RULES FOR STUDENTS 2021

CODE OF CONDUCT

1. Consistent with the right of each individual to freedom of conscience, opinion and expression, and with the need for there to be a free exchange of views amongst members of the University community, it is the right of each member of the University community, and of properly invited visitors, to express their views on the platforms of the University provided such views are not supportive of violence or of the infringement of the dignity and fundamental individual rights of others.

2. Under no circumstances will any form of violence or threats of intimidation be tolerated within our community. Violence, threats of violence and intimidation are particularly repulsive within a University community committed to reasoned debate, and behavior by any individual within the University community which either causes or threatens to cause harm to another individual or damage to property is unacceptable.

3. Further, because of the sensitivities involved in the present circumstances, acts which are clearly designed to be provocative and thus likely to cause acrimony or violent conflict will not be tolerated.

REGULATION OF GATHERINGS ACT

The University respects and upholds the right of any individual within the University community to participate in gatherings, processions and demonstrations on any campus of the University. However, such right must be exercised subject to the rights of other members of the University community and the public at large. This applies to both participants and non-participants in any gathering, procession, etc. Further, the holding of any such gathering, procession etc must be in compliance with the law. In this regard, the following rules are applicable in terms of the Regulation of Gatherings Act 205 of 1993:-

a) Any organisation on any campus of the University intending to hold a gathering must appoint a person (referred to as a convenor) to be responsible for the arrangements for that gathering and to liaise with relevant members of the SAPS, the local authority and the University. In particular the convenor must liaise with the Manager of Risk Management Services on the campus concerned;

b) The convenor must give at least 7 days' notice of the intended gathering to the Manager of Risk Management Services concerned. (Where it is not reasonably possible to give seven days' notice then notice must be given at the earliest opportunity. However, where less than 48 hours notice is given the gathering may be prohibited);

c) Such notice must set out the details of the gathering. In particular it must specify the name and address of the convenor and the organisation; the purpose of the gathering; time, date, duration and venue; the number of participants and marshals and, in the case of a procession, details of the route and the manner and means of transporting participants to the event;

d) The local authority is entitle to impose reasonable conditions in regard to the conducting of the gathering which will have the effect of minimising disruption of traffic and non-participants as well as reducing the risk of violence and public disturbance;

e) As far as the actual conduct of the gathering is concerned, all participants are obliged to abide by the laws as well as any conditions that might be imposed. The convenor is responsible for ensuring that sufficient marshals are in place to maintain order;

f) in addition, all participants shall refrain from uttering any words that are likely to encourage violence or incite racial or ethnic hatred;

g) participants shall also not wear any disguise or mask that obscures facial features or wear any uniforms resembling those of security forces;

h) no-one may be armed while participating in any gathering;

i) all orders of members of the SAPS must be obeyed.

GENERAL RULES

1.

1.1 Every student, by signing an official registration form, becomes subject to the rules of the University contained, or referred to, in these rules, which are administered in terms of the Rules for Student Discipline, a copy of which is available for inspection in the office of the Registrar.

1.2 Any person who enters the University with the intention of registering as a student and/or who uses the University facilities as if he or she were a student shall be deemed to be a student for the purposes of the Rules for Student Discipline.

1.3 Both these General Rules and the Rules for Student Discipline are prescribed by the Council of the University in terms of section 36 of the Higher Education Act No. 101 of 1997.

2. Students shall wear academic dress at those functions for which such dress is prescribed.

3. The annual RAG publication shall be submitted to the Executive Director: Student Services for approval before it is distributed to the public.

4. Posters or notices emanating from a student or student society or sports club shall not be displayed without the prior approval of the Students' Representative Council or the relevant Sports body.

5. A sports club, society or other body shall obtain the prior permission of the Executive Director: Student Services for any tour or similar activity which involves the absence of students from classes.

6. A student who intentionally or negligently causes damage to any property owned, possessed or occupied by the University shall make good such damage.

7. Students shall acquaint themselves with, and comply with, the rules relating to examinations, the General Academic Rules for Degrees, Diplomas and Certificates, the College Rules for Degree, Diploma or Certificate for which they are registered and such rules as are prescribed and published in writing from time to time by the University libraries, residences, Students' Representative Councils and the Joint Sports Council.

RULES FOR STUDENT DISCIPLINE

8.

8.1 In these Rules, the Vice-Chancellor and Principal is referred to as the Principal and the Registrar (acting through the Director: Legal Services), as the Registrar. The general supervision and control of student discipline is

vested in the Principal and, except where otherwise directed by the Principal, shall be administered by the Registrar, in terms of these Rules.

8.2 The registration of any student who, while a registered student of the University, has been convicted of a serious crime (as defined in Rule 14.1) by a court of law may at any time be cancelled at the discretion of the Registrar.

MISCONDUCT

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

9.1 wrongfully infringes on the fundamental rights of another person as contained in the Bill of Rights, Chapter 2 of the Constitution, 1996, or acts in a way that breaches any other laws of the land, or the rules, regulations and provisions of the University;

9.2 acts in a manner that is contrary to any of the provision of the University policies as approved from time to time;

9.3 cheats in any University examination. For the purposes of this rule an examination includes every examination or test or assessment of a student's knowledge or performance organised or conducted by the University or any department of the University or any member of the academic staff of the University. Cheating shall include:

9.3.1 the introduction, or attempt to introduce, into any place where an examination is about to be conducted or is being conducted, of any book, note, cell phone, or other device or instrument capable of storing, sending or receiving information, or any other article containing information, the use of which is not authorised by the examiner or the examinations officer;

9.3.2 the possession, use, or attempted use, during an examination of any book, note, cell phone, or other device or instrument capable of storing, sending or receiving information, or any other article containing information, the use of which is not authorised by the examiner or the examinations officer;

9.3.3 the removal or attempted removal from an examination room of any examination book or writing paper supplied by the University for the purposes of answering an examination;

9.3.4 the communication or attempted communication of any information relating to an examination to any candidate while the examination is in progress;

9.3.5 the use of a false name or identity number in an examination;

9.3.6 the submission for examination as own work any written matter or project which has been copied, reproduced or extracted, in whole or in part, from the work of another student, or which is substantially the same, in whole or in part, as the work of another student;

9.3.7 intentionally or negligently assisting another student to cheat as defined in paragraph 9.3.6;

9.3.8 the commission of any other fraudulent, deceitful or dishonest practice whereby any student, while being examined by the University, seeks to mislead or deceive the examiner or the examinations officer.

9.4 acts in a violent, indecent or improper manner on, or in the vicinity of, University premises or at a function organised by the University;

9.5 acts in an insulting, indecent or improper manner towards another student, a University personnel member or functionary, or a member of the public;

9.6 mentally harms or humiliates, or assails the dignity or person of another student, a University personnel member or functionary;

9.7 engages in hate speech;

9.8 engages in cruelty to animals;

9.9 misrepresents themselves, through their behavior or actions, to any personnel member or functionary of the University, knowing full well that it is a misrepresentation;

9.10 acts in such a way that their conduct results in, or could reasonably be expected to result in, prejudice to or endangerment of the normal pursuit of teaching, research and/or study at the University, or to the general activities at the University;

9.11 acts in such a way that their conduct results in, or could reasonably be expected to result in, prejudice to, or endangerment of the maintenance of order, discipline or safety at the University;

9.12 acts in such a way that their conduct results in, or could be expected to result in, prejudice to the good name of the University;

9.13 ignores or acts in conflict with any lawful oral or written instruction or request of any governing body, personnel member or functionary of the University;

9.14 impedes the freedom or privacy of another student or of a personnel member of the University;

9.15 impedes the orderly course of an investigation into alleged Misconduct, or the course of disciplinary proceedings;

9.16 intentionally or negligently removes, misuses, damages, defaces, or uses or enters, without permission, any asset or property owned or controlled by the University, or by any personnel member, or student of the University;

9.17 uses emergency equipment for purposes other than in an emergency situation;

9.18 enters, uses or occupies any property of the University without permission, or uses the property in a manner other than that for which it was intended;

9.19 introduces a dangerous weapon, explosive or illegal substance onto any University campus without permission;

9.20 assists or encourages another student to commit Misconduct;

9.21 improperly uses the name of the University, or in any way whatsoever uses or displays the armorial bearings of the University without prior written permission of the Registrar;

9.22 allows another student or any other person to utilise their student card or student number for any purpose whatsoever, or to utilise the student card or student number of another student for any purpose whatsoever;

9.23 fails to comply with, or ignores any order of a disciplinary tribunal or court;

9.24 Causes physical injury and this will include the following:

9.24.1 Acts committed of a sexual nature which is in terms of the Sexual Offences Act 32 of 2007 includes:-

a) Rape
Any person ('A') who unlawfully and intentionally commits an act of sexual penetration with a complainant ('B'), without the consent of B, is guilty of the offence of rape;

b) Compelled rape
Any person ('A') who unlawfully and intentionally compels a third person ('C'), without the consent of C, to commit an act of sexual penetration with a

complainant ('B'), without the consent of B, is guilty of the offence of compelled rape;

c) Sexual assault
(1) A person ('A') who unlawfully and intentionally sexually violates a complainant ('B'), without the consent of B, is guilty of the offence of sexual assault.
(2) A person ('A') who unlawfully and intentionally inspires the belief in a complainant ('B') that B will be sexually violated, is guilty of the offence of sexual assault';

d) Compelled sexual assault
A person ('A') who unlawfully and intentionally compels a third person ('C'), without the consent of C, to commit an act of sexual violation with a complainant ('B'), without the consent of B, is guilty of the offence of compelled sexual assault.

e) Compelled self-sexual assault
A person ('A') who unlawfully and intentionally compels a complainant ('B'), without the consent of B, to- engage in-
(i) masturbation;
(ii) any form of arousal or stimulation of a sexual nature of the female breasts;
or
(iii) sexually suggestive or lewd acts, with B himself or herself; or

engage in any act which has or may have the effect of sexually arousing or sexually degrading B; or cause B to penetrate in any manner whatsoever his or her own genital organs or anus, is guilty of the offence of compelled self-sexual assault.

9.24.2 Acts committed involving assault are as follows:

a) Common assault
Assault consists of unlawfully and intentionally applying force to the person of another; inspiring a belief in another person that force is immediately to be applied to him or her;

b) Assault with intent to cause grievous bodily harm (GBH)
Assault with intent to cause grievous bodily harm. This is another form of assault, however, committed with the intention to cause serious bodily injury.

9.24.3 Causes mental injury and this will include the following:

a) Crimen Injuria
Crimen injuria consist of unlawfully and intentionally impairing the dignity or privacy of another person.

b) Defamation
Defamation consists of the unlawful and intentional publication of matter that impairs another person’s reputation.

9.24.4 where an accused student engages in threats of violence and this includes:

a) Harassment (as defined in terms of the Protection and Harassment Act 17 of 2011):

Harassment includes both direct and indirect conduct that either causes harm or that inspires the person complaining of harassment (“the complainant”) to reasonably believe that harm may be caused.

Such conduct includes following, watching, pursuing or accosting of the complainant or someone in a close relationship with the complainant.

Harassing conduct also includes loitering outside or near the building or place where the complainant lives, works, studies or happens to be.

Harassment also includes contact through verbal communication aimed at the complainant. It also includes electronic communication that causes harm or makes the complainant feel in danger of being harmed as harassment.

b) Intimidation

Any person who without lawful reason and with intent to compel or induce any person or persons of a particular nature,
class or kind or persons in general to do or to abstain from doing any act.

9.25 acts in a dishonest manner which causes, or has the potential to cause loss or prejudice to another student, personnel member or the University;

9.26 refuses to produce a student identity card upon lawful request by any personnel or functionary of the University;

9.27 consumes any alcohol (as defined in the Liquor Act, 2003), on and University premises, other than at a place and time approved by the University;

9.28 commits an act of plagiarism as defined in the Plagiarism Policy.

9.29 is required to testify in the Student Discipline Court and in the absence of valid reasons fails and/or refuses to do so.

9.30 The commission of any fraudulent, deceitful or dishonest practice, including any disruption caused by a student, while being examined by the University, or which student seeks to mislead or deceive the examiner or the examinations officer.

9.31 acts in a way that is disobedient and/or disrespectful towards any officer of the Court.

10 A charge that a student committed a Misconduct under Rule 9 shall be heard by the Student Discipline Court, or, with the approval of the Proctor, by a Residence Tribunal.

10.1. Where a student who is also a staff member of the University is charged with misconduct, such charge, if it does not impact on the student's employment relationship with the University, shall be heard by the Student Discipline Court in so far as it relates to academic misconduct.

10.2. Where the misconduct, including academic misconduct has the potential to impact on the student's employment relationship with the University, the Proctor shall refer the matter to the Human Resources Division for staff disciplinary action.

PROCEDURES

11. Reporting of Misconduct

11.1. All incidents of Misconduct shall be reported to Risk Management Services (RMS) on the relevant campus or to the Proctor.

11.2. RMS shall investigate all such reports and compile a report of their investigations for transmission to the Student Discipline Office.

11.3. RMS Investigations Managers shall be vested with the power to warn a student for committing a petty misconduct, for example, switching off lights in corridors/lecture venues, after consultation with the Proctor.

11.3.1. A record of such warning shall be provided to the Proctor by RMS Investigations Managers.

12. Student Discipline Office

12.1. The Student Discipline Office (SDO) shall have administrative responsibility to handle and process all disciplinary reports submitted to it by RMS.

13. Proctor

13.1. The Registrar shall appoint a Proctor/s.

13.2. The Proctor shall advise the Registrar in any matter relating to student discipline in the University.

13.3. The Proctor shall have the right to represent the University in all disciplinary forums and shall be responsible for administering student discipline at the University.

13.4. On receipt of a disciplinary report by the SDO, the Proctor shall, subject to guidelines provided by the Registrar, have the discretion to deal with the matter by:

13.4.1. requesting further investigation; or

13.4.2. declining to prosecute; or

13.4.3. issuing a Proctor’s Warning; or

13.4.4. dealing with the matter under Rule 15.6; or

13.4.5. referring the matter to mediation or conciliation; or

13.4.6. referring the matter to counseling; or

13.4.7. referring the matter for prosecution in the Student Discipline Court or Residence Tribunal; or

13.4.8. referring the matter for compulsory arbitration to a person nominated by the Registrar for such purpose. Such arbitration will be final and binding on the parties and shall not be subject to appeal. This provision will be inapplicable in cases concerning sexual or gender-based violence, assault with intent to commit grievous bodily harm and/or malicious injury to property.

14. Summary Procedures

14.1. When a charge of having committed an offence as defined in these rules is pending against a student, or when, in the opinion of the Registrar, Director of Legal Services or the Acting Director of Legal Services, such a charge ought to be instituted against a student, or when a student has been charged with a serious crime, (as listed in Schedule 1 of the Criminal Procedure Act 51 of 1977, as amended) in a court of law, the Registrar, Director of Legal Services or Acting Director of Legal Services, may order that, until the final disposition of the charge in the Student Discipline Court and/or a Court of law, if applicable, the student shall:

14.1.1. cease attending lectures or classes;

14.1.2. cease participating in such other activities of the University as may be specified;

14.1.3. not enter the precincts of the University or any specified part thereof;

14.1.4. not bring any motor vehicle onto the grounds of the University;

14.1.5. cease to reside in any University residence.

14.1.6. be prohibited from communicating directly or indirectly with the complainant or any of the complainant's witnesses.

