcement of such decision shall be further suspended until the determination of the appeal.

## **5. Appeals**

- 5.1 A staff member may appeal against the decision on the disciplinary action(s) that has/have reached the final stage by the EDC against him/her within two weeks of being notified thereof, in writing to the Appeal Authority, giving in full the grounds of his/her appeal.
- 5.2 The Appeal Authority will, within sixty (60) days, subject to extension of time in an appropriate case as may be considered necessary by the Appeal Authority, after the receipt of the appeal from the staff member concerned, initiate proceedings relating to the appeal. At the proceedings, the appellant may be represented by counsel or solicitor(s). The Appeal Authority may also retain the services of a counsel or solicitor(s).
- 5.3 The decision of the Appeal Authority will be final on any matters referred to it and shall override those previously made by the EDC and will be conveyed to the staff member concerned in writing within five working days from the date the decision is made.

## **6. Disciplinary Actions**

With the exception of (1), one or more of the following disciplinary actions may be imposed by the EDC.

- (1) Oral and/or written warning.
- (2) Stoppage or deferment of increments.
- (3) Suspension of eligibility for a particular named fringe benefit.
- (4) Suspension of employment on full or reduced pay.
- (5) Reduction in salary concomitant with demotion.
- (6) Dismissal (instant or otherwise) with or without reduction or forfeiture of privileges and/or benefits.

## **7. Confidentiality**

In the processes of disciplinary actions, every reasonable effort is made to protect the privacy of all parties involved and the confidentiality of all information and documents used in accordance with existing University policies and applicable laws.

## **8. Council**

The Council may from time to time waive, amend, delete, alter or replace any or all of the foregoing provisions in such manner as it sees fit; and announces the relevant waiver, amendment(s), deletion(s), alteration(s) or replacement(s) of the foregoing provisions to members of the University.

## **9. Schedule**

The attached Schedule is a summary of the Disciplinary Authorities and Appeal Authorities which may be imposed by the relevant authority and should form part of these Guidelines.

## Schedule

### Schedule of Disciplinary Authorities and Appeal Authorities for all the Staff

<b>Investigating Body</b>	<b>Disciplinary Actions</b>	<b>Decision-making Authority</b>	<b>Appeal Authority</b>
Presidential Group, or Head/Director of Dept/Unit concerned	Item (1) of Paragraph 6	Presidential Group, or Head/Director of Dept/Unit concerned	Presidential Group or the Council*
Investigation Panel appointed by the President	Items (2) to (6) of Paragraph 6	EDC	Appeal Authority appointed by the Council*

\* The Appeal Authority consists of three members of the Council appointed by the Council, who shall not be members of the EDC, and shall not be University employees.