

# **NUMSA's Staff Disciplinary Code and Procedure**

as adopted at the Numsa Central Committee  
17-19 June 1999

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## **PREAMBLE**

### **1. OBJECTIVES**

- 1.1 The objective of discipline and a disciplinary procedure is to ensure that the Union provides the highest possible quality of service to our membership in accordance with the principles set out in the Constitution and the resolutions passed by the Structures;
- 1.2 The objective of this procedure is to ensure that a fair process is applied, emphasising correction rather than sanction, when the performance of an official is not in compliance with the above principles.

### **2. DEFINITIONS**

- 2.1 Official - An official is any person in the paid employ of Numsa, including the General Secretary, Deputy General Secretary and Regional Secretaries.
- 2.2 Rules and Standards – A rule or standard is any rule or standard set out in this Disciplinary Code and Procedure, the Conditions of Service and the Code of Conduct as well as other established rules and standards not specifically set out in any document.

### **3. DISCIPLINARY ACTION**

The Central Committee has the power to engage and dismiss any employee of the Union. The Central Committee hereby delegates its powers as follows:

#### **3.1 INFORMAL ACTION**

In circumstances in which the breach of a rule or failure to meet a required standard is not serious enough to warrant a final written warning or dismissal, the appropriate Local Chairperson, Regional Secretary or General Secretary may issue a verbal warning or first written warning after discussion with and counselling of the official.

## 3.2 FORMAL ACTION

In circumstances in which the breach of a rule or failure to meet a required standard is serious, or in cases of repeated breaches of a rule or failure to meet the required standard, formal disciplinary action will be instituted and, when appropriate, the Union may issue a final written warning valid for six months or dismiss the staff member with or without notice or, with the agreement of the official, suspend him/her without pay for a given period, depending on the circumstances, after a formal disciplinary enquiry.

### 3.2.1 Disciplinary enquiries

#### LOCAL LEVEL

- 3.2.1.1 The local structure may only issue verbal warnings or a written warning with the exception of final written warnings to officials who are employed in the local offices.
- 3.2.1.2 Local structures may not hold hearings which may result in a final written warning or in a dismissal. The regional chairperson or a person authorised by him/her will chair such hearing.
- 3.2.1.3 The local chairperson, or person authorised by him, may chair disciplinary hearings only after the local has drafted charges in collaboration with the National Legal Officer.
- 3.2.1.4 Warnings handed down in terms of 3.2.1.3 must be appealed against to the regional chairperson and will be heard by him/her or a person authorised by him/her.

#### REGIONAL LEVEL

- 3.2.1.5 The regional structure may hold hearings for officials employed in the regions and locals that may result in a final written warning or dismissal.
- 3.2.1.6 The regional vice-chairperson or person authorised by him/her will chair hearings which will not result in a final written warning or dismissal.
- 3.2.1.7 The regional chairperson or person authorised by him/her will chair hearings which may result in a final written warning or dismissal.
- 3.2.1.8 Warnings handed down in terms of 3.2.1.6 must be appealed against to the regional chairperson and will be heard by him/her or a person authorised by him/her.

3.2.1.9 Warnings handed down in terms of 3.2.1.7 must be appealed against to the second vice-president and will be heard by him/her or a person authorised by him/her.

## **HEAD OFFICE LEVEL**

3.2.1.10 National structures may hold hearings for officials employed in head office that may result in a final written warning or dismissal.

3.2.1.11 The second vice-president or person authorised by him/her will chair hearings that will not result in a final written warning or dismissal.

3.2.1.12 The first vice-president or a person authorised by him/her will chair hearings which may result in a final written warning or dismissal.

## **APPEALS**

3.2.1.13 All appeals against dismissals must be lodged with the president of the union. The president or a person authorised by him/her will hear such appeals.

3.2.1.14 The decisions arising out of appeals are final and binding. Officials seeking further relief may make use of statutory procedures.

## **DISCIPLINARY ENQUIRIES**

3.2.1.15 The official concerned will be given reasonable written notice of the allegations against him/her, the date, time and venue of the hearing, of his/her right to call and cross-examine witnesses and of his/her right to be represented by a member of staff of his/her choice.

3.2.1.16 At the enquiry, the official will be given an opportunity to state his/her case in response to the allegations. Should the official fail to appear at the disciplinary enquiry, the enquiry may proceed in his/her absence, at the discretion of the chairperson.

3.2.1.17 A taped or written record of the proceedings will be kept by the Union.

3.2.1.18 If the chairperson finds the official guilty of the allegations, he/she will consider the gravity of the misconduct, the official's length of service, previous disciplinary record and personal circumstances, the nature of the job, the circumstances of the infringement and any other relevant factors in deciding the appropriate penalty.