14.2. The Registrar shall not make any order in terms of paragraph 14.1 unless-

14.2.1. the student with the assistance of his or her representative as provided for in rule 18, unless the student has waived the right to representation, has been given an opportunity to appear before the Registrar to show cause why the order should not be made ; and

14.2.2. the Registrar considers it to be in the interests of the other students or staff or the University to make the order.

14.3. The Manager of Student Residence Affairs may order a student who is alleged to have contravened any rule of the Rules for Student Discipline immediately to leave a residence and not return for a specified period not exceeding five (5) working days.

14.4. The Manager of Student Residence Affairs shall not make an order in terms of paragraph 14.3 unless:

14.4.1. the student has been given an opportunity to show cause why the order should not be made; and

14.4.2. the Manager of Student Residence Affairs considers it to be in the interests of the other students in the residence or in the interests of the proper enforcement of the Rules for Student Discipline to make the order.

14.5. The Manager of Student Residence Affairs who has made an order in terms of paragraph 14.3 hereof shall, as soon as is practicable, provide a written report of the order and the reasons for which it was made to the Registrar who shall either confirm or rescind the order.

14.6. If the order made in terms of paragraph 14.3 is confirmed, or if the student in question appeals against the order, the Registrar shall thereafter act in accordance with Rule 14.1, pending the conclusion of which the Registrar may extend the period of the student's exclusion from the residence.

14.7. In the event of the Manager of Student Residence Affairs being unavailable, the powers and duties granted by Rules 14.3, 14.4, 14.5 and 14.6, may be exercised by the Executive Director: Student Services, or by a person nominated by the Registrar for such purposes.

15. Administrative Procedures

15.1. A Student who is alleged to have cheated in any class test, assignment or similar form of assessment may, instead of being charged as provided in these rules, be permitted by the Head of the School concerned to admit guilt by signing the approved form if:

15.1.1. that assessment constitutes not more than 25% of the final overall mark for the module in question; and

15.1.2. the student has not previously been found guilty of cheating or admitted guilt in relation to cheating; and

15.1.3. the Head of School is of the opinion that the alleged cheating does not warrant a penalty beyond that specified in Rule 15.3.

15.2. For the purpose of this rule cheating includes all forms of cheating as defined in Rule 9.3

15.3. If a student admits guilt as above:

15.3.1. the result of the assessment in question shall be cancelled or forfeited;

15.3.2. the name and School of the student shall be published in the University manner approved by Council;

15.3.3. the admission of guilt shall be recorded on the record of the student for the duration of the student's studies at the University, for use only within the University.

15.4. A student who alleges that guilt was admitted by mistake, in ignorance or by reason of irregular procedure may, within 3 days of signing the admission,

apply in writing to the Proctor, giving reasons for the application to withdraw the admission of guilt. Such an application shall be investigated by the Proctor who may set aside the admission of guilt, in which case the matter shall be referred to the Student Discipline Court for a charge of cheating.

15.5. The Head of School shall forward a copy of the signed admission of guilt form to the Office of the Registrar and the Student Discipline Office.

15.6. A student who is alleged to have committed a breach of these Rules may, instead of being charged as provided in the Rules, be permitted by the Proctor to admit guilt by signing the approved form if:

15.6.1. the student has not previously been found guilty of, or admitted guilt to, any Misconduct as defined in these Rules;

15.6.2. the Proctor is of the opinion that the alleged breach does not warrant a penalty more severe than that specified in Rule 15.7.

15.7. If the student admits guilt in terms of 15.6 above, the Proctor shall impose one or more of the following punishments:

15.7.1. a warning or reprimand, or both;

15.7.2. a fine of not more than R1 500, payable by a stipulated date;

15.7.3. exclusion from residence for a stipulated period;

15.7.4. reparation for damage caused, payable by a stipulated date:

and forward a copy of the signed admission of guilt form together with details of the punishment imposed to the Registrar for confirmation.

15.8. On confirmation by the Registrar,

15.8.1. the name and School of the student shall be published in the University in the manner approved by Council;

15.8.2. the admission of guilt shall be recorded on the record of the student for the duration of the student's studies at the University, for use only within the University.

15.9. A student who alleges that he or she admitted guilt under Rule 15.6 by mistake, in ignorance, or by reason of irregular procedure, may, within 3 working days of signing the admission, apply in writing to the Registrar to withdraw the admission. The Registrar may set aside the admission of guilt,

in which case the matter shall be referred to the Proctor for the institution of disciplinary proceedings in accordance with these Rules.

16. STUDENT DISCIPLINE COURT

16.1. The Student Discipline Court shall consist of the following panel of persons:

16.1.1. the President, who shall:

16.1.1.1. be a person nominated by the Registrar for such purpose; and

16.1.1.2. be a lawyer or a person, in the opinion of the Registrar, of sufficient standing and/or experience; and

16.1.2. a member of the Central Student's Representative Council, nominated for this purpose, who shall sit as an observer only, save in instances where charges are brought against the Central or a Local Students' Representative Council; and

16.1.3. a Professor, nominated for this purpose by the College in which the student concerned is registered, in instances where the Misconduct relates to:

16.1.3.1. when a student intends pleading Not Guilty to a charge of cheating (as defined in Rule 9.3) in a formal examination session; or

16.1.3.2. cheating (as defined in Rule 9.3) by a Masters or Doctoral student;

16.1.3.3. plagiarism as defined in the Plagiarism Policy; or

16.1.3.4. where the possible sanction could include cancellation of a degree, diploma or certificate, or expulsion, or exclusion from the University for a period longer than four semesters.

16.1.4 An Assessor/s. The President shall have the discretion to appoint an assessor/s (to a maximum of two), where the President deems it necessary.

16.2. The Principal may direct that, in a particular inquiry, the Registrar shall be an additional member of the Court, provided that, where the inquiry has been instituted by the Registrar in terms of Rule 14, the Registrar shall not be so appointed.

16.3. A member who has been personally involved in any significant way in the events which are the subject of the inquiry shall not be appointed as a member of the Court that inquires into the matter.

16.4. Save for cases involving matters referred to under Rule 16.1.3, the presence of the President shall render the Court quorate.

16.5. In all matters referred to under Rule 16.1.3, both the President and a Professor nominated under Rule 16.1.3, shall be present.

16.6. In the event of a deadlock in the decision of the Court, the President's decision shall prevail.

17. Prosecutor

17.1. The Proctor shall prosecute and represent the University in all disciplinary forums; alternatively

17.2. The Proctor may delegate this responsibility to a person appointed under Rule 18.1, save that such delegatee shall not be a person appointed to represent the student concerned.

18. Representation of Accused Student

18.1. After consultation with the Dean of the School of Law and Head of the School of Law, the Registrar shall appoint in each centre of the University one or more Student Legal Representatives who shall be full-time members of the academic staff in the School of Law or post graduate students in the School of Law and have the requisite experience.

18.2. The Student Legal Representative shall, if requested by a student:

18.2.1. advise the student on any matter affecting any charge laid under these rules, and in particular on the nature of the evidence required to establish that defence;

18.2.2. appear on behalf of the student at any inquiry before the Student Discipline Court, and conduct the defence of the student.

18.2.3. appear on behalf of the student to mediate matters where it is appropriate do to so.

18.3. An accused student may, subject to the provisions of Rule 18.4, personally conduct a defence but may not be legally represented other than as set out in Rules 18.1 or 18.4.

18.4. An accused student may be represented by another student or a member of the staff of the University.

19. Proceedings before the Student Discipline Court shall be undertaken upon the instruction of the Registrar, acting on the advice of a Proctor, who shall determine who shall be charged, what the charge shall be, what investigations shall be carried out, and what evidence shall be obtained. The Registrar shall instruct the Student Discipline Office to notify the student or Student Organisation (as defined in Rule 20) that a proceeding is to be instituted.

20. If it appears that a Misconduct has been committed by students while engaged in the business, affairs or activities of a student society, council, committee, union, club or other association or organisation of students (for the purposes of these Rules hereinafter referred to as a 'Student Organisation') the Proctor may charge such Student Organisation with the Misconduct that has been committed, and the Student Organisation shall appear before the inquiry in the form of its president or chairperson and its secretary.

21. Notice and Procedure before the Court Enquiry

21. A. Notice

21.1. When proceedings against a student are instituted in terms of Rule 19, the Student Discipline Office shall give the student concerned not less that 120 hours notice in writing of the place and time of the inquiry, provided that within the last three (3) weeks of any semester such notice be not less that seventy-two (72) hours, excluding week-ends.

21.2. Such notice shall be delivered to the student personally, or by e-mail to the student's official University email address, subject to proof of delivery, provided that if the student cannot conveniently be found, the notice may:

21.1.1 be posted by registered post to the student's last known address as provided by the student and shall be deemed to have been received by the student within a period of seventy-two (72) hours after the time of posting; or

21.1.2 be left at the student's last known address as provided by the student and shall be deemed to have been received by the student at the time of delivery.

21.2 The notice referred to in Rule 21.1 shall inform the student:

21.2.1 that proceedings under the Rules for Student Discipline are to be instituted and notify the student that a copy of the Rules is available for inspection in the Office of the Registrar or the Student Discipline Office.

21.2.2 of the terms of the rule that the student is alleged to have breached and set out the charge in sufficient detail to acquaint the student with the case to be met;

21.2.3 that a student's representative is available to advise in relation to the charge and the preparation of a defence thereto;

21.2.4 that a defence to the charge may be conducted personally by the student or on the student's behalf by a person referred to in Rule 18.1 or Rule 18.4;

21.2.5 that the student may give evidence at the inquiry and, either personally or through any person representing the student at the inquiry, call any witness, put questions to any witness, inspect any document or other evidence produced at the inquiry, and address the Court in mitigation of punishment.

21.B. Procedure before the Court Enquiry

a. The parties shall discover/exchange all evidence that they are to make use of in the proceedings 7 working days prior to the court enquiry.
b. A pre-trial conference and/or mediation may be attempted by the parties. The discretion to apply mediation and/or pre-trial conference shall vest with the Proctor.

22 Procedure at the Court Inquiry

22.1 Subject to the provisions of Rule 22.2 and Rule 22.12, the inquiry shall be conducted in the presence of the student charged with Misconduct

22.1 If a student, after notice duly given in terms of Rule 21, and without the leave of the Court, fails to attend the inquiry, the inquiry may proceed in the absence of the student, provided that the student may make written representations to the Court which the Court shall consider.

22.2 An inquiry shall be conducted in public, except if the Court directs otherwise.

22.3 The Prosecutor shall lead the evidence against the accused student and generally conduct the case for the University.

22.4 The Court shall afford the student, or the person representing the student, reasonable opportunity to present a defence and to answer the charges.

22.5 At the inquiry the Court shall:

22.5.1 be provided with any statements by witnesses or other relevant matter which has previously been exchanged by the representatives of the University and the student; and

22.5.2 consider such documents or other evidence and hear any witnesses called by the University or the student, or person representing the student, and may put questions to such witnesses and to the student;

22.5.3 consider and grant or otherwise, as it may determine, any application for the amendment of the charge, so as to add further charges or substitute one charge for another.

22.6 The Court may, of its own accord, call such witnesses as it may determine, or obtain any documents or other evidence relevant to the inquiry and may, in its discretion, instruct that any exercise, test, demonstration or experiment that may be relevant to a determination of the issue before it, be conducted.

22.7 At the conclusion of the hearing the Court shall decide, in the light of the evidence, whether or not the student is guilty of the offence charged. A finding of guilty shall be returned only if:

22.7.1 The Misconduct charged has, in the opinion of the Court, been proved on a balance of probabilities, or a determination of the issue(s) before it is concluded.

22.7.2 The student has freely and voluntarily admitted guilt and the Court is satisfied that there is evidence from the accused or from another source to substantiate the admission.

If the Court does not find the student guilty as herein provided, the student shall be acquitted.

22.8 The proceedings at an inquiry shall be recorded in full by a competent person appointed by the Registrar for this purpose.

22.9 The provisions of Rule 21 and 22 shall apply in all appropriate respects to charges brought against a Student Organisation in terms of Rule 20.

22.10 An inquiry shall be conducted in an informal manner, according to the rules and principles of natural justice, and no accused shall suffer any disadvantage or prejudice by reason of any failure or omission on the part of

the said accused or his or her legal representative to comply with any procedural rules or rules of evidence as applied in the ordinary courts of the land: Provided that the procedures prescribed by the Rules for Student Discipline shall be observed in all material respects, and provided further that any rules or instructions for the manner of conduct of a hearing, not inconsistent with these Rules, that may be laid down from time to time by a court hearing a charge, shall be observed and complied with.

22.11 If a Court considers it to be in the interests of the University or a student of the University that the name of a witness giving evidence before the Court should not be revealed or published, the Court, on application by the Prosecutor, may make any or all of the following orders:

22.11.1 that, besides the members of the Court, only the person representing the University and the person representing the accused may be present in the Court when the witness testifies before the Court; or

22.11.2 that the name of a witness shall not be published in any report of the proceedings of the case; or

22.11.3 that the record of the evidence of the witness be transcribed in such a manner as to conceal the identity of the witness.

22.13 The President of the Student Discipline Court shall have the discretion to mediate the matter if it is deemed appropriate to do so. In the event that such mediation should be unsuccessful, the President of the Student Discipline Court shall immediately proceed to hear the matter by enquiry.

23 Procedure upon Conviction of a Student

23.1 Upon the conviction of a student of a Misconduct, the Court shall impose one or more of the following punishments:

23.1.1 a warning or reprimand, or both,

23.1.2 an order for reparation for any damage caused by a date stipulated by the Court,

23.1.3 a fine not exceeding R2500 payable by a date stipulated by the Court,

23.1.4 exclusion from participating in specified activities of the University for a stated period,

23.1.5 exclusion for a stated period from any part of the University,

23.1.6 exclusion from the University for a stated period of time,

23.1.7 expulsion from the University, in which event the student shall not be readmitted to the University, except as provided for in Rule 33,

23.1.8 disqualification from entry to any examination,

23.1.9 forfeiture of test, assignment, tutorial or other assessment marks,

23.1.10 punitive service to the University, imposed as a condition of the suspension of a sentence under 23.1.1 to 23.1.9 above, provided that the Court has before it a report, outlining the provisions as follows:

a. the full details of the punitive service;
b. the length of the punitive service;
c. where the punitive service would be undertaken; and
d. how the punitive service would be applied;

signed by the intended supervisor, agreeing to supervise the punitive service; and the author of the report to present him/herself to the Student Discipline Court to provide oral evidence in respect of that report provided if the Court so requests; and

23.1A Subject to Rule 23.5, where a Court finds an accused guilty of rape and/or compelled rape, as defined in the Sexual Offences Act 32 of 2007, then in addition to any other punishment imposed in terms of Rule 23.1, the student must be expelled in terms of Rule 23.1.7

23.1B Subject to Rule 23.5, where a Court finds an accused guilty of sexual assault and/or compelled sexual assault, as defined in the Sexual Offences Act 32 of 2007, then in addition to any other punishment imposed in terms of Rule 23.1, the student must be expelled in terms of Rule 23.1.7 unless, at the discretion of the Court, there are exceptional circumstances.

23.1C Subject to Rule 23.5, where a Court finds an accused guilty of a sexual offence as defined in the Sexual Offences Act 32 of 2007, then in addition to any other punishment imposed in terms of Rule 23.1, the student must be expelled in terms of Rule 23.1.7 unless, at the discretion of the Court, there are exceptional circumstances.

