

## CHAPTER XIX

### DISCIPLINARY PROCEDURE

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## CHAPTER XIX

## DISCIPLINARY PROCEDURE

## 1. General

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| 1.1 | The disciplinary authorities of the Commission and of Higher Educational Institutions are as follows;   | Disciplinary authorities      |
| (a) | The Commission or its Chairman where so delegated by the Commission by resolution, with respect to the staff of the Commission [Section 7(3) and 8(3) (a) of the Act].  | Commission                    |
| (b) | The Council of a University with respect to the staff of the University provided that, except in the case of officers and teachers, disciplinary powers of others may be delegated to the Vice-Chancellor by the Council [Section 45(2) (xii) of the Act].  | University                    |
| (c) | The Board of Management of a University College with respect to its staff provided that except in the case of officers and teachers, disciplinary powers of others may be delegated to the Director by the Board of Management [Section 63(3) of the Act read together with Section 45 of the Act]. | University<br>College         |
| (d) | The Council of a University with respect to the Director of any Institute or Centre for Higher Learning which are affiliated to such University.  | Centre for Higher<br>Learning |
| (e) | The Council of the University with respect to the staff of Campuses and Institutes to which they are attached/affiliated, provided that, except in the case of officers and teachers, disciplinary powers of others may be delegated by the Council to the Vice-Chancellor.                         | Campus/ Institute             |
| (f) | The Governing Authority of a Centre for Higher Learning with respect to its staff, provided that except in the case of officers and teachers, disciplinary powers of others may be delegated to the Director of such  | Centre for Higher<br>Learning |

- institution by the Governing Authority .
- (g) The University Services Appeals Board in respect of staff provided to them by the Universities or the Commission [Section 84(2) of the Act]. USAB
- (h) The Commission in respect of the Director of any Centre for Higher Learning established without affiliating to any University and the Ordinance specifies that the Director is appointed by the UGC. Centre for Higher Learning
- (i) The Relevant Governing Authority of the respective Higher Educational Institution relating to Rector, Deputy Vice Chancellor and the Head of a Department of Study.
- (j) The Relevant Governing authority of the respective Higher Educational Institution in respect of Dean of a Faculty of a University/ Campus/University College.
- 1.2 “Disciplinary Control” shall mean the power to dismiss or otherwise punish persons employed in the Commission, Higher Educational Institutions/ Institutes and the University Services Appeals Board in respect of “offences calling for disciplinary action” detailed in paragraph 2 of this Chapter. Disciplinary Control
- 1.3 A person or a tribunal to hold a preliminary investigation or formal disciplinary inquiry may be appointed by the disciplinary authority from persons detailed in sub-paragraph 6.1.1 of this Chapter. Persons authorized to hold disciplinary inquiries
- Provided however, if a preliminary investigation is to be conducted immediately after information is received regarding an act of misconduct, Chairman of the Commission/ the Principal Executive Officer of the Higher Educational Institution is authorized to appoint a preliminary investigation officer subject to the covering approval of the relevant Disciplinary Authority.

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| 1.4 | All acts of improper conduct or lapses or defaults of persons including persons on probation and persons holding temporary or casual or any other appointment which call for punishment in any form, should be dealt with promptly in accordance with the provisions of this Chapter. Any matter not covered by these provisions should be reported to the appropriate disciplinary authority who will give the necessary directions.  | Promptness in disciplinary action           |
| 1.5 | No proceedings or orders made under these provisions shall be invalid by reason of any informality or the non-observance of any provisions, if these have not resulted in a failure of justice.  | Validity of proceedings and Orders          |
| 1.6 | Where at any stage before completion of an inquiry, any disciplinary proceedings have to be laid before the disciplinary authority, such proceedings should be accompanied by a concise and self-contained report summarizing the salient points of the case. Where reference is made to any documents including material extracted from electronic devices and electronic records, electronic documents; such print outs, papers and materials extracted from electronic devices and soft copies in storage devices should be labeled or flagged for easy reference. The original documents produced in prosecution as well as originals or certified copies of any documents produced in defense, together with the personal file and history sheet of the person concerned should accompany the report. Documents shall include electronic documents and records. | Where proceedings are laid before the Board |
| 1.7 | Where any inquiry has been held, the record of inquiry proceedings should be forwarded, arranged in chronological order. Various stages of the proceedings such as relevant material of the preliminary investigation, charges, answers thereto, the inquiry proceedings, findings of the  | Where inquiry has been held                 |

Tribunal/ Inquiry Officer and their suggestions and recommendations of the Chairman of the Commission/ Principal Executive Officer of the Higher Educational Institution /Institute as the case may be, should be attached, flagged or labeled and submit to the relevant Disciplinary Authority.

