



REGULATION ON DISCIPLINARY PROCEEDINGS AGAINST TEACHING STAFF

Art. 1

Purpose and scope

1. These regulations, issued pursuant Article 10 of Law 240/2010 and Paragraph 5 of Article 24 of the Statute, govern the procedures for conducting disciplinary proceedings against University of Cagliari lecturers.

Art. 2

Initiation of disciplinary proceedings - Censure

1. In the event that the Rector becomes aware of facts constituting disciplinary offences, whether by notification from persons inside or outside the university, he/she is obliged to promptly initiate disciplinary proceedings. The formal commencement of disciplinary procedures is marked by the submission of a notice of charges.

2. The exercise of disciplinary action by the Rector is preceded by a preliminary investigation, which is followed by a notice of charges and a simultaneous request for information or clarification, addressed to the member of teaching staff, concerning the facts that led to the initiation of the proceedings. Alongside the notice of charges and the request for clarification, a time limit of 15 calendar days is established, commencing from the notification of the request, within which the employee, professor or researcher, is required to submit written statements in their defence.

3. Within 30 days of receiving knowledge of the facts, and based on written statements presented in the employee's defence, the Rector may:

- order the file to be archived, notifying the person concerned,
- impose the sanction of censure,
- send the records of the proceedings to the Disciplinary Board.

4. Censure, which consists of an official reprimand for dereliction of duty, is imposed in writing by the Rector and must be duly motivated.

5. In the disciplinary proceedings, the general principles of compulsory disciplinary action, reasonable

duration, clarity and determinateness of the charges, equal footing in cross-examination, proportionality, and gradualness of the disciplinary offence shall apply.

6. Within the scope of the disciplinary proceedings, any communication, including the notification of charges, shall be made by certified e-mail, if the professor or researcher has a suitable mailbox, or by registered letter with return receipt, or by hand delivery. For all communications following the notification of charges, the professor or researcher may indicate a fax number available to them, in compliance with the principle of confidentiality.

Art. 3 Penalties more serious than censure

1. In the event that, subsequent to the examination of documentation and the clarifications provided by the individual concerned (as per Art. 2 para. 2), the Rector determines that a sanction greater than censure is applicable for the disciplinary offence, the Rector shall transmit the documentation to the Disciplinary Board within 30 days of becoming aware of the facts, formulating a reasoned proposal for the sanction.

Concurrently with the transmission of the documents to the Disciplinary Board, the Rector shall inform the accused of the date on which the documents were dispatched to the Board and of the invitation to submit any further written documents in defence, within a time limit not exceeding 15 calendar days, starting from the date of notification of the communication.

2. The Disciplinary Board will hear the Rector, or his/her delegate, and, upon receipt of the relevant documents and any additional written submissions in defence, will convene the employee subject to disciplinary proceedings for cross-examination within five working days.

3. It is the employee's right to be assisted by an attorney or a representative of the trade union association to which he or she belongs or to which he or she provides authorisation.

4. The employee subject to disciplinary proceedings, or to the person delegated to represent them, shall be granted access to all investigative documentation pertaining to the proceedings against them.

5. After receiving the relevant documents and having heard the employee subject to the disciplinary procedure, the Disciplinary Board shall deliver a reasoned and binding opinion on the Rector's proposal. This opinion must address two key aspects: firstly, the relevance of the facts from a disciplinary point of view and, secondly, the nature of the sanction to be imposed. The Disciplinary Board through the Rector, is then responsible for forwarding the documents to the Board of Directors for the adoption of the subsequent decision.

6. The Disciplinary Board may, for the purposes of its investigation, request the gathering of further documents. The Rector shall be obliged to carry out the preliminary investigations of the Disciplinary Board. In such cases, the time limit referred to in paragraph 8 shall be suspended for a maximum of

two periods of 60 days each.

7. Within 30 days of receipt of the opinion of the Disciplinary Board, the Board of Directors shall, by resolution adopted without student representation, impose the sanction or order the termination of the proceedings in accordance with the binding opinion of the Disciplinary Board.

8. The proceedings shall be terminated if the decision of the Board of Directors has not been taken within 180 days from the date on which the proceedings were initiated. The period of 180 days shall be suspended until the Disciplinary Board or the Board of Directors has been reconstituted, in the event that operations are being carried out with a view to their reconstitution which prevent them from functioning properly.

9. The outcome of the disciplinary procedure, formalised by a Rectoral Decree, shall be communicated to the person concerned and to all the competent authorities.

10. If the Rector or the Board of Governors considers that the facts in question also constitute a breach of the provisions of the Code of Ethics, they shall refer the matter to the Ethics Committee for appropriate action.

Art. 4

Types of Sanctions and Infringements

1. The applicable sanctions provided for in Article 87 of Royal Decree No 1592 of 31 August 1933, as amended and supplemented, are as follows:

1.1 - censure (the sole responsibility of the Rector);

1.2 - suspension from office and salary for up to one year;

1.3 - removal from office without loss of entitlement to a pension or allowance.

2. Censure consists of a reprimand for dereliction of duty or irregular conduct that does not constitute serious insubordination and is not such as to offend the dignity and honour of the professor or researcher.

3. The other penalties (1.2 and 1.3) apply to the most serious infringements provided for in Article 89 of Royal Decree No. 1592/33, namely

- Grave insubordination;
- habitual failure to perform official duties;
- habitual misconduct;
- acts in general that in any way offend the dignity or honour of the professor or researcher.