23.2 In addition to any punishment imposed under Rule 23.1.1 to 23.1.10 above, where the Misconduct involved is a contravention of Rule 9.3 during an official University examination session, save, at the discretion of the Court, in respect of a conviction for mere ‘introduction’ (Rule 9.3.1) or ‘possession’

(Rule 9.3.2), of a cellphone, the Court shall impose the following punishments:

23.2.1 Cancellation or forfeiture of the examination module in which the student was found guilty of cheating in, or

23.2.2 deprivation of a degree, diploma or certificate obtained as a result of the Misconduct, and

23.2.3 unless compelling mitigating factors are found to exist, exclusion from the University for a minimum of two semesters.

23.3 In addition to any punishment imposed under Rule 23.1.1 to 23.1.10, where the Misconduct relates to dishonesty including plagiarism, the Court may order the deprivation of a degree, diploma or certificate obtained as a result of such dishonesty or plagiarism.

23.4 Where the accused before the Court is a Student Organisation charged in terms of Rule 20, the Court may;

23.4.1 impose any of the punishments provided for in Rule 23.1.1 23.1.10 inclusive, provided that where the punishment is reparation or a fine in terms of Rule 23.1.2 or 23.1.3, the Court may direct that it be collectively levied upon all members of the Student Organisation, provided further that the Court shall specify the maximum amount an individual student may be levied,

23.4.2 suspend the existence of such Student Organisation for a specified period of time.

23.5 Before imposing a punishment referred to above, a Court shall afford the student, or the person representing the student, the opportunity to submit evidence, including confidential information in writing, and to call witnesses, in mitigation of sentence. The Court shall also afford the University the opportunity to make representations regarding such interests of the University or the students of the University, which ought to be taken into account by the Court, in deciding upon the sentence it shall impose. In determining the sentence that it imposes, the Court shall take account of the evidence so adduced as well as the academic record and the general conduct at the University of the Student before passing sentence upon the student.

23.6 Upon the conviction of a student the findings and sentence of the Court and, unless the Court especially directs otherwise, the name and School of the

student, shall be published in the University in such manner as the Court may direct.

23.7 The conviction shall be recorded in the record of the student for the duration of the student's studies at the University, unless the court specifically directs:

23.7.1 that the records of the student shall not be endorsed, or

23.7.2 that the endorsement shall remain on the student's record after completion of the student's studies at the University.

Nothing contained herein shall derogate the provisions of Rule 32.

23.8 A student who has been found guilty of Misconduct shall be advised that they may appeal to the Council in terms of Rule 29.

23.9 At the conclusion of an inquiry, the Student Discipline Office shall inform the student in writing in the manner provided for under Rule 21, of the outcome of the inquiry and of the terms of the sentence, if any, that has been imposed on the student and of the direction of the Court, if any, made in terms of Rule 23.6 and 23.7, and of the procedures for an appeal.

24 RESIDENCE TRIBUNALS

24.1 Where the Proctor has referred the matter, or after consultation with the Proctor, a student who is charged with Misconduct as defined in Rule 9 in, or in relation to, a residence shall appear before a Residence Tribunal.

24.2 A Residence Tribunal shall consist of:

24.2.1 A President of the Student Discipline Court, and

24.2.2 The Residence Life Co-ordinator on the campus concerned, appointed by the Executive Director: Student Services; and

24.2.3 The Chair of the House Committee or a nominee who shall be a member of the House Committee.

25 Procedure at the Tribunal Inquiry

25.1 A charge of Misconduct shall be brought against a student where:

25.1.1 An Officer-in-Charge of a residence, is of the opinion that a student has transgressed a rule, the contravention of which is defined as

Misconduct by Rule 9, but only after consultation with the Proctor; or

25.1.2 where the Proctor has directed that a Residence Tribunal shall consider the charge.

25.2 A student who is charged with committing a Misconduct shall be summoned to appear before the Residence Tribunal on not less than 72 hours written notice in the manner prescribed for in Rule 21.

25.3 In conducting an inquiry a tribunal shall proceed in an inquisitorial manner and shall call and examine any witnesses who may be required to testify.

25.4 If a student, after notice duly given in terms of Rule 25.2, and without the leave of the tribunal, fails to attend the inquiry, the inquiry may proceed in the absence of the student, provided that the student may make written representations to the tribunal which the tribunal shall consider.

26 Procedure upon conviction of a Student in a Residence Tribunal

26.1 In the event of a Residence Tribunal finding a student guilty of Misconduct it shall impose one or more of the following punishments:

26.1.1 reprimand or warning, or both;

26.1.2 an order for reparation for any damage to property or loss caused, payable by a date stipulated by the Tribunal;

26.1.3 a fine not exceeding R1000, payable by a date stipulated by the Tribunal;

26.1.4 deprivation of all or specified student privileges in the residence;

26.1.5 the performance of such duties or tasks in, or on behalf, of the residence as the Tribunal may determine for a period that shall not exceed one semester;

26.1.6 exclusion for a stated period from any residence or part of a residence;

26.1.7 expulsion from the residence; provided that this sentence shall immediately be reported to the Registrar and shall not come into effect unless and until it has been approved by the Registrar, who shall thereupon inform the student that he or she is expelled from the residence; provided further that where a sentence of expulsion from a residence has been confirmed by the Registrar in the

manner provided in this rule, and unless the Registrar directs otherwise, the student shall not be admitted to another residence.

26.2 Upon conviction, a student shall be advised of their rights of appeal under Rule 30.

SUSPENSION OF SENTENCES AND APPEALS

27 Suspension of Sentences

27.1 Any Student Discipline Court or Residence Tribunal constituted under these rules may direct that the operation or execution of any penalty imposed by the said court or tribunal shall be suspended for a period not exceeding the time the student remains a registered student of the University and upon such conditions as the court or tribunal may deem appropriate, provided that a warning or reprimand and the punishments referred to in Rule 23.1.7 shall not be suspended.

27.2 Where a punishment imposed in terms of these rules has been suspended and the student concerned breaches a condition of such suspension, the court or tribunal which originally imposed the punishment may:

27.2.1 order that the suspended punishment be brought into operation; or

27.2.2 order the further suspension of the execution or operation of the punishment on the same or different conditions; or

27.2.3 make such other order as it deems proper in relation to the suspended punishment.

28 Appeals

28.1 A student or the University may appeal in the manner hereinafter provided against any conviction for a contravention of these rules or against any sentence imposed by a Student Discipline Court or Residence Tribunal. For these purposes an appeal may include a request to review the proceedings of the court or tribunal on the grounds of procedural irregularity in terms of these rules or on the grounds that the Court or Tribunal failed to observe the rules of natural justice.

28.2 Unless the court or tribunal directs otherwise at the time of imposing the punishment, the operation of any punishment imposed by the Student Discipline Court or Residence Tribunal shall be suspended until an appeal instituted under these rules has been finally disposed of; provided that if, in the opinion of the Registrar, it is in the interests of the University, or the

students of the University, that the operation of the sentence be not suspended, the Registrar may order that the operation of the sentence be not suspended; provided further that in the event that the court or tribunal has failed to consider whether the operation be suspended, the Registrar shall determine whether the operation of the sentence shall be suspended or not.

29 Appeal from Student Discipline Court to Appeal Committee of Council

29.1 A student convicted by a Student Discipline Court may appeal against the conviction or sentence, or both, and the University may appeal against any acquittal or sentence imposed by the Court, to the Council of the University in the manner provided in this rule.

29.2 The appellant (whether a student or the University) shall apply to the Student Discipline Court for leave to appeal to the Council of the University in the manner provided in this rule.

29.3 Such application, based solely on evidence already led and/or representations to the Student Discipline Court, shall be made either:

29.3.1 by way of verbal presentation, setting forth the grounds of the appeal after sentence has been handed down, and before the conclusion of the proceedings; or

29.3.2 written notice setting forth the grounds of appeal which must be lodged with the Student Discipline Office within 3 working days of the conclusion of the proceedings.

29.4 If the Court considers that the appeal has a reasonable prospect of success, it shall grant leave to appeal and notify the Student Discipline Office and the Registrar of its decision. The Student Discipline Office shall notify the Student's Legal Representative, or in the event of the student not being represented, the student.

29.5 If the Court refuses leave to appeal to any student who has been convicted under these rules, the Court shall convey such decision to the Student Discipline Office and the Registrar. The Student Discipline Office shall notify the Student's Legal Representative, or in the event of the student not being represented, the student. In such event:

29.5.1 the student may petition the Council to allow an appeal.

29.5.2 such petition shall be in writing and shall set out the grounds for seeking relief and shall be lodged with the Registrar within ten (10) working days of the court refusing leave to appeal.

29.5.3 the Registrar shall refer the petition to the Director: Legal Services who shall consider the petition and who shall thereafter advise the Chairperson of the Council.

29.5.4 the Chairperson of the Council shall either grant or refuse the petition.

29.5.5 if the petition is granted the appeal shall be heard in the manner set out in this rule.

29.5.6 the decision of the Chairperson of the Council shall be final and no further petition shall be received or considered.

29.6 Should the Court grant leave to appeal, or should the Chairperson of Council grant the petition, the appellant and the representative of the other party, shall file written appeal argument, to be lodged with the Student Discipline Office within ten (10) working days of receipt of notification in terms of Rules 29.4 or 29.5. Should the appellant not file argument timeously, the Registrar shall have the right to invoke the provisions of Rule 28.2.

29.7 Unless the council directs otherwise, the appeal shall be based solely upon the record of the proceedings of the Student Discipline Court; provided that the appellant may, on written application to the Registrar seek the approval of the Appeal Committee to the introduction of additional evidence. Such evidence shall:

29.7.1 be lodged with the Registrar within ten (10) working days of notification of the Court's decision under Rule 29.4, or the granting of a petition under Rule 29.5; and

29.7.2 set out fully the nature and purpose of such additional evidence and the name(s) of any proposed additional witness(es);

29.7.3 be argued before the Appeal Committee at the commencement of the appeal consideration.

The Appeal Committee may, if it considers it to be in the interests of justice, grant the application and hear such additional evidence as part of the appeal. In the event of the Appeal Committee refusing such application, such decision shall be final.

29.8 Should the Court or the Chair of Council grant leave to appeal, the Registrar shall forward to the Appeal Committee of Council;

29.8.1 the notice of appeal,

29.8.2 the transcript of the proceedings of the inquiry;

29.8.3 the report of the Court made in terms of Rule 22.9;

29.8.4 the written arguments submitted under Rule 29.6, and

29.8.5 any application made under Rule 29.7.

29.9 In the event of no application being made under Rule 29.7, the Appeal Committee shall consider and decide the appeal on the papers submitted under Rule 29.8.

29.10 In the event of an application being made in terms of Rule 29.7, and having been granted by the Appeal Committee, the Registrar shall give the appellant and the respondent at least 120 hours written notice of the time and place of the hearing of the additional evidence. At such hearing:

29.10.1 such witness(es) shall be called, led and cross-examined;

29.10.2 having heard the evidence of such witness(es), the Appeal Committee shall terminate the hearing to consider the additional evidence in conjunction with the other documents submitted under Rule 29.8.

29.11 The appeal shall be considered by the Appeal Committee of Council, which shall comprise:

29.11.1 three members appointed by the Chair of the Council from a panel of persons appointed by the Council for this purpose; provided that the membership of this panel shall not be confined to persons who are members of the Council, and

29.11.2 the President of an Appeal Committee shall be a person who is a lawyer.

29.12 The Appeal Committee shall either grant or dismiss the appeal in whole or in part and may either increase or reduce any sentence imposed and may order that its decision be published in the manner contemplated in Rule 23.6; provided that the decision of the Committee shall be reported to Council at the next ordinary meeting of the Council.

29.13 The provisions of this rule shall apply in all appropriate respects to an appeal by a Student Organisation charged in terms of Rule 20 or on appeal by the University in respect of any sentence imposed upon such organization.

29.14 In the event that no appeal is made against a conviction or sentence as contemplated by this rule, and the Council has reason to believe that a student has been wrongly convicted, or that the sentence imposed on a student is grossly excessive, the Council may appoint from the panel referred to in Rule 29.11 above a committee that shall review the conviction or sentence and make recommendations to the Council in this regard; provided that the committee shall not recommend to Council that the conviction or sentence be set aside merely by reason of some formal or technical defect in the proceedings before the Student Discipline Court which did not result in a substantial failure of justice.

30 Appeal from a Residence Tribunal to the Student Discipline Court

30.1 An appeal against a conviction or sentence by a Residence Tribunal shall be heard by the Student Discipline Court in the manner set out in this rule.

30.2 A student convicted by a Residence Tribunal shall have an automatic right of appeal, on written notice, to be lodged with the Student Discipline Office within three (3) days of the decision of the Residence Tribunal. On receipt of such written notice, the Proctor shall, with the consent of the student, deal or dispose of the matter as provided for under Rule 13.4.4, 13.4.5 or 13.4.6; alternatively, refer the appeal to the Student Discipline Court.

30.3 The appeal shall be heard by a Student Discipline Court constituted in the manner set out in Rule 16.

30.4 If the appeal is against the conviction of the student, the Student Discipline Court shall hear the charge against the student *de novo*, and the proceedings shall be conducted in the manner prescribed in Rule 22.

30.5 If the appeal is against the sentence only, the Student Discipline Court shall only hear evidence in mitigation of sentence.

30.6 The Student Discipline Court may either grant or dismiss the appeal in whole or in part and may either increase or reduce any sentence imposed and may order that its decision be published in the manner contemplated in Rule 23.6, and its decision shall be final.

30.7 The provisions of this rule shall apply in all appropriate respects to an appeal by a Student Organisation charged in terms of Rule 20.

MISCELLANEOUS

31 Fines and Reparations

31.1 Any fine or reparation levied under these rules shall be paid by the student or Student Organisation to the Finance Officer of the University within the time period stipulated in such order, or, where an appeal has been instituted in terms of these Rules, within 21 days of the final disposal of the appeal.

31.2 Upon application to the Office of the Registrar by the student or Student Organisation, an extension of time for payment of a fine or reparation may be granted, or the payment of a fine or reparation in installments may be permitted, at the discretion of the Office of the Registrar in consultation with the Proctor.

31.3 In the event of a fine or reparation imposed on a student not being paid by the date stipulated by the Court, Tribunal, or Proctor (as the case may be), or by the extended date granted by the Registrar in terms of Rule 31.2, then the amount in question will be debited to the student's fee account.

31.4 In the event of a Student Organisation failing to make payment within the period provided by this rule, the Registrar, after written warning delivered to the Student Organisation, may suspend such organisation until the fine is paid.

31.5 All fine or reparations paid in terms of these rules shall accrue to the general funds of the University.

32 Expunging of conviction and sentence from the student's Academic Record

32.1 Any person convicted and sentenced by a Court or Tribunal established in terms of these Rules, in respect of any Misconduct, may apply to the Registrar for the conviction and sentence to be expunged from his/her Academic Record.

32.2 The Registrar shall consult the Deputy Vice-Chancellor/Head of School in which the student was registered and, thereafter, having considered all relevant facts and circumstances, including the nature of the Misconduct, and the period of time that has elapsed, may direct that the conviction and sentence be expunged from the Academic Record.

33 Application for readmission by expelled student

33.1 A person expelled in terms of these rules may, after a period of 7 years, make application to the University for readmission as a student.