3.2.1.19 The official will be advised, in writing, of the decision of the chairperson, the reasons for the decision and of the penalty and advised of his/her right to the Commission for Mediation Conciliation and Arbitration.

- 3.2.1.20 The official shall be advised of his/her right to appeal, which appeal must be lodged with the appropriate office-bearer within three days of the decision.
- 3.2.1.21 The Notice of Appeal shall be in writing and shall concisely set out the grounds of appeal.
- 3.2.1.22 The appeal shall be heard and a decision given, within a reasonable time.

### 3.2.2 Suspension pending a Disciplinary Enquiry

- 3.2.2.1 In circumstances in which serious allegations involving dishonesty are being investigated or real fear exists that an official may interfere with prospective witnesses, the General Secretary/Deputy General Secretary may suspend the official, on full pay, pending the enquiry.
- 3.2.2.2 The official shall be advised of the reason for the suspension and given an opportunity to state any opposition he/she may have to such suspension.

## 4. CONDUCT WHICH MAY GIVE RISE TO DISCIPLINARY ACTION

The Union expects its employees to adhere to certain standards in the way in which they carry out their duties. Failure to adhere to these standards is considered a breach of the rules and will lead to disciplinary action being taken.

- 4.1 Disciplinary action may be taken if an official acts against one or more of the following:
  - 4.1.1 the policy and/or interests of the Union;
  - 4.1.2 any known or established standards of work or behavior;
  - 4.1.3 any terms and conditions contained in the official's conditions of employment or letter of appointment;
  - 4.1.4 any matters in this Disciplinary Code and Procedure;
  - 4.1.5 any standards set out in the Code of Conduct.
- 4.2 Without limiting the generality of 4.1, the following breaches may give rise to disciplinary steps being taken against an official:
  - 4.2.1 any act which is detrimental to the administration, discipline and effectiveness of the Union;

- 4.2.2 failure or refusal to carry out decisions of the Union;
- 4.2.3 negligence or reluctance to perform duties;
- 4.2.4 being under the influence of drugs or alcohol while on duty;
- 4.2.5 sexual assault;
- 4.2.6 sexual harassment;
- 4.2.7 publishing or using any information obtained during the course of duty without first obtaining permission from the Secretariat;
- 4.2.8 earning commission or payment from anyone other than the Union for duties performed at or for the Union without first obtaining permission therefore;
- 4.2.9 publishing or otherwise disseminating confidential information;
- 4.2.10 misappropriation of money or property;
- 4.2.11 maliciously damaging or abusing the Union's property;
- 4.2.12 absenteeism, continuous late arrival at or early departure from or absence from work or duties related to the official's work or abuse of leave;
- 4.2.13 submitting false reports or statements including information provided on an application for employment with the Union,
- 4.2.14 engaging in bribery or accepting bribes for work done in connection with an official's employment with the Union;
- 4.2.15 negligent control of cash and/or documents which are entrusted to an employee or otherwise at her/his disposal;
- 4.2.16 criminal activity/conduct while in the employ of the Union or that might have detrimental effect on the reputation of the Union;
- 4.2.17 malicious use of offensive language including racial and gender specific language;
- 4.2.18 misrepresentation/fraud or otherwise giving false information relating to Union activities which can be detrimental to the operations of the Union;
- 4.2.19 falsification of any documents, claim forms or records;
- 4.2.20 violence or incitement to violence against officials or members of the Union.

## **5. ADDITIONAL FACTORS WHICH MAY GIVE RISE TO DISMISSAL**

### **5.1 Incapacity – Poor Work Performance**

Poor work performance is not regarded as misconduct and is not dealt with as a disciplinary offence. However, lack of competence will be grounds for dismissal if, after following these guidelines, the Union is still unable to achieve the desired performance:

- 5.1.1 the official must be made aware of the standards required for his/her job;
- 5.1.2 the official must be informed that she/he is not performing his/her duties in compliance with the required standards;
- 5.1.3 the official must be afforded a reasonable opportunity to reach the required standards. The official maybe assisted through appropriate means such as counselling, training and evaluation. The appropriateness of the measures will be determined by the Regional Secretary;
- 5.1.4 the official must be given a reasonable opportunity to achieve the required standard of performance;
- 5.1.5 the official must be informed of the consequences of her/his failure to achieve the required standards, i.e. that dismissal will be used as an option of last resort;
- 5.1.6 if the official fails to achieve the required standard, the official may be dismissed without any further enquiry and without notice. The termination of employment must occur only where the lack of improvement is evident and where there is no suitable alternative employment available.