4. The sanctions shall be appropriate and proportionate to the seriousness of the acts committed, taking into account any repetition of the conduct and the specific circumstances which contributed to its occurrence.

5. The imposition of such sanctions shall not relieve the professor or researcher of any other

responsibility he or she may have incurred.

Art. 5

Effects of the sanction of suspension from office and salary

1. The sanction of suspension from office and salary for up to one year (Art. 4.1.2) shall entail, in addition to the loss of salary, exclusion from teaching, academic and related duties, and loss of seniority for all purposes during the period of suspension.
2. A professor or researcher who has received the sanction of suspension from teaching and salary for up to one year may not be appointed Rector, Head of Department or Dean of the Faculty Council for a period of 10 calendar years.

Art. 6

Effects of the sanction of dismissal without loss of entitlement to pensions or allowances

1. A professor or researcher who has incurred the sanction of dismissal without loss of entitlement to a pension or allowance (Art. 4.1.3) shall be entitled to what he/she has accrued (in terms of seniority in national insurance and social welfare contributions) up to the date of dismissal.

Art. 7

Precautionary suspension

1. A professor or researcher who is the subject of criminal proceedings may be suspended from his duties as a precautionary measure by Rectoral Decree, if the nature of the offence is particularly serious, subject to the mandatory opinion of the Disciplinary Board.
2. If a warrant or arrest order or other measure restricting personal liberty has been issued, the professor or researcher must be immediately suspended from service by Rectoral Decree for as long as the effects of the said measures persist.
3. A professor or researcher shall be immediately suspended if he/she has been convicted, even if the sentence is not yet final, of embezzlement, extortion, bribery for an official act, bribery for an act contrary to official duty, bribery in a judicial proceeding, or bribery of a person in charge of a public service.
4. A professor or researcher suspended from duty is entitled to a maintenance allowance of half his or her salary.
5. The precautionary suspension from service due to criminal proceedings remains effective, if not revoked, for a maximum period not exceeding five years.
6. In the cases referred to in paragraphs 1) and 2), the Rector shall initiate disciplinary proceedings and suspend them until the criminal proceedings have been completed.

Art. 8
Effects of res judicata

1. In the event of a final judgment, disciplinary proceedings shall be compulsory, even if, depending on the nature of the offence, the penalty of dismissal without loss of entitlement to the pension or allowances referred to in Article 6 may be imposed.
2. In the event that the ancillary criminal sanction of perpetual disqualification from public office has been applied, the professor or researcher may be dismissed without the necessity of disciplinary proceedings, and without forfeiture of entitlement to a pension or allowances.

Art. 9
Disciplinary violations committed by the Rector

1. In the event that the Rector is found to have engaged in conduct that constitutes a disciplinary offence under the aforementioned Rules, the Dean of the Academic Senate, as the most senior Full Professor in the role, shall assume the responsibilities of the Disciplinary Function.
2. The Rector is subject to evaluation by the Disciplinary Board in accordance with the principle of peer judgement

Art.10
The relationship between criminal proceedings and disciplinary proceedings

1. Disciplinary proceedings shall be suspended if the teacher is the subject of criminal proceedings relating, in whole or in part, to misdemeanours being prosecuted by the judicial authorities. The disciplinary proceedings shall be resumed within 90 days of the notification to the administration of the final judgment and shall be concluded within 180 days of such notification.
2. In the relationship between criminal proceedings and disciplinary proceedings, the provisions of Article 653, paragraphs (1) and (I-bis) of the Code of Criminal Procedure shall apply, in accordance with the following principles:
 - A) the irrevocable acquittal has the force of *res judicata* in proceedings for disciplinary liability as regards cases where there is lack of evidence of a criminal offence and thus no case to answer, i.e. the defendant did not commit it;
 - B) the irrevocable criminal conviction has the force of *res judicata* in the proceedings for disciplinary liability as regards clear evidence of the offence, its criminal unlawfulness and the confirmation that the defendant committed it;
 - C) disciplinary proceedings shall be dismissed if the criminal proceedings end with an acquittal or exoneration on the grounds that there was no case to answer, that the defendant did not

commit the offence or that the misdemeanour did not constitute a criminal offence;

D) in the event acquittal or exoneration with the formula that the fact does not constitute a criminal offence, disciplinary proceedings will be dismissed only where there is correspondence of objective and subjective facts between the criminal offence and the disciplinary offence; in the case of a final conviction for embezzlement, extortion, misconduct in public office, bribery or acts contrary to official duty, abuse of power in relation to judicial acts, bribery of a person in charge of a public service, disciplinary proceedings must be initiated or, in the case of suspension, continued within 90 days of notification of the judgment and must be completed within 180 days.

Art. 11

Termination and suspension of disciplinary proceedings

1. Disciplinary proceedings shall be terminated if the University has not reached a decision within 180 days of the date on which the proceedings were initiated.

The 180-day period shall be suspended until the Disciplinary Board has been reconstituted, or until the Board has been reconstituted in the case of proceedings to form the Board which prevent it from functioning properly.

The 180-day period shall also be suspended, not more than twice and for a maximum of 60 days, for each request referred to in paragraph 6 of the preceding article.

Art.12

References

1. For all matters not expressly provided for in these Rules and Regulations, reference shall be made to the legislation in force and the rules contained in the Statute and in the University Regulations.

Art.13

Entry into force of the Regulation

1. These Rules shall enter into force on the date of issue of the Rectoral Decree of approval.