33.2 Such application shall not be considered as an application for the setting aside of any finding, conviction or sentence.

33.3 The application must be in writing, setting out in full the grounds on which the applicant bases his/her case, and must be lodged with the Registrar.

33.4 The application shall be heard by a three-person committee appointed by the Chair of the University Council.

33.5 The committee may call for additional information and shall call upon the Registrar, any complainant/victim, and any other interested party to file written replies and make written submissions in relation to the application. The applicant will be entitled to receive copies of such replies and submissions and to respond to them in writing.

33.6 The committee shall determine its procedures and its time frames for replies, submissions and responses.

33.7 The committee may decide the matter on the papers or it may elect to hold an oral enquiry.

33.8 The committee may grant the application if it is satisfied that readmission is warranted in all the relevant circumstances. In deciding this question, the committee must have regard to the following factors, in addition to any other relevant factors:

33.8.1 the nature and gravity of the offence;

33.8.2 the length of the period that has elapsed since the expulsion;

33.8.3 the views and attitude of the Registrar in relation to the application;

33.8.4 the views and attitude of the complainant/victim and any other interested party in relation to the application;

33.8.5 the degree of remorse (if any) shown by the applicant;

33.8.6 any steps taken by the applicant (such as counseling, therapy, and training) to rehabilitate himself/herself;

33.8.7 the conduct of the applicant after the expulsion.

33.9 If the committee dismisses the application, no further application will be considered by the University.

33.10 If the committee grants the application, the effect will be to allow the applicant to apply to study at the University. Such application must be dealt with on its merits in accordance with the relevant academic rules and policies relating to admission.

IMITHETHO YABAFUNDI YEZI-2021

IMIGOMO YOKUZIPHATHA

1. Ngokuhambisana nelungelo lawo wonke umuntu lokukhululeka ngonembeza, umbono kanye nokuveza okusemqondweni, kuhlangene nesidingo sokuba khona kwesimo esivuna ukubekwa kwemibono ngenkululeko emphakathini waseNyuvesi, kuyilungelo lawo wonke umuntu oyingxenye yeNyuvesi kanye nabamenyiwe ngokusemthethweni ukuba babeke imibono yabo ezinhlakeni zokuxhumana zeNyuvesi uma nje leyo mibono ingagqugquzeli udlame, yehlisa isithunzi noma icindezela amalungelo abanye.

2. Aluvumelekile udlame noma yiluphi uhlobo lwezinsongo ngeke lubekezelelwe emphakathini waseNyuvesi. Udlame, izinsongo zodlame kanye nokwesabisa akwamukelekile emphakathini waseNyuvesi ozibophezele ezinkulumwenimpkiswano ezinomqondo ngakho akuvumelekile ukuziphatha kwelungu lomphakathi waseNyuvesi okungabangela noma okunokusongela ngokulimaza abantu noma ukucekela phansi impahla akuvumelekile.

3. Ukwengeza ngenxa yobucayi obukhona kulesimo samanje, angeke zibekezelelwe neze izenzo ezihlose ukuchukuluza futhi ziholele ekuphakameni kwemimoya nasodlameni.

UMTHETHO OLAWULA IMIBUTHANO

Inyuvesi iyalihlonipha futhi iyalisekela ilungelo lanoma yimuphi umuntu oyilungu lomphakathi waseNyuvesi lokubamba iqhaza emihlanganweni, imizungezo nemibhikisho kunoma iyiphi ikhempasi yeNyuvesi. Nanoma kunjalo leli lungelo kumele lisetshenziswe ngokuhambelana namalungelo amanye amalungu omphakathi waseNyuvesi kanye nomphakathi jikelele. Lokhu kuthinta ababambe iqhaza nabangalibambile emhlanganweni, umbhikisho, njalo njalo. Ukwengeza, ukubanjwa kwalowo mhlangano kumele kuhambisane nomthetho. Kulokhu kusebenza lemithetho ngaphansi Komthetho Olawula Imihlangano 205 wezi-1993:-

a) Nanoma iyiphi inhlangano kunoma iyiphi ikhempasi yeNyuvesi uma ifuna ukubamba umhlangano kumele ibeke umuntu wayo ozokwenza amalungiselelo omhlangano futhi athintane namaphoyisa (SAPS), abaphathi bendawo kanye nabaphathi beNyuvesi. Lowo okhethiwe kumele athintane nabezokuvikela izingozi ekhempasini ethintekayo;

b) Lowo ohlela umhlangano kumele azise uMmphathi Wophiko Lwezokuvikela Izingozi kusasele izinsuku eziyisikhombisa ngaphambi kokuba uhlale umhlangano. (Uma kungeke kukwazi ukunikeza isaziso kusasele izinsuku eziyisikhombisa, kumele isaziso siphume kusenesikhathi esanele. Uma kufakwa isaziso somhlangane sekunesikhathi esingaphansi kwesingamahora angama 48, lowomhlangano uyothathwa njengongekho emthethweni.;

c) Lesi saziso kumele sicacise imininingwane ngomhlangano. Kumele sibe negama kanye nekheli lalowo ohlela umhlangano kanye nekheli lenhlangano; isizathu somhlangano, isikhathi; usuku; ubude bomhlangano; abalindeleke ukuzothamela umhlangano;abaqaphi; uma kuzozungezwa, imininingwane yomzila kanye nendlela ezosetshenziswa ukuthutha abazobe bebambe iqhaza.

d) Umphathi wendawo unelungelo lokubeka imibandela mayelana nokubanjwa komhlangano okungaholela ekuncipheni kokuphazamiseka kwezimoto kanye nabangalibambile iqhaza kanye nokunciphisa ingozi yodlame nokuphazamiseka komphakathi;

e) Mayelana nokuphathwa komhlangano, bonke ababambe iqhaza kumele bahambisane nemithetho kanye neminye imibandela ebekiwe. Ohlelayo kumele aqinisekise ukuthi kunabaqaphi abanele ukuze bagcine konke kuhambe kahle;

f) Ukwengeza, ababambe iqhaza kumele bazithibe ekusebenziseni amagama aziswana angaholela odlameni noma agqugquzele inzondo ngokwebala noma ngokobuhlanga;

g) Ababambe iqhaza abavunyelwe ukufaka okokufihla ubuso noma bafake umfaniswano ofana nowabezokuphepha;

h) Izikhali azivumelekile emhlanganweni;

i) Yonke imiyalelo yamaphoyisa kumele ilalelwe.

IMITHETHO EJWAYELEKILE

1.

1.1 Wonke umfundi ngokusayina ifomu lokubhalisa, ulawulwa yimithetho yeNyuvesi equkethwe noma ethintwayo kule mithetho engaphansi Kwemithetho Yezokuphathwa Kwabafundi, ikhophi yayo iyatholakala ehhovisi likaMabhalane Omkhulu.

1.2 Wonke umuntu ongena eNyuvesi ngenhloso yokubhalisa njengomfundi noma asebenzise impahla yeNyuvesi njengomfundi uyothathwa njengomfundi ngokwesimiso Somthetho Wezokuphathwa Kwabafundi;

1.3 Yomibili Lemithetho Ejwayelekile kanye Neyokuphathwa Kwabafundi inqunywe uMkhandlu weNyuvesi ngaphansi kweSigaba sama 36 somthetho Wezemfundo Ephakeme 101 wezi 1997.

2. Abafundi bayogqoka umfaniswano wokufunda lapho udingeka khona.

3. Umbhalo weRag ophuma kanye ngonyaka, uyoqala ubhekwe yiDini Elawulayo Kwezabafundi.

4. Izikhangiso noma izaziso eziphuma kumfundi noma enhlanganweni noma eqenjini lezemidlalo angeke zikhangiswe zingagunyazwanga uMkhandlu Wabafundi.

5. Inhlangano yezemidlalo noma iyiphi enye inhlangano kumele ithole imvume kwiDini Elawulayo Kwezabafundi uma bezothatha uhambo noma iyiphi enye into engabangela ukungabikhona kwabafundi emakilasini.

6. Umfundi olimaza impahla yeNyuvesi ngenhloso noma ngobudedengu uyowukhokhela umonakalo.

7. Abafundi kumele bazijwayeze futhi bayithobele imithetho yesikole ephathelene nezivivinyo, imithetho ejwayelekile yeziqu, imithetho yezikole ezithintekayo, kanye nemithetho ejwayelekile eshicilelwe futhi etholakala Emitapweni Yolwazi, Ezindaweni Zokuhlala, Emikhandlwini Wabafundi kanye NaseMkhandlwini Wezemidlalo.

IMITHETHO YEZOKUPHATHWA KWABAFUNDI

8.

8.1 Kule mithetho Isekela Likashansela libizwa ngoThishanhloko kanti nomaBhalane Omkhulu (esebenza ngaphansi kwehhovisi Lomqondisi : Kwezomthetho) ubizwa ngoMabhalane Omkhulu.

8.2 Ukubhaliswa kwanoma yimuphi umfundi weNyuvesi otholakala enecala elibucayi lobugebengu (njengokubeka komthetho 14.1) yinkantolo yomthetho uyomiswa ngokunquma kwaMabhalane Omkhulu

UKUNGAZIPHATHI KAHLE

9. **Umfundi uyotholakala esecaleni lokungaziphathi kahle uma:**

9.1 ephazamisa amalungelo abanye abantu njengoba equkethwe kumqulu wamalungelo Isahluko 2 somthethosisekelo wezwe wezi 1996, noma oziphatha ngendlela ephula eminye imithetho yezwe noma imithetho nemiyalelo yeNyuvesi;

9.2 eziphatha ngendlela ephambene nemiyalelo yeNyuvesi njengokugunyazwa kwayo kwaleso sikhathi;

9.3 ekopela kunoma yisiphi isivivinyo seNyuvesi. Ngokwesidingo salomthetho ukuhlolwa simbandakanya konke ukuhlolwa kolwazi lomfundi okwenziwa yiNyuvesi noma umnyango weNyuvesi noma yimuphi umuntu oyilungu labafundisayo eNyuvesi. Ukukopela kumbandakanya lokhu :

9.3.1 ukufaka noma ukuzama ukufaka endaweni yesivivinyo incwadi, ipheshana,iselula, noma yini enye ekwazi ukulondoloza , ithumele noma ithole ulwazi noma yipheshana elinolwazi oluxhumene nokuhlolwa ngaphandle kokugunyazwa ohlolayo;

9.3.2 ukuphatha, usebenzise, noma uzame ukusebenzisa ngesikhathi sokuhlolwa incwadi, ipheshana,umakhal'ekhukhwini, noma yini enye ekwazi ukulondoloza , ithumele noma ithole ulwazi noma yipheshana elinolwazi oluxhumene nokuhlolwa ngaphandle kokugunyazwa ohlolayo;

9.3.3 ukuthatha noma ukuzama ukuthatha nokuphuma nencwadi noma iphepha lokubhala izimpendulo egumbini ekuhlolelwa kulo olinikezwe yiNyuvesi ukuze ubhale izimpendulo;

9.3.4 ukuxhumana noma ukuzama ukuxhumana nomunye umfundi ngenhloso yokunikana ulwazi olumayelana nokuhlolwa ngesikhathi sokuhlolwa;

9.3.5 ukusetshenziswa kwegama elingamanga kanye nenombolo yepasi engamanga ngesikhathi sokuhlolwa;

9.3.6 ukungenisa umsebenzi okungewona owakho, obhaliwe noma iphrojekthi ekopeliwe yonke noma ingxenye komunye umfundi noma yimuphi omunye umuntu njengomsebenzi wakho;

9.3.7 ukulekelela omunye umfundi ngenhloso noma ngobudedengu ukuba akopele njengoba kuchaziwe esigabeni 9.3.6;

9.3.8 ukwenza isenzo noma yisiphi sokungathembeki, ukukhohlisa kanye nokwenza okungumgunyathi ngesikhathi sokuhlolwa ngoba umfundi ehlose ukudukisa abahloli;

9.4 eziphatha ngendlela enodlame futhi engafanele budebuduze noma emagcekeni eNyuvesi noma emcimbini ohlelwe yiNyuvesi;

9.5 eziphatha ngendlela enokwethuka futhi engafanele ebhekise komunye umfundi, umsebenzi waseNyuvesi noma yilungu lomphakathi;

9.6 elimaza ngokomqondo noma ejivaza noma ehlisa isithunzi somunye umfundi, umsebenzi waseNyuvesi noma ophethe umnyango thize;

9.7 enza inkulumo enenzondo;

9.8 ehlukumeza izilwane;

9.9 ehlanakezela ngenhloso iqiniso ngezenzo noma ngokuziphatha kongumsebenzi waseNyuvesi noma ophethe umnyango thize waseNyuvesi;

9.10 eziphatha ngendlela eholela noma engalindeleka ukuthi iholele ekuphazamisekeni kokufundisa, ucwaningo kanye/noma ukufunda eNyuvesi noma ukuphazamiseka kwezinhlelo ezijwayelekile zeNyuvesi;

9.11 eziphatha ngendlela eholela noma engalindeleka ukuthi iholele ekuphazamisekeni noma ekubekeni engcupheni ezokuphepha, umthetho kanye nezokuphatha eNyuvesi;

9.12 eziphatha ngendlela eholela noma engalindeleka ukuthi iholele ekutheni kudicileleke phansi igama leNyuvesi;

9.13 enganaki noma ephikisana nanoma yimuphi umyalelo noma isicelo esisemthethweni esibhaliwe esivela koyilungu labasebenzi noma ophethe umnyango othize waseNyuvesi;

9.14 evimbela inkululeko noma izimfihlo zomunye umfundi noma ilungu leNyuvesi;

9.15 evimbela ukuqhubeka kophenyo mayelana nezenzo zokungaziphathi kahle, noma ukuqhubeka kwezinyathelo zokuqondiswa kwezigwegwe;

9.16 esusa ngenhloso noma ngephutha, esebenzisa ngendlela engavumelekile, elimaza, ecekela phansi noma esebenzisa noma engena ngokungemthetho endaweni yeNyuvesi;

9.17 esebenzisa izinto zokusetshenziselwa isimo esinobungozi ngokungenasidingo;

9.18 engena, esebenzisa, ehlala endaweni yeNyuvesi ngaphandle kwemvume noma esebenzisa indawo yeNyuvesi ngendlela engavumelekile;

9.19 engena nesikhali esiyingozi, isiqhumane noma into engavumelekile ekhempasini yeNyuvesi ngaphandle kwemvume;

9.20 elekelela noma egqugquzela omunye umfundi ukuba angaziphathi kahle;

9.21 esebenzisa kabi igama leNyuvesi okanye esebenzisa noma ingayiphi indlela uphawu lweNyuvesi ngaphandle kwemvume ebhaliwe evela kuMabhalane Omkhulu;

9.22 evumela omunye ufundi noma umuntu ukuba asebenzise inombolo noma ikhadi lakhe labafundi okanye yena esebenzise inombolo noma ikhadi lomunye umfundi;

9.23 ehluleka ukulandela imiyalelo noma engayishayi ndiva eyekomidi lokuqondisa izigwegwe noma yenkantolo;

9.24 Ebangela ukulimala emzimbeni, okuhlanganisa nalokhu okundelayo:

9.24.1 Enza izenzo zocansi ezithathwa ngokoMthetho i-Sexual Offences Act 32 yangonyaka wezi- 2007 okuhlanganise:-

a) Ukudlwengula
Yinoma imuphi umuntu ('A') owenza isenzo sokufaka isitho sakhe sangasese komunye ongumumangali ('B'), ngaphandle kwemvume yomangalelayo u-B, unecala lokudlwengula;

b) Ukudlwengula ngempoqo
Yinoma imuphi umuntu ('A') ophoqa omunye umuntu wesithathu ('C'), ngokungemthetho nangenhloso ukuba afake isitho sakhe sangasese komangalelayo ('B'),
ngaphandle kwemvume yomangalelayo u-B, unecala lokudlwengula;

c) Ukuphoqelela ngokocansi

(1) Umuntu ('A') ophoqelela ngokocansi ngokungemthetho nangenhloso omangalelayo ('B'), ngaphandle kwemvume yomangalelayo u-B, unecala lokuphoqelela ngokocansi;

(2) Uma umuntu (‘A’) owenza ngokungemthetho nangenhloso omangalayo (‘B’) akholwe ukuthi uzophoqelelwa ngokocansi,unecala lokuphoqelela ngokocansi;

d) Ukuphoqelela ngokocansi ngempoqo

Umuntu ('A') ophoqa ngokungemthetho nangenhloso umuntu wesithathu ('C'), ngaphandle kwemvume ka-C, ukuba aphoqelele ngokocansi omangalelayo ('B'), ngaphandle kwemvume ka-B, unecala lokuphoqelela ngokocansi ngempoqo.

e) Ukuziphoqelela ngokocansi ngempoqo

Uma umuntu ('A') ephoqa omangalelayo ('B'), ngaphandle kwemvume ka-B, ukuba a-

(i) shaye indlwabu;

(ii) bangele noma yinhloboni yesenzo esiholela ekulangazeleleni nasekukhanukeleni ucansi kowesifazane ngokuthinta amabele; noma

(iii) izenzo ezikhomba ucansi noma ezihlambalazayo, kuyena; noma

enza noma yisiphi isenzo esinomthelela noma esingaba nomthelela wokukhanukela ucansi noma sihlambalaze ngokocansi u-B; noma siholele ekutheni u-B azifake okuthize esithweni sakhe sangasese noma ingayiphi indlela okungaba ezangaphambili noma ngemuva, unecala lokuziphoqelela ngokocansi ngempoqo.