### **5.2 Incapacity – Ill health or Injury**

- 5.2.1 The Union must determine the extent of the incapacity;
- 5.2.2 If the official is likely to be absent for an unreasonably long period of time, the Union will investigate all possible alternatives short of dismissal;
- 5.2.3 If the Union determines that the official is permanently incapacitated, the Union will consider adapting the position to accommodate the illness or injury and alternative employment will be ascertained and considered;
- 5.2.4 Prior to any change in the official's conditions of employment, the official's views will be ascertained and considered;

5.2.5 The official will be entitled to representation by a fellow employee at such an enquiry;

5.2.6 If no reasonable alternative exists, the Union may dismiss the official on notice.

## **6. CODE OF CONDUCT**

6.1 The Union's objectives are;

- to regulate relations between its members and their employers;
- to defend, protect and further the interests of its members in relation to their employers;
- to improve wages and working conditions of its members;
- to strive for a decent standard of living for all its members;
- to resist retrenchment and fight for full employment;
- to set up effective Collective Bargaining machinery;
- to democratise its members' workplaces;
- to oppose any policy, practice or measure which will cause division or disunity amongst its members and workers in general;
- to work towards one federation of Trade Unions to unite and represent all workers in South Africa;
- to resist all forms of exploitation and oppression;
- to build a democratic and non-racial society;
- to struggle for a fair redistribution of wealth
- to build solidarity with workers and their unions in different countries around the world;
- to use every legitimate means to encourage all workers who are eligible for membership to become members;
- to promote working class unity and organisation;
- to establish and administer funds for the benefit of its members and/or their dependents;
- to encourage open and democratic political debates within the Union;
- to carry out democratic decision-making;
- to unite all workers in all the trades or industries in which Numsa operates, into one strong national union;

- to eradicate all forms of racism and sexism;
- to participate actively in the mobilisation of the broader working class.

All staff members have the right to join political organisations of their choice but do not have the right to form party-political factions within NUMSA.

6.2 The following conduct is expected of all Numsa officials:

- 6.2.1 to report to work in accordance with the specified hours of work;
- 6.2.2 organising staff are to submit monthly reports and minutes of constitutional meetings to their respective office-bearers
  - local organizers to local office-bearers and regional secretary;
  - regional teams including regional secretaries to regional office-bearers and to the national secretariat;
  - national organizers including general-secretary and deputy general-secretary to national office bearers.
- 6.2.3 to attend all staff meetings that are convened from time to time and all organisational structural meeting that are constitutionally obligatory;
- 6.2.4 to maintain a high level of discipline and efficiency and to promote the good image of NUMSA at all times;
- 6.2.5 to be fully conversant with all the policies, principles and agreements to which Numsa is party;
- 6.2.6 to obey requests and instructions issued by organisational structures and office-bearers including implementing and following-up all decisions made by these structures.

6.2.7 to be punctual and to honour all appointments;

6.2.8 to play an active role in promoting the aims and objectives of NUMSA set out in 6.1 above;

These objectives and standards can only be achieved under the leadership of a united working class, and Numsa officials are required to commit themselves to building a strong and democratic organisation run and controlled by workers through its mandated leadership.

## **7. NUMSA POLICY ON THE USE OF COMPUTERS**

The following points form part of every official's Terms and Conditions of Employment. Any official who does not adhere to these terms and conditions will have disciplinary action taken against them:

### **7.1 Privacy, Confidentiality and Ownership of Programs and Data:**

The Programs and Data accessed and used by every staff member remain at all times the property of Numsa. In accessing programs and data officials will, at all times, maintain the confidentiality of the information. Programs and data may only be used as a normal part of the official's job function and in terms of the Union's policies as laid down from time to time.

### **7.2 Use of Software:**

Officials will, at all times, use only approved Software supplied by the Union. If an official uses illegal software not licensed nor supplied by the Union, then the official shall be liable for the consequences thereof.

**7.3 Virus Protection:**

The Union provides anti-virus protection software and it is the duty of every official to ensure that all software and data imported into the Union's computer system is first checked with this anti-virus software.

**7.4 Computer Games:**

No official shall import any computer games of any description onto the Union's computer systems. No officials shall be allowed to play computer games during normal office hours.

**7.5 Pornography:**

No official shall import any pornography of any description onto the Union's computer systems.

**7.6 Use of Union Electronic Mail system:**

The Union's e-mail system shall be used primarily for Union business, and all e-mail boxes are subject to scrutiny at all times by Union officials/office-bearers. The Union is prepared to allow use of the e-mail system for a limited amount of private use outside of normal hours of work but reserves the right to monitor such usage and withdraw this privilege at any time.