9.24.2 Izenzo ezithinta ukushaya yilezi ezilandelayo:

a) Ukushaya okujwayelekile

Ukushaya kubandakanya ukusebenzisa indluzula ngokungemthetho nangenhloso komunye umuntu, noma ukwenza omunye umuntu akholwe ukuthi kuzosetshenziswa indluzula kuyena;

b) Ukushaya ngenhloso yokulimaza kanzima (GBH)

Lolu olunye uhlobo lokushaya kodwa olwenziwa ngenhloso yokulimaza kanzima.

9.24.3 Okubangela ukulimala engqondweni okungahlanganisa lokhu okulandelayo:

a) Ukwehlisa Isithunzi

Ukwehlisa isithunzi kubandakanya ukwehlisa ngokungemthetho nangenhloso isithunzi nengasese lomunye umuntu.

b) Ukuthuka

Ukuthuka kuhlanganisa ukushicilela kwemininingwane ngokungemthetho nangenhloso yokuthunaza omunye umuntu.

9.24.4 lapho umfundi ummangalelwa esabisa ngodlame futhi lokhu kuhlanganisa:

a) Ukuhlukumeza (njengoba kuchaziwe eMthethweni i- Protection and Harassment Act 17 yangonyaka wezi-2011):

Ukuhlukumeza kuhlanganisa kokubili ukuziphatha okuqonde ngqo nokungaqondile ngqo okuholela ekulimaleni noma okwenza lowo okhalaza ngokuhlukunyezwa akholelwe ekutheni uzolinyanzwa.

Lokhu kuziphatha kuhlanganisa ukulandela, ukugqolozela, ukushela noma ukuncenga osondelene kakhulu nomangalelayo.

Ukuziphatha okuhlukumezayo futhi kuhlanganisa nokuzulazula ngaphandle noma eduze kwalapho kuhlala, kusebenza, kufunda noma lapho ekhona nje omangalelayo.

Ukuhlukumeza kubuye kuhlanganise nokuxhumana ngenkulumo nomangalelayo. Kuhlanganisa nokuxhumana ngogesi okubangela omangalelayo azizwe sengathi usengozini yokulinyazwa.

b) Ukwesabisa
Noma yimuphi umuntu ongenasizathu esisemthethweni futhi enenhloso yokuphoqa noma yokuholela omunye umuntu noma abantu bezinga noma uhlobo oluthile noma abantu abajwayelekile ekutheni benze noma bangakwenzi okuthile.

9.25 eziphatha ngendlela enokungathembeki engabangela ukulimala nokulahlekelwa komunye umfundi noma umsebenzi waseNyuvesi;

9.26 enqaba ukuveza ikhadi lakhe labafundi uma ecelwa ngokusemthethweni ongumsebenzi waseNyuvesi

9.27 ephuza utshwala (njengokuchaza Komthetho Katshwala wezi 2003), emagcekeni eNyuvesi ngaphandle kwezindawo ezimiselwe yiNyuvesi kanye nezikhathi zakhona;

9.28 enza isenzo esiwukuntshontsha umqondo womunye umuntu njengokuchazwa kwakho kwiNqubomgomo Yokuntshontshwa Kwemiqondo.

9.29 Kudingeka afakaze eNkantolo Yokuphathwa kwabafundi futhi uma zingekho izizathu noma ehluleka ukwenza njalo.

9.30 ukwenza izenzo ezinokukhwabanisa, ukulutha nokungathembeki okuhlanganisa noma yikuphi ukuphazamisa okwenziwa umfundi lapho ehlolwa yiNyuvesi, noma lapho umfundi ehlose ukulutha noma ukwedusa ongumhloli.

9.31 eziphatha ngendlela ekhombisa ukungalaleli kanye/noma ukungahloniphi omele iNkantolo.

10. Icala elethweswa umfundi ngokungaziphathi kahle ngaphansi komthetho 9 uyolalelwa Inkantolo Yezokuphathwa Kwabafundi noma, Inkantolo Yasendaweni Yokuhlala.

10.1 Lapho umfundi ongumsebenzi waseNyuvesi enecala, lelo cala, uma lingenamthelela ebudlelwaneni bokuqashwa komfundi yiNyuvesi, liyolalelwa Inkantolo Yezokuphathwa Kwabafundi uma limayelana nezokufunda.

10.2 Lapho ukungaziphathi kahle, kuhlanganiswa nokwezemfundo kubonakala kungaba nomthelela ebudlelwaneni bokuqashwa komfundi yiNyuvesi, udaba luyodluliselwa eMnyangweni Wezabasebenzi ukuze lulungiswe khona.

INDLELA YOKWENZA

11. Ukubikwa Kokungaziphathi Kahle

11.1 Zonke izehlakalo zokungaziphathi kahle kumele zibikwe kwabezoPhiko Lwezokuvikela Izingozi kuleyo khempasi ethintekayo noma kuMshushisi

11.2 Abezokuvikela ubungozi bazokwenza uphenyo ngalemibiko benze owabo umbiko ozoya eHhovisi Lezokuphathwa Kwabafundi

11.3 Abaphathi bophenyo kwezokuvikela izingozi ekhempasini kumele banikezwe amandla okunika umfundi isexwayiso uma enze ukungaziphathi kahle okungenasidingo, isibonelo ukucima amalambu kumaphaseji/ ezindaweni zokufunda, emva kokukhuluma noMshushisi.

11.3.1 Umbiko waleso sixwayiso kumele unikezelwe kuMshushisi ngabaphathi bophenyo kwezokuvikela izingozi.

12. IHHOVISI LEZOKUZIPHATHA KWABAFUNDI

12.1 Ihhovisi Lezokuziphatha Kwabafundi lizobhekana nokuphathwa kwayo yonke imibiko ephathelene nokuziphatha kwabafundi ethunyelwa Abezokuvikela Ubungozi.

13. Umshushisi

13.1 Umabhalane Omkhulu uyokhetha umshushini noma abashushisi.

13.2 Umshushisi uzoba ngumeluleki kaMabhalane Omkhulu ezindabeni eziphathelene nezokuphathwa kwabafundi enyuvesi.

13.3 Umshushisi uzoba nelungelo lokumela iNyuvesi kuzona zonke izindawo eziphathelene nezokuziphatha kwabafundi enyuvesi.

13.4 Emva kokuthola umbiko wehhovisi lokuziphatha kwabafundi, umshushisi uzoba namandla ngokwenqubomgomo ebekwe nguMabhalane Omkhulu yokubhekana nalezi zimo:

13.4.1 ukuyalela ukuba uphenyo luqhubeke; noma

13.4.2 ukwenqaba ukushushisa; noma

13.4.3 ukukhipha Isexwayiso sikaMshushisi; noma

13.4.4 ukubhekana nesimo ngaphansi Komthetho wama-15.6; noma

13.4.5 udaba aludlulisele kumlamuli noma umxazululi; noma

13.4.6 ukudlulisela udaba kumeluleki noma

13.4.7 ukudlulisela udaba lokwehlulela Enkantolo Yokuziphatha Kwabafundi; noma

13.4.8 udaba aludlulisele esigabeni sokwahlulela esiyimpoqo lapho uMabhalane Omkhulu ezoqoka umuntu ozokwenza lokhu. Lokhu kwahlulela kuyoba umnqamulajuqu kubuye kubophezele futhi ngeke icala libe nethuba lokudluliswa. Lokhu ngeke kusebenze emacaleni athinta ukuhlukumeza ngokocansi nangokobulili, ukushaya ngenhloso yokulimaza kanzima kanye/noma nokucekela phansi impahla.

14. Inqubomgomo Efingqiwe

14.1 Uma kwethweswa umfundi icala ngesenzo esiyicala esenziwe ngokokuchaza kwalemithetho futhi kusaphenywa, noma ngokubona kwaMabhalane Omkhulu, uMqondisi WezokuHlinzekwa KwezoMthetho noma uMqondisi WezokuHlinzekwa KwezoMthetho Oyibamba, kufanele umfundi athweswe lelo cala noma uma umfundi ethweswe icala elinzima, (njengokukleliswa kwawo Ohlwini 1 loMthetho Wezokushushisa Ubugebengu 51 wezi 1997, nezichibiyelo zawo) enkantolo yezomthetho, UMqondisi wezokuHlinzeka KwezoMthetho noma uMqondisi wezokuHlinzeka kwezoMthetho Oyibamba, angayalela ukuthi ngaphambi kokuba kuphume isinqumo enkantolo Yabafundi Yokuqondiswa kwezigwegwe kanye/noma enkantolo Yomthetho uma ithintenka ngamacala athweswe umfundi:

14.1.1 umfundi amiswe ekuyeni emakilasini;

14.1.2 umfundi angalibambi iqhaza kweminye imisebenzi yeNyuvesi ezobekwa ngokucacile;

14.1.3 umfundi angangeni kwezinye izingxenye zeNyuvesi noma iziphi ezinye izindawo ezibaliwe zeNyuvesi;

14.1.4 angangeni ngemoto emagcekeni eNyuvesi;

14.1.5 angahlali ezindaweni zokuhlala zeNyuvesi;

14.1.6 akanayo imvume ukuxhumana ngqo noma ukuxhumana nabamangali noma omunye wofakazi babo ongummangali

14.2 uMabhalane Omkhulu ngeke enze umyalelo ngaphansi kwesigaba 14.1 ngenhla ngaphandle uma-

14.2.1 umfundi elekelelwa abamumele ngokusho komthetho-18, ngaphandle uma umfundi engalisebenzisanga ilungelo lakhe lokumelwa ebenikeziwe ithuba lokuvela phambi kukaMabhalane Omkhulu ezoveza izizathu zokuthi kungani umyalelo ungenziwanga; futhi

14.2.2 uMabhalane Omkhulu ukuthatha njengokuyindlela yokuvikela abafundi nabasebenzi ukwenza lomyalelo.

14.3 Umphathi Wezindawo Zokuhlala Zabafundi angayalela umfundi osolwa ngokwephula Umthetho Wezokuphathwa Kwabafundi ukuba aphume aphele endaweni yokuhlala futhi angabuyi kuze kuphele izinsuku ezinhlanu zokusebenza.

14.4 Umphathi Wezindawo Zokuhlala Zabafundi ngeke enze umyalelo ngokwesigaba 14.3 uma:

14.4.1 umfundi esenikeziwe ithuba lokubeka izizathu ezenza ukuba lomyalelo unganikezwa; futhi

14.4.2 uMphathi Wezindawo Zokuhlala Zabafundi ekubona kuyindlela yokuvikela abanye abafundi abahlala kulendawo noma kuhambisana nokuqhutshwa Komthetho Wezokuphathwa Kwabafundi;

14.5 uMphathi Wezindawo Zokuhlala Zabafundi emva kokwenza lomyalelo ngokwesigaba 14.3 abhale umbiko ophuthumayo ngomyalelo nezizathu ezisekela lokho awuthumele kuMabhalane Omkhulu oyovumela noma aphikisane nawo.

14.6 uma umyalelo owenziwe ngokwesigaba 14.3 uvunyelwa, noma umfundi efaka isicelo sokudluliswa kwalomyalelo, uMabhalane Omkhulu uyothatha izinyathelo ezihambelana Nomthetho 14.1, kusalindelwe umphumela okungenzeka uMabhalane Omkhulu akhuphule isibalo sezinsuku zokuxoshwa komfundi endaweni yokuhlala

14.7 Uma uMabhalane Omkhulu engekho, amandla okuqinisekisa ukugcinwa komthetho ngokwezigaba 14.1, 14.2 no 14.6 ayosetshenziswa yiDini Enkulu : Yezabafundi noma ubani omunye oqokwe uMabhalane Omkhulu ukwenza lomsebenzi.

15. INDLELA YOKWENZA NGOKWEZOKUPHATHA

15.1 Umfundi osolwa ngokukopela esivivinyweni sasekilasini, noma omunye umsebenzi wokuhlolwa, angavuma icala ngokugcwalisa ifomu elifanele ngemvume yeNhloko Yesikole uma

15.1.1 lokho kuhlolwa kungeqile emaphesentini angama 25 emamakini okuhlolwa okugcina kuleso sifundo.

15.1.2 umfundi engakaze atholwe enecala lokukopela ngaphambilini noma avume icala;

15.1.3 Inhloko Yesikole inombono wokuthi leli cala alidingi isigwebo esingaphezulu kwalesi esikumthetho 15.3

15.2 Ngokwalomthetho, ukukopela kuhlanganisa zonke izinhlobo njengokuchazwa kwazo kumthetho 9.3.

15.3 Uma umfundi evuma icala njengalokhu okushiwo okungenhla:

15.3.1 imaki lokuhlolwa liyomlahlekela noma licinywe;

15.3.2 Igama kanye neSikole somfundi kuyoshicilelwa ngokwendlela egunyazwe uMkhandlu weNyuvesi;

15.3.3 Ukuvunywa kwecala kuzoqoshwa kumarekhodi omfundi ngesikhathi esafunda kuleNyuvesi futhi kuyosetshenziswa ngaphakathi kweNyuvesi kuphela;

15.4 Umfundi othi walivuma ngephutha icala, ngokunganaki noma ngezizathu zokungalandelwa kwendlela yokwenza, angafaka isicelo esibhaliwe kungakapheli izinsuku ezintathu elivumile icala, abeke izizathu kumshushisi ezenza afune ukuguqulwa kwalesisivumo secala. Isicelo esifana nalesi sizophenywa uMshushisi ongasivumela okusho ukuthi icala seliyodlulela eNkantolo Yezokuphathwa Kwabafundi.

15.5 Inhloko Yesikole izodlulisa ikhophi esayiniwe yefomu lokuvuma icala eHhovisi likaMabhalane Omkhulu kanye nehhovisi lokuziphatha kwabafundi

15.6 Umfundi otholakale ephula le mithetho esikhundleni sokushushiswaangashushiswa ngokuqukethwe emithethweni, ngokwemvume kaMshushisi angagcwalisa ifomu lokuvuma icala uma:

15.6.1 umfundi engakaze atholakale enecala elifanayo ngaphambilini, noma alivume noma ukuziphatha kabi okushiwo imithetho;

15.6.2 Umshushisi enombono wokuthi leli cala alidingi isigwebo esingaphezu kwalesi esikumthetho 15.7

15.7 Uma umfundi evuma icala ngokomthetho 15.6, umshushisi angamnika esinye salezi zigwebo:

15.7.1 Isexwayiso noma ukuthethiswa okanye kokubili

15.7.2 inhlawulo engekho ngaphezulu kwemali engange R1 500, edingeka ikhokhiwe ngosuku olumisiwe;

15.7.3 Ukuxoshwa endaweni yokuhlala isikhathi esimisiwe;

15.7.4 Ukukhokhwa kwezindleko zokulimaza ngosuku olumisiwe.
kanye nokuthunyelwa kwekhophi yokuvuma icala esayiniwe kanye nesigwebo esibekwe uMabhalane Omkhulu ukuze kuqinisekiswe.

15.8 Emva kokuvunyelwa uMabhalane Omkhulu:

15.8.1 Igama kanye neSikole somfundi kuyoshicilelwa ngokwendlela egunyazwe uMkhandlu weNyuvesi;

15.8.2 Ukuvunywa kwecala kuzoqoshwa kumarekhodi omfundi ngesikhathi esafunda kuleNyuvesi futhi kuyosetshenziswa ngaphakathi kweNyuvesi kuphela;

15.9 Umfundi othi walivuma ngephutha icala ngaphansi komthetho 15.6, ngokunganaki noma ngezizathu zokungalandelwa kwendlela yokwenza, angafaka isicelo esibhaliwe kungakapheli izinsuku ezintathu elivumile icala, abeke izizathu kuMabhalane Omkhulu ezenza afune ukuguqulwa kwalesisivumo secala.Umabhalane Omkhulu angalubeka eceleni udaba lokuvuma icala, udaba lungadlulela kuMshushisi ukuze kuqhutshekwe nemithetho yokuqondiswa kwezigwegwe.

16. Inkantolo Yezokuziphatha Kwabafundi

16.1 Inkantolo yezokuziphatha kwabafundi izoba nalaba bantu

16.1.1 Umongameli ozoba:

16.1.1.1 umuntu oqokwe uMabhalane Omkhulu ukuze enze lo msebenzi

16.1.1.2 ngummeli noma umuntu, ngokubona kwaMabhalane Omkhulu, onesipiliyoni futhi /noma onokuthembeka

16.1.2 ilungu Lommkhandlu Wabafundi jikelele noma umkhandlu wabafundi wekhempasieliqokelwe lomsebenzi ozohlala abheke nje kuphela, ngaphandle uma icala lethweswa uMkhandlu Wabafundi

16.1.3 uSolwazi oqokelwe lomsebenzi yiKholeji lapho kubhalise khona umfundi othintekayo, uma ukungaziphathi kahle kuxhumene nalokhu:

16.1.3.1 Uma umfundi ezimisele ngokuliphika icala lokukopela(ngokulandisa komthetho 9.3) ngesikhathi sokuhlolwa.

16.1.3.2 ukukopela (njengoba kuchazwe kumthetho 9.3) komfundi owenza iziqu zeMasters noma owenza iziqu zobudokotela

16.1.3.3 Ukuntshontsha imiqondo yabanye okuchazwe kumgomo wokuntshontshwa kwemiqondo yabanye

16.1.3.4 lapho kunethuba lokuthi isigwebo kube ukuphucwa iziqu, ukuxoshwa unomphelo, noma ukumisw eNyuvesi okwesikhathi esingaphezu kwamasimesta amane.

16.2 Umphathi Wenyuvesi angayalela ukuthi ecaleni thize kuhlale noMabhalane Omkhulu njengelungu elengeziwe lenkantolo, uma kungukuthi icala livulwe uMabhalane Omkhulu ngokomthetho 14 uMabhalane Omkhulu angeke akwazi ukuqokwa ahlale kulenkatolo.

16.3 ilungu elithintekayo nganoma iyiphi indlela ezigamekweni eziyingxenye yecala ngeke liqokwe ukuba lihlale kule nkantolo

16.4 Ngaphandle kwamacala abalulwe kumthetho 16.1.3, ukuba khona kukaMongameli kuyochaza ukuthi inkantolo iphelele ngokusemthethweni.

16.5 Kukho konke okubalulwe kumthetho 16.1.3, bobabili uMongameli noSolwazi abaqokwe ngokomthetho 16.1.3 kumele babe khona.

16.6 Uma kukhona ukungavumelani ekuthathweni kwesinqumo senkantolo, isinqumo sikaMongameli siyoba ngujuqu.

17. Umshushisi

17.1 Umshushisi uyoshushisa futhi amele iNyuvesi kuzona zonke izigcawu zenkantolo yokuqondiswa kwezigwegwe; uma kungenzeki

17.2 Umshushisi angathumela umuntu okhethwe ngaphansi komthetho 18.1 ozomubambela uma lomuntu engake aqokelwe ukumela umfundi othintekayo

18. Ukumelwa Komfundi Ongummangalelwa

18.1 Emva kokuxhumana neDini Yessikole Sezomthetho, uMabhalane Omkhulu uzokhetha ezingxenyeni ezahlukene zeNyuvesi umuntu oyedwa noma ngaphezulu abazoba Abammeli Babafundi abangabasebenzi eSikoleni Somthetho noma abaneziqu abafunda eSikoleni Somthetho futhi abanamakhono adingekayo.

18.2 Abammeli Babafundi bayokwenza lokhu, uma becelwa ngumfundi:

18.2.1 ukululeka umfundi kukho konke okuphathelene necala athweswe lona ngaphansi kwalemithetho, ikakhulukazi ngohlobo lobufakazi obudingekayo ukuze kwakheke lokhu ukuzivikela;

18.2.2 ukuvela phambi kweNkantolo Yokuziphatha Kwabafundi bemele umfundi athethe icala njengomele umfundi

18.2.3 Ukuzomela umfundi ukuze kuxoxiswane ngodaba lapho kwamukelekile ukuthi enze njalo.

18.3 Umfundi omangalelwe angazimela ecaleni ngokuhambisana nomthetho 18.4 kodwa ngeke amelwe ngokusemthethweni ngaphandle kokubalulwe kumthetho 18.4 lapha ngezansi.

18.4 Umfundi omangalelwe angamelwa omunye umfundi noma umsebenzi waseNyuvesi.

19 Ukudingidwa odaba phambi kweNkantolo Yezokuziphatha Kwabafundi kuyokwenzeka ngokomyalelo kaMabhalane Omkhulu elulekwe uMshushisi okunguyena oyokhomba okumele athweswe amacala, namacala azothweswa wona, uphenyo okumele lwenziwe, nobufakazi okumele butholakale. Umabhalane Omkhulu uyoyalela iNkantolo Yezokuziphatha Kwabafundi ukuba yazise umfundi noma inhlangano yabafundi (njengokomthetho 20) ukuthi kunezinyathelo ezithathwayo.

20. Uma kutholakala ukuthi kukhona ukungaziphathi kahle okwenziwe abafundi ngesikhathi benza izinto zenhlangano, ikomidi, inyunyana noma ikilabhu yabafundi (ngokwalemithetho zonke lezi zinto zizobizwa ngenhlangano yabafundi) uMshushisi angayithwesa icala lokungaziphathi kahle inhlangano futhi iphinde ivele phambi kwenkantolo imelwe ngumongameli noma usihlalo kanye nonobhala wayo.

Isaziso Nenqubo Ngaphambi Kokuthethwa Kwecala Enkantolo

21. A. Isaziso

21.1 Uma kunezinyathelo ezithathelwa umfundi ngokomthetho 19, Ihhovisi Lezokuziphatha Kwabafundi liyonikeza umfundi othintekayo isaziso esibhaliwe ngesikhathi esingekho ngaphansi kwamahora angama 120 esisho ukuthi icala lizoqulelwa kuyiphi indawo kanye nesikhathi, uma kungukuthi sekusele amasonto amathathu kuphele isimesta, lesisaziso kumele sitholakale ngesikhathi esingekho ngaphansi kwamahora angama 72, izimpela sonto zingabalwa.

B. Inqubo Ngaphambi Kokuthethwa Kwecala Enkantolo

a. Zonke izinhlangothi kumele zibone/ zinikezane bonke ubufakazi ezizobusebenzisa ekuqulweni kwecala ngaphambili kwezinsuku eziyi-7 zokuya enkantolo.

b. Umhlangano ngaphambi kokuthethwa kecala noma isixazululo singazanywa yizinhlangothi zombili. Isinqumo sokwenza isixazululo noma umhlangano ngaphambi kokuthethwa kwecala kumele sikhishwe uMshushisi.

21.2 Isaziso siyothunyelwa kumfundi ngesandla,noma nge-imeyili, ekhelini lomfundi le-imeyili elisemabhukwini eNyuvesi, lokhu kuncike ekutholakaleni kobufakazi bokukthi umfundi uyitholile i-imeyili, uma umfundi engatholakali, isaziso:

21.2.1 singathunyelwa ngeposi ekhelini elisemabhukwini eNyuvesi elabhaliswa umfundi futhi siyothathwa njengesitholiwe umfundi kungakapheli amahora angama-72 emva kokusiposa.

21.2.2 singashiywa ekhelini elibhaliswe umfundi futhi siyothathwa njengesitholiwe ngesikhathi sithunyelwa.

21.3 Isaziso okukhulunywa ngaso kumthetho 21.1 siyokwazisa umfundi ukuthi:

21.3.1 umfundi uzothathelwa izinyathelo ngaphansi koMthetho Wezokuziphatha Kwabafundi futhi simazise nokuthi ikhophi yalemithetho iyatholakala ehhovisi likaMabhalane Omkhulu noma ehhovisi lezokuziphatha kwabafundi uma efuna ukuyibheka;

21.3.2 yimiphi imithetho athathelwa izinyathelo ngaphansi kwayo siphinde sicacise amacala athweswa wona umfundi ukuze azi amacala abhekene nawo

21.3.3 ukhona uMmeli Wabafundi ongaluleka umfundi mayelana necala kanye namalungiselelo adingekayo;

21.3.4 umfundi angazimela naye noma omunye umuntu okucacisiwe kumthetho 18.3 no 18.4;

21.3.5 umfundi angabethula yena ubufakazi noma asebenzise ummeli wakhe ecaleni, abize ofakazi, abafake imibuzo ofakazi, ahlole amaphepha noma obunye ubufakazi aphinde anxenxe inkantolo uma sekuzophuma isigwebo.

22. Inqubomgomo Enkantolo

22.1 Ngokuhambelana nokubalulwa umthetho 22.2 no 22.12, icala liyoqulwa ekhona umfundi othweswe icala lokungaziphathi kahle.

22.2 Uma umfundi, emuva kokunikwa isaziso ngesikhathi esanele ngokomthetho 21, engenayo indlela yokuvela phambi kweNkantolo, udaba lungaqhubeka ngaphandle komfundi uma umfundi angabhala afisa ukukubeka phambi kweNkantolo ukuze ikubheke.

22.3 Icala liyothethwa phambi kwabantu, ngaphandle uma iNkantolo inqume ngenye indlela.

22.4 Umshushisi uyokwethula ubufakazi obucindezela umfundi othweswe icala futhi ephathele iNyuvesi icala.

22.5 Inkantolo iyonikeza umfundi noma omele umfundi ithuba elanele lokubeka ingxenye yabo nokuphendula ngokwamacala athweswe wona.

22.6 Inkantolo iyokwenza lokhu:

22.6.1 iyonikwa izitatimende zofakazi noma yini enye ebalulekile ekushintshwenwe ngayo ngabamele iNyuvesi nomfundi;

22.6.2 iyoyibheka lemibhalo nobunye ubufakazi futhi ilalele ofakazi ababizwa yiNyuvesi, noma umfundi, noma omele umfundi futhi ingafaka imibuzo kulabofakazi kanye nomfundi.

22.6.3 iyokwamukela isicelo sokuguqula amacala athweswe umfundi okungaba ukucubungula ukuvuma, noma ukwenza okunye, noma ithathe isinqumo sokubuyekeza amacala okungaba ukwengeza amacala amanye noma ukususwa kwelinye kubekwe elinye

22.7 Inkantolo, ngokuthanda, kwayo ingabiza ofakazi, ithole imibhalo nanoma yibuphi obunye ubufakazi obuthintene necala futhi ingayalela ukuba kukhonjiswe, kuvezwe noma kwenziwe phambi kwayo lokho efuna ukukubona ukuze ikwazi ukuthatha isinqumo ngecala eliphambi kwayo.

22.8 Ekuphothulweni kwecala, inkantolo iyothatha isinqumo, esisuselwa ebufakazini obethuliwe, sokuthi umfundi unecala noma akanalo icala. Isinqumo esithi umfundi unecala siyothathwa kuphela uma:

22.8.1 icala lokungaziphathi kahle ,ngokokubona kwenkantolo, livezwe ngokungangabazeki, noma ukuvezwa kwezinto phambi kwayo sekuphelile.

22.8.2 umfundi ezivumele yena ngokukhululeka ukuthi unecala nenkantolo yenelisekile ukuthi kunobufakazi obuvela kumfundi noma obuvela kwenye indawo obufakazela lokhu.

Uma inkantolo ithola umfundi engenacala, umfundi uyotholwa emsulwa.

22.9 Konke okwenzeka enkantolo kuyoqoshwa umuntu oqokwe uMabhalane Omkhulu futhi onekhono lokwenza lo msebenzi.

22.10 okuqukethwe umthetho 21 no 22 kuyosebenza emacaleni athweswa inhlangano ngokomthetho 20.

22.11 Icala iyothethwa ngendlela enganamcikilisho, ngokuhambisana nemithetho yezomthetho jikelele, futhi akekho ummangalelwa oyothola ukungaphathwa ngendlela emlahlekiselayo ngenxa yokuhluleka kwakhe noma ommele ukugcina imithetho njengokusetshenziswa kwayo yizinkantolo zikazwelonke: uma izindlela zokwenza ezilandelwayo zaleMithetho Yezokuziphatha Kwababafundi iyolandelwa ngokugcwele, eminye imithetho nemiyalelo emayelana nokuqhutshwa kewcala engahambisani nalemithetho engabekwa ngezinye izikhathi, iyolandelwa futhi igcinwe.

22.12 Uma inkantolo ikubona kuwusizo kwiNyuvesi noma kumfundi waseNyuvesi ukuba igama likafazi othula ubufakazi phambi kwenkantolo lingadalulwa futhi lingabhalwa nakumbiko, inkantolo, ngokosicelo sikaMshushisi, ingakhipha enye noma yonke lemiyalelo:

22.12.1 ukuthi kungabi khona omunye umuntu enkatolo ngesikhathi ufakazi ethula ubufakazi ngaphandle kommele iNyuvesi kanye nommele ummangalelwe, noma

22.12.2 ukuthi igama likafakazi lingashicilelwa embikweni ngecala, noma

22.12.3 ukuthi irekhodi lobufakazi liqoshwe ngendlela ezofihla igama likafakazi.

22.13 UMengameli weNkantolo yokuPhathwa Kwabafundi uyoba namandla okuxazulula udaba uma kubonakala kufanelekile ukwenza kanjalo. Esigamekweni lapho lesi sixazululo singaphumelelanga, uMengameli weNkantolo yokuPhathwa kwabafundi kumele aqhubeke aqhubeke nokuthethwa kwecala.

23. Inqubo Uma Umfundi Etholwa Enecala

23.1 Uma umfundi esetholwe enecala lokungaziphathi kahle, iNkantolo ingamnika lezi zigwebo ezilandelayo:

23.1.1 isexwayiso noma ukuthethiswa noma kokubili,

23.1.2 umyalelo wokukhokha inhlawulo ehambelana nomonakalo odalekile ngalolosuku njengokunquma kweNkantolo,

23.1.3 inhlawulo engeqile kwiR2 500 eyokhokhwa ngosuku olunqunywe inkantolo,

23.1.4 ukunqatshelwa ukubamba iqhaza ezintweni zeNyuvesi kuze kudlule isikhathi esinqunyiwe,

23.1.5 ukuxoshwa isikhathi esinqunyiwe ezingxenyeni ezithize eNyuvesi,

23.1.6 ukumiswa isikhathi esinqunyiwe eNyuvesi,

23.1.7 Ukuxoshwa unomphelo kwiNyuvesi okungukuthi umfundi, ngeke aphinde amukelwe eNyuvesi ngaphandle uma kungokomthetho 33

23.1.8 ukwenqatshelwa ukungena egunjini lokuhlolwa,

23.1.9 ukwephucwa amamaki okuhlolwa okunhlobonhlobo,

23.1.10

a. Imininingwane egcwele ngohlobo lomsebenzi wokuhlawula

b. Isikhathi somsebenzi wokuhlawula

c. Indawo lapho umsebenzi wokuhlawula uyokwenzelwa khona

d. Indlela lomsebenzi wokuhlawula oyokwenziwa ngayo
Isayinwe ngumholi oqokiwe, ovumile ukubheka umsebenzi wokuhlawula, kanye nombhali wombiko azethule enkantolo yokuziphatha kwabafundi ukwethula umbiko mathupha uma inkantolo imdinga ukuba enze lokho.

23.1A Ngokuhambelana nokumiswe uMthetho 23.5, lapho iNkantolo ithola ummangalelwa enecala lokudlwengula kanye/noma ukudlwengula ngempoqo, njengokuchazwa kwakho eMthethweni i-Sexual Offences Act 32 yangonyaka wezi-2007, ngaphezu kwesigwebo esibekwe ngokoMthetho 23.1, umfundi kumele axoshwe ngokoMthetho 23.1.7.

23.1B Ngokuhambelana nokumiswe uMthetho 23.5, lapho iNkantolo ithola ummangalelwa enecala lokudlwengula kanye/noma ukudlwengula ngempoqo, njengokuchazwa kwakho eMthethweni i-Sexual Offences Act 32 yangonyaka wezi-2007, ngaphezu kwesigwebo esibekwe ngokoMthetho 23.1, umfundi kumele axoshwe ngokoMthetho 23.1.7. ngaphandle, uma kunezingqinamba ezithile ezifanele ukubhekisiswa, ngokubona kweNkantolo.

23.1C Ngokuhambelana nokumiswe uMthetho 23.5, lapho iNkantolo ithola ummangalelwa enecala lokudlwengula kanye/noma ukudlwengula ngempoqo, njengokuchazwa kwakho eMthethweni i-Sexual Offences Act 32 yangonyaka wezi-2007, ngaphezu kwesigwebo esibekwe ngokoMthetho 23.1, umfundi kumele axoshwe ngokoMthetho 23.1.7. ngaphandle, uma kunezingqinamba ezithile ezifanele ukubhekisiswa, ngokubona kweNkantolo

23.2 Ngephezulu kwanoma yisiphi isigwebo esikhishiwe ngaphansi komthetho 23.1.1 kuya ku 23.1.10 ngenhla, lapho ukungaziphathi kahle okuthintekayo kuphula umthetho 9.3 ngesikhathi kunokuhlolwa okusemthethweni eNyuvesi, ngaphandle uma iNkantolo ithola umfundi enecala ngokomthetho 9.3.1 omayelana nokungenisa kanye no 9.3.2 omayelana nokutholakala uphethe umakhal'ekhukhwini, iNkantolo iyogweba ngalendlela:

23.2.1 ukwesulwa kwayo yonke imiphumela yokuhlolwa kanye nemiphumela yokuhlolwa kwamanye amamojuli kuleyo simesta ethintekayo;

23.2.1Ukuhoxiswa noma ukuphucwa amamaki okuhlolwa kwesifundo lapho umfundi etholakale enecala lokukopela khona.

23.2.2 ukwephucwa iziqu, idiploma noma isitifiketi esitholakale ngenxa yokungaziphathi kahle;

23.2.3 uma kungekho zizathu eziphikisayo, umfundi angamiswa eNyuvesi isikhathi esingangaba amasimesta amabili.

23.3 Ngephezulu kwesigwebo esikhishwe kumthetho 23.1.1 kuya ku 23.1.10 lapho ukungaziphathi kahle kuthintene nokungathembeki, ukuntshonstha imiqondo yabanye iNkantolo ingayalela ukuthi kwesulwe iziqu, idiploma noma isitifiketi esitholakale ngokungathembeki.

23.4 Uma ummangalelwa ophambi kweNkantolo kuyinhlangano yabafundi ethweswa icala ngokomthetho 20, iNkantolo ingenza lokhu:

23.4.1 ingagweba ngokwezigwebo eziku 23.1.1 kuya ku 23.1.10, lapho uma isigwebo kuyinhlawulo, iNkantolo iyonquma ukuba wonke amalungu eqembu akhokhe ngokokunquma kweNkantolo isamba esizokhokhwa yilungu ngalinye,

23.4.2 ukumiswa kokusebenza kwenhlangano ngokwesikhathi esinqunyiwe.

23.5 Ngaphambi kokukhipha isigwebo ikantolo iyonika umfundi noma omumele ithuba lokuletha ubufakazi, okuthinta nolwazi oluyimfihlo ngokubhala nokubiza ofakazi ekudingidweni kwesigwebo. Inkantolo iyobuye inike iNyuvesi ithuba lokubeka uhlangothi lwayo ngokwezidingo zeNyuvesi noma zabafundi baseNyuvesi oluyobhekwa yiNkantolo ngaphambi kokuthatha isinqumo. Inkantolo iyobheka ubufakazi obuphambi kwayo, imiphumela yomfundi yaphambilini kanye nokuziphatha komfundi eNyuvesi ngaphambi kokukhipha isigwebo.

23.6 Ekutholakaleni komfundi enecala wagwetshwa inkantolo, ngaphandle uma inkantolo ikhiphe omunye umyalelo, igama lomfundi nesikole sakhe kuyoshicilelwa eNyuvesi ngokwemiyalelo yenkantolo

23.7 Icala liyoqoshwa emabhukwini omfundi kuze kuphele isikhathi sokufunda komfundi eNyuvesi, ngaphandle uma iNkantolo iyalela ukuthi:

23.7.1 irekhodi lomfundi lingaqoshwa, noma

23.7.2 lokhu okuqoshwe erekhodini lomfundi kuhlale khona

Akukho okuqoshwe lapho okuyophambana nomthetho 32.

23.8 Umfundi otholwe enecala lokungaziphathi kahle uyokwelulekwa ukuthi acele ukwedlulisa icala liye kuMkhadlu Wenyuvesi.

23.9 Ekuphothulweni kwecala, Ihhovisi Lezokuziphatha Kwabafundi liyokwazisa umfundi ngokubhaliwe ngokomthetho **21**, ngomphumela wecala kanye nesigwebo esikhishiwe kanye nomyalelo weNkantolo, uma ukhona, owenziwe ngokomthetho 23.6 no 23.7, kanye nenqubo yokudlulisela icala.

24. IZINKANTOLO ZEZINDAWO ZOKUHLALA

24.1 Lapho uMshushisi edlulisela udaba, noma emva kokuxhumana noMshushisi, umfundi othweswa amacala okungaziphathi kahle njengokuchazwa kwawo kumthetho 9, noma nokuthintene, nendawo yokuhla uyovela phambi kweNkantolo Yendawo Yokuhlala.

24.2 Inkantolo Yasendaweni Yokuhlala iyoba nalabantu:

24.2.1 UMengameli weNkantolo yokuPhathwa Kwabafundi.

24.2.2 Uphathi Wezindawo Zokuhlala Zabafundi, noma kube uMphathi Wendawo Yokuhlala ethintekayo, kanye

24.2.3 Nobhekelele Inhlalakahle Ezindaweni Zokuhlala Abafundi kuleyondawo ethintekayo, okhethwe yiDini Enkulu Yezabafundi; kanye

24.2.4 NoSihlalo Wekomidi Lendawo Yokuhlala noma okhethwe nguye oyilungu Lekomidi Lendawo Yokuhlala.

25. Inqubo Enkantolo Yezindawo Zokuhlala

25.1 Icala lokungaziphathi kahle liyokwethweswa umfundi uma:

25.1.1 Ngokophethe Indawo Yokuhlala kubonakala ukuthi umfundi uphule umthetho, okuchaziwe ngokomthetho 9, kodwa emva kukuxhumana noMshushisi; noma

25.1.2 uMshushisi ayalele iNkantolo Yezindawo Zokuhlala ukuba ibheke lolu daba.

25.2 Umfundi othweswa icala lokungaziphathi kahle uyobizwa ukuzovela phambi kweNkantolo Yezindawo Zokuhlala ngokwesaziso esibhaliwe esingekho ngaphansi kwamahora angama-72 esibhalwe ngokulandela umthetho 21.

25.3 Ekuquleni icala, iNkantolo iyosebenza njengenqubo yezinkantolo futhi iyobiza iphinde ifake imibuzo kofakazi abangavela bezofakaza.

25.4 Uma umfundi, emva kokunikwa isaziso sokuzovela phambi kweNkantolo, futhi engagunyazwanga yiNkantolo, ehluleka ukuvela phambi kweNkantolo ngokomthetho 25.2, iNkantolo iyoqhubeka engekho, ngaphandle uma umfundi ezoletha imibhalo ezobhekwa yiNkantolo.

26. Inqubo Yokukhishwa Kwesigwebo Enkantolo Yendawo Yokuhlala

26.1 Uma kwenzeka iNkantolo Yendawo Yokuhlala ithola umfundi enecala lokungaziphathi kahle iyomnika esisodwa noma ngaphezulu kulezi zigwebo;

26.1.1 ukuthethiswa noma isexwayiso, noma kokubili;

26.1.2 umyalelo wokuba kukhokhwe inhlawulo ngomonakalo owenziwe empahleni noma ukulahlekelwa okwenzekile ngosuku olumiswe inkantolo

26.1.3 inhlawulo engeqile kwiR1000, okumele ikhokhwe ngosuku olunqunywe yiNkantolo;

26.1.4 ukuphucwa wonke amalungelo noma ambalwa endawo yokuhlala;

26.1.5 ukwenza imisebenzi yendawo ngokwesikhathi esiyonqunywa yiNkantolo esingeke sibe ngaphezu kwesimesta eyodwa;

26.1.6 ukumiswa isikhathi esinqunyiwe endaweni yokuhlala noma ezingxenyeni zayo;

26.1.7 ukuxoshwa endaweni yokuhlala, okuncike ekubikweni kwesigwebo kuMabhalane Omkhulu futhi ngeke kuqale ukusebenza ngaphambi kokuvunywa nguMabhalane Omkhulu yena ozobe esazisa umfundi ukuthi uyaxoshwa endaweni yokuhlala okungukuthi lapho kuphume isigwebo sokuxoshwa komfundi endaweni yokuhlala esivunywe uMabhalane Omkhulu ngokuhambisana nalomthetho, uma futhi uMabhalane Omkhulu esho ngenye indlela, umfundi ngeke amukelwe kwenye indawo yokuhlala.

26.2 Uma umfundi esetholwe enecala uyokwelulekwa ngamalungelo ache okudlulisa icala ngaphansi komthetho 30

UKULENGISWA KWESIGWEBO NOKUDLULISA ICALA

27. Ukulengiswa Kwezigwebo

27.1 Inkantolo Yokuziphatha Kwabafundi noma iNkantolo Yezindawo Zokuhlala eyakheke ngokwalemithetho ingayalela ukuthi noma yisiphi isigwebo esikhishwe yiNkantolo ethintekayo silengiswe isikhathi esingeqi esikhathini lapho umfundi esengumfundi eNyuvesi nalapho iNkantolo ibona kufanele ngaphandle uma isixwayiso noma ukuthethiswa futhi uma wezigwebo ezikumthetho 23.1.7 zingeke zilengiswe;

27.2 Uma isigwebo esikhishiwe silengisiwe kodwa umfundi aphule imibandela ebekiwe iNkantolo ebeke isigwebo sokuqala ingenza lokhu:

27.2.1 iyoyalela ukuba isigwebo esilengisiwe sisetshenziswe; noma

27.2.2 iphinde iyalele ukuqhubeka kokulengiswa kwesigwebo ngaphansi kwemibandela efanayo noma eyehlukile; noma

27.2.3 yenze eminye imiyalelo eyibona ifanelekile emayelana nesigwebo esilengisiwe

28. Ukudluliswa Kwecala

28.1 Umfundi noma iNyuvesi ingadlulisa icala ngokwendlela ehlinzekelwe lapha ekubhekaneni nokulahlwa yicala ngokuphula le mithetho noma ekubhekaneni nesigwebo esikhishwe yiNkantolo Yezokuziphatha Kwabafundi noma Yezindawo Zokuhlala. Ngalezi zizathu ukudluliswa kwecala kungathinta isicelo sokubuyekezwa ukuqulwa kwecala ngezizathu zokuthi iNkantolo ayiyilandelanga imithetho yobulungiswa.

28.2 Ngaphandle uma iNkantolo iyalela ngenye indlela ngesikhathi kukhishwa isigwebo, ukudonswa kwesigwebo esikhishwe yiNkantolo kuyolengiswa kuze kudlule ukudluliswa kwecala ngokulandelwa kwemithetho ebekiwe ngaphandle uma kungumbono ka Mabhalane Omkhulu ukuthi kuyosiza iNyuvesi, noma kuyosiza Umfundi ukuba isigwebo singalengiswa, uMabhalane Omkhulu angayalela ukuba ukuba isigwebo singalengiswa, uMabhalane Omkhulu uyena oseyobona ukuthi isigwebo silengiswe noma cha.

29. Ukudluliswa Kwecala kusuka eNkantolo Yokuziphatha Kwabafundi Kuya Ekomidini Lokudlulisa Amacala Lomkhandlu

29.1 Umfundi otholwe enecala yiNkantolo Yokuziphatha Kwabafundi angalidlulisa icala noma akhononde ngesigwebo, noma kokubili kanti neNyuvesi ingadlulisa icala uma ikhononda ngokungatholwa necala komfundi noma isigwebo seNkantolo singadlulela eMkhandlwini WeNyuvesi ngokwendlela ebekwe kulomthetho.

29.2 Umdlulisicala (okungaba umfundi noma iNyuvesi) uyofaka isicelo sokudlulisa icala eNkantolo Yokuziphatha Kwabafundi liya kuMkhandlu WeNyuvesi; ngendlela okulandiswa ngayo kulomthetho.

29.3 Isicelo esifana nalesi esincike ebufakazini obethuliwe nom/kanye nenokwethulwe eNkantolo Yokuziphatha Kwabafundi, siyokwenziwa kanje:

29.3.1 siyokwethulwa ngomlomo, ngokubeka izizathu zokwenza lesi sicelo sokudlulisa icala emva kokuphuma kwesigwebo futhi ngaphambi kokuphothulwa kokusebenza kweNkantolo; noma

29.3.2 isaziso esibhaliwe esicacisa izizathu zokudlulisa icala ekumele sifakwe eHhovisi Lezokuziphatha Kwabafundi kungakadluli izinsuku ezintathu kuphothulwe icala.

29.4 Uma iNkantolo ibona isicelo sinethuba lokuba yimpumelelo, iyovumela ukuba kudluliswe icala iphinde yazise iHhovisi Lezokuziphatha Kwabafundi kanye noMabhalane Omkhulku ngesinqumo sayo. Ihhovisi Lezokuziphatha Kwabafundi liyokwazisa omele umfundi noma uma umfundo ezimele, umfundi uqobo lwakhe uma ezimele.

29.5 Uma iNkantolo yenqaba ukudlulisa icala lomfundi ogwetshwe ngaphansi kwalemithetho, iyoyalezela iHhovisi Lezokuziphatha Kwabafundi noMabhalane Omkhulu. iHhovisi Lezokuziphatha Kwabafundi liyokwazisa omele umfundi noma umfundi uqobo lwakhe. Uma kunje:

29.5.1 umfundi anganxenxa uMkhandlu ukuba uvumele ukudluliswa kwecala.

29.5.2 lokhu kunxenxa kuyobhalwa futhi kubalule izizathu zalesi sicelo futhi siyofakwa eHhovisi LikaMabhalane Omkhulu kungakadluli izinsuku ezilishumi zokusebenza emva kukuthi iNkantolo isichithile isicelo sokudlulisa.

29.5.3 uMabhalane Omkhulu uyodlulisela lokhu kunxenxa kuMqondisi Wezomthetho oyokubheka emva kwalokho aluleke uSihlalo woMkhandlu.

29.5.4 uSihlalo woMkhandlu uyovumela noma aphikise lokhu kunxenxa.

29.5.5 uma ukunxenxa kuphumelela, ukudlulisa kuyolalelwa ngokuhambisana nalemithetho.

29.5.6 Isinqumo sikaSihlalo woMkhandlu siyoba ngujuqu futhi akukho kunxenxa okuyolalelwa noma kubhekwe.

29.6 Uma iNkantolo noma uSihlalo woMkhandlu evuma ukuba kudluliswe icala, umfundi kuyomele abhale amaphuzu aphikisa ngawo isigwebo okuyomele afakwe eHhovisi Lezokuziphatha Kwabafundi kungakadluli izinsuku eziyishumi zokusebenza emva kokuthola isaziso ngokomthetho 29.4 noma 29.5. Uma umdlulisicala engawafaki lamaphuzu, uMabhalane Omkhulu uyoba nelungelo lokusebenzisa okugunyazwa umthetho 28.2

29.7 Ngaphandle kokuyalela ngenye indlela koMkhandlu WeNyuvesi, ukudlulisa kuyosuselwa kokuqoshwe ngesikhathi secala eNkantolo Yezokuziphatha Kwabafundi; ngaphandle uma umdlulisicala efaka isicelo kuMabhalane Omkhulu ecela Ikomidi Lokudlulisa Amacala ukuba lamukele ubufakazi obusha. Lobu bufakazi kufanele:

29.7.1 budluliselwe kuMabhalane Omkhulu kungakadluli izinsuku eziyishumi kuphume isaziso seNkantolo ngokomthetho 29.4 noma ukuvunyelwa kokunxenxa ngokomthetho 29.5; futhi

29.7.2 acacise ngobunjalo nenhloso yalobu bufakazi namagama ofakazi uma bekhona;

29.7.3 kuyophikiswana ngabo phambi kweKomidi Lokudlulisa Amacala ekuqaleni kokulalewa kokudlulisa icala;

Ikomidilokudluliselwa kwamacala, uma libona kuyingxenye yobulungiswa, lingavumela liphinde lilale ubufakazi obengeziwe njengengxenye yokudlulisa. Uma iKomidi lisichitha lesi sicelo, leso sinqumo siyoba ngujuqu.

29.8 Uma iNkantolo ikuvumela ukudlulisa icala noma uSihlalo woMkhandlu ekuvumela ukudluliswa kwecala, uMabhalane Omkhulu uyodlulisela kwiKomidi Lokudlulisa Amacala loMkhandlu:

29.8.1 isaziso sokudlulisa icala,

29.8.2 okuqoshiwe ngenkathi kuqulwa icala,

29.8.3 umbiko owenziwe yiNkantolo ngokomthetho 22.9

29.8.4 izimpikiswano ezifakwa ngokomthetho 29.6, kanye

29.8.5 nanoma yisiphi isicelo esifakwa ngokomthetho 29.7.

29.9 Uma kungenasicelo esenziwe ngokomthetho 29.7, iKomidi Lokudlulisa Amacala liyobheka liphinde linqume ngokwamaphepha afakwe ngokomthetho 29.8

29.10 Uma kunesicelo esifakiwe ngokomthetho 29.7, futhi siphumelele ngokweKomidi Lokudlulisa Amacala, uMabhalane Omkhulu uyonika umdlulisicala kanye naloyo aphikisana naye amahora angama 120 ngesaziso esibhaliwe mayelana nendawo kanye nesikhathi sokulalelwa kobufakazi obusha. Kulelicala:

29.10.1 kuyobizwa ofakazi abasha baphinde bafakwe imibuzo;

29.10.2 emva kokulalela ubufakazi, iKomidi Lokudlulisa Amacala liyovala ukulalwa kwalobu bufakazi ngokomthetho 29.8.

29.11 Ukudlulisa icala kuyocubungulwa yiKomidi Lokudlulisa Amacala loMkhandlu elinalamalungu:

29.11.1 amalungu amathathu akhethwe uSihlalo woMkhandlu kubantu abakhethelwe lomsebenzi eMkhandlwini; uma nje lamalungu engeke abe yiwo wodwa njengamalunga alesi sigungu, futhi

29.11.2 uSihlalo weKomidi uyoba umuntu ongummeli.

29.12 Ikomidi Lokudlulisa Amacala liyovumela noma liphikise ukudluliswa kwecala ngokuphelele noma ngokuyingxenye futhi lesi sinqumo siyoshicilelwa ngokomthetho 23.6; uma isinqumo salelikomidi siyobikwa emhlanganweni olandelayo ojwayelekile woMkhandlu.

29.13 Lo mthetho uyosebenza ngendlela efanayo uma isicelo sokudlulisa icala sifakwa yinhlangano ethweswa icala ngokomthetho 20 noma ngokudlilisa okwenziwa yiNyuvesi ngokwesigwebo esikhishelwe lenhlangano.

29.14 Uma kungenakudluliswa kwesigwebo noma icala njengokukusho komthetho futhi uMkhandlu unesizathu sokukholelwa wukuthi umfundi ugwetshwe engenacala, noma isigwebo asinikiwe sikhulu kakhulu, uMkhandlu ungaqoka ithimba elibalulwe kumthetho 29.12 elizoba yikomidi elizobheka lesi sigwebo noma lelicala lenze iziphakamiso kuMkhandlu ngalolu daba ngaphandle uma ikomidi lingeke liphakamise kuMkhandlu ukuthi icala lisulwe noma isigwebo sihoxiswe ngenxa yokungenzi ngendlela esemthethweni ngenkathi kuthethwa icalphambi kweNkantolo Yezokuziphatha Kwabafundi okungazange kwaba nomphumela ongemuhle wokungabikhona kobulungiswa.

30. Ukudlulisa icala kusuka eNkantolo Yezindawo Zokuhlala kuya Enkantolo Yezokuziphathwa Kwabafundi

30.1 Ukudlilswa kwecala noma isigwebo yiNkantolo Yasezindaweni Zokuhlala kuyolalelwa yiNkantolo Yezokuziphatha Kwabafundi njengokusho kwalomthetho.

30.2 Umfundi ogwetshwe yiNkantolo Yezindawo Zokuhlala unelungelo lokudlulisa icala, ngokubhala isaziso, esyofakwa eHhovisi Lezokuziphatha Kwabafundi kungakadluli izinsuku ezintathu kukhishwe isigwebo yiNkantolo Yezindawo Zokuhlala.

30.3 Icala lokudluliselwa liyolalelwa iNkantolo Yezokuziphatha Kwabafundi njengokulandisa kwezimiso zomthetho 16.

30.4 Uma ukudluliswa kwecala kumayelana nokugwetshwa komfundi, iNkantolo Yezokuziphatha Kwabafundi iyolalela amacala athweswe umfundi ngokwendlela ye *de novo* konke kuyoqhutshwa ngokomthetho 22.

30.5 Uma ukudluliswa kwecala kumayelana nesigwebo kuphela, iNkantolo Yezokuziphatha Kwabafundi iyolalela ubufakzi obusekela noma obuphikisa isigwebo.

30.6 Inkantolo Yezokuziphatha Kwabafundi ingavumela noma iphikise ukudlulisa icala ngokuyingxenye noma ngokuphelele futhi ingehlisa noma yenyuse isigwebo futhi ingayalela ukuba isinqumo sishicilelwe ngokomthetho 23.6, futhi lesi sinqumo singujuqu.

30.7 Konke okumayelana nalomthetho kuyosebenza nanoma isiphi isimo sokudlulisa icala okwenziwa yinhlangano yabafundi ngokomthetho 20.

OKUNHLOBONHLOBO

31. Izinhlawulo Nezinxephezelo

31.1 Zonke izinhlawulo nezinxephezelo ziyokhokhwa umfundi noma inhlangano yabafundi ngaphansi kwalemithetho kuMphathizimali weNyuvesi kungakapheli isikhathi esinqunyiwe noma uma ledlulisiwe icala njengongokulandisa kwemithetho, kungakapheli izinsuku ezingama 21 kuphume isinqumo.

31.2 Isikhathi sokukhokha siyokwengezwa kuphela uma umfundi noma inhlangano yabafundi ifaka isicelo kuMabhalane Omkhulu, lesi sengezo siyogunyazwa ngokubona kukaMabhalane Omkhulu ebambisene noMshushisi.

31.3 Uma kuba nesimo lapho umfundi engakhokhi inhlawulo noma isinxephezelo ngesikhathi esinqunyiwe yiNkantolo noma uMshushisi (njengesimo secala), noma emva kwesengezo esifakwe uMabhalane Omkhulu ngokomthetho 31.2 isamba leso esingakhokhiwe siyofakwa emalini yesikole yomfundi.

31.4 Uma kuba nesimo lapho inhlangano yabafundi ingakhokhi inhlawulo noma isinxephezelo ngesikhathi esinqunyiwe ngokwalomthetho, uMabhalane Omkhulu emva kokukhipha isexwayiso esibhalwe phansi, angayimisa lenhlangano ize ikhokhe.

31.5 Zonke izinhlawulo nezinxephezelo ezikhokhwa ngokwalemithetho, ziyofakwa esikhwameni seNyuvesi esingujikelele.

32. Ukwesulwa kwesigwebo noma kwecala emabhukwini omfundi

32.1 Wonke umuntu ogwetshwe yiNkantolo esungulwe ngokwalemithetho mayelana nokungaziphathi kahle, angafaka isicelo sokuba leso sigwebo noma icala lesulwe nguMabhalane Omkhulu emabhukwini akhe.

32.2 Umabhalane Omkhulu uyothintana nePhini Lomphathi Wenyuvesi noma iNhloko Yesikole lapho umfundi ebhaliswe khona, emva kokuhlaziya konke okufanele okumbandakanya nohlobo lokungaziphathi kahle, angayalela ukuthi kusulwe icala noma isigwebo emabhukwini omfundi.

33. Isicelo sokubuyiswa komfundi obexoshiwe

33.1 Umuntu oxishiwe ngokwalemithetho angenza isicelo sokubhaliswa kabusha eNyuvesi emva kweminyaka eyisikhombisa.

33.2 Isicelo sokubhaliswa kabusha ngeke sithathwe njengesicelo sokwesulwa kwesigwebo noma icala ayethweswe lona.

33.3 Isicelo sokubhaliswa kabusha kumele sibhalwe, sichaze ngokugcwele izizathu zokufaka isicelo futhi kumele sithunyelwe kuMabhalane Omkhulu

33.4 Isicelo sokubhaliswa kabusha siyobhekwa yikomidi labantu abathathu elikhethwe uSihlalo Womkhandlu Wenyuvesi.

33.5 Ikomidi lingacela imininingwane eminye futhi licele uMabhalane Omkhulu, ummangali, nanoma yimuphi umuntu onendaba naloludaba abhalele ikomidi ezwakalisa umbono wakhe ngalesi sicelo. Ofake isicelo uyoba nelungelo lokuthola amakhophi emibhalo yalezi zimpendulo aphinde aziphendulele ngokubhala.

33.6 Ikomidi liyothatha isinqumo ngendlela elizosebenza ngayo kanye nezikhathi zezimpendulo, amaphepha azofakwa kanye nezimpendulo.

33.7 Ikomidi lingathatha isinqumo lisebenzisa okubhaliwe noma libize abantu ukuba bazozikhulumela.

33.8 Ikomidi lingavumela ukubhalisa kabusha uma lenelisekile ngokuthi umfundi uzokwamukelwa futhi linesiqiniseko sokuthi yonke into ime ngomumo. Ekuthatheni lesi sinqumo, ikomidi liyobheka lokhu okulandelayo:

33.8.1 isimo kanye nobucayi kwecala;

33.8.2 isikhathi esesidlulile emva kokuxoshwa;

33.8.3 imibono nemizwa kaMabhalane Omkhulu mayelana nesicelo;

33.8.4 imibono nemizwa yommangali kanye nabanye abanendaba nalolu daba mayelana nesicelo;

33.8.5 izinga lokuzisola elikhonjiswa ofake isicelo;

33.8.6 izinyathelo ezithathwe ofake isicelo ukuze azisize (ukuqeqeshwa, ukwelashwa, ukwelulekwa) ukwenza impilo yakhe ibe ngcono.

33.8.7 ukuziphatha kofake isicelo emva kokuxoshwa.

33.9 Uma ikomidi lisichitha isicelo, asikho esinye isicelo esiyobhekwa yiNyuvesi.

33.10 Uma ikomidi livumela isicelo, lokhu kuyovumela ofake isicelo ukuba afunde eNyuvesi. Isicelo saloluhlobo kumele sibhekwe ngokusisekelayo ngokuhambisana nemithetho yokufunda kanye nemigomo ebheke ukwamukelwa kwabafundi.