## 2. Offences calling for disciplinary action

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| <p>2.1 Offences which may be dealt with under these provisions may be categorized under various headings listed below, but this should not be treated as a comprehensive list of such acts or to limit the definition of offence to any of the descriptions or definitions contained in this paragraph. Any act not covered by these definitions which, in the opinion of the Disciplinary Authority calls for disciplinary action, shall also be dealt with under the provisions of this Chapter.</p> | <p>Not a<br/>comprehensive<br/>list</p> |
| <p>2.2 The heads under which offences may be broadly categorized are:</p> <ul style="list-style-type: none"> <li>Inefficiency</li> <li>Incompetence</li> <li>Negligence</li> <li>Lack of Integrity</li> <li>Improper Conduct (whether, connected with the person's official duties or otherwise)</li> <li>Indiscipline, and</li> <li>Plagiarism</li> <li>Corruption</li> </ul>   | <p>Categories<br/>of offences</p>       |
| <p>2.2.1 <b>Inefficiency</b> consists of failure due to indifference, inadvertence or other defects on the part of a person to discharge the duties expected of him to reasonable standards. Inefficiency may or may not arise from lack of competence.</p>  | <p>Inefficiency</p>                     |
| <p>2.2.2 <b>Incompetence</b> arises from lack of intellectual, temperamental, physical</p>   | <p>Incompetence</p>                     |

and/or other qualities that a person is presumed to possess or to have developed for the efficient discharge of his duties. Incompetence should be considered in relation to a person's position, seniority and experience, the level of responsibility at which he functions in his work place, his age, qualifications normally stipulated for recruitment to the post he holds etc. Incompetence could be technical, professional or administrative incompetence or incompetence in handling students, staff, labour or other personal relationships in his place of work.

2.2.3 **Negligence** is a neglect of duties entrusted to a person and would cover such matters as errors and mistakes arising from lack of care or diligence, failure to supervise work programmes, staff etc., and to ensure that the work is carried out to reasonable standards, and that funds are not wasted or property not damaged or lost etc.

Negligence

2.2.4 **Lack of Integrity** relates to acts or omissions arising from motives of improper personal gain, fraud, cheating, theft, forgery, dishonesty, misappropriation or temporary misappropriation of funds or other funds allocated for specific purposes; concealment of the truth or portions of the truth in writing reports, recommendations etc., suppression of documents or facts; bribery; the use of a person's official position or the exercise of his official functions or authority for his own benefits or advantages or to the advantage of his friends or relatives; acts which contribute to damage the reputation of others purposely; the use of funds, property or the services of labourers or subordinate

Lack of Integrity

employees for private purposes; acceptance of gifts or favours from anyone with whom the person has official dealings or on whom he is in a position to bestow presents or future favours; and any act which brings his private interests into real conflict with his official duties.

2.2.5 **Improper Conduct** in relation to a person's official duties includes;

(a) betrayal of confidence enjoyed officially;

(b) act or acts of indiscretion or threats in the place of work or outside his place of work in relation to his subordinates;

(c) act or acts of insubordination, threats or indiscretion towards the employee/s of the institution to which he is attached either during working hours or outside it;

(d) divulging of official information to the public, employee/s etc., where he is prohibited from doing so;

(e) inciting students or employees to disloyalty;

(f) using the premises of his place of work for political meetings or for other political activities;

(g) inciting students or employees to such acts which lead to violence or damage to property or to such acts which lead to disruption of smooth work;

(h) use for private purposes of the property belonging to his place of work;

(i) doing anything to compromise his official position or any other act which brings the institution or office he holds into disrepute; and

(j) any act which appears to bring his

Improper conduct  
in relation to  
official duties



private interest into conflict with his duties even if the conflict is in fact not real.

Improper conduct not directly connected with his official duties but relates to such matters as;

- (a) habitual drunkenness (refer paragraph 6 of Chapter XVIII);
- (b) use of narcotic drugs (refer paragraph 6 of Chapter XVIII);
- (c) disorderly behaviour in public places;
- (d) immoral conduct that becomes a public scandal;
- (e) aggravated cases of indebtedness caused by improvidence or other reprehensible causes; or
- (f) any other act which brings his place of work or the office he holds into disrepute.

Improper conduct not directly related to his official duties

2.2.6 **Indiscipline** is related to such matters as habitual absenteeism, unpunctuality; refusal to carry out orders; rudeness whether to his superiors, subordinates or members of the public; drunkenness while on duty; use of narcotic drugs; leaving office without permission; failure to mark the attendance or tampering with an attendance register or any entries therein; physical assault on any person within the premises of the working place etc.

Indiscipline

2.2.7 **Plagiarism** is an act of producing and presenting a 'work' as if it is one's own when it is actually the work of someone else. In effect it is stealing the work of somebody else and showing off as it is one's own work, which involves two acts of unacceptable conducts; stealing the work of someone else and presenting the work as one's own when it is not the case.

Plagiarism

Hence, it comprises acts of cheating, academic dishonesty and misconduct whether done intentionally or due to negligence. It is a conduct ethically and morally unacceptable as it amounts to academic theft of other's ideas and /or expressions of ideas as well as academic misrepresentation and cheating.

- 2.2.8 **Corruption** means; (i) any wrongful or unlawful loss caused to the Government, Commission or Higher Educational Institutions/ Institutes or University Services Appeals Board or; (ii) a wrongful or unlawful benefit, favour or advantage to conferred on himself or any other person or; (iii) an action with knowledge, that any such wrongful or unlawful act would cause a loss to any person or to the Government, Commission or the Higher Educational Institutions/ Institute or; (iv) any wrongful or unlawful benefit, favour or advantage conferred on any person-

## **Corruption**

- (a) by virtue of his office as an employee;
- (b) by inducing any other employee to perform, or refrain from performing, any act, which such other officer is empowered to do by virtue of his office;
- (c) by using any information coming to his knowledge by virtue of his office;
- (d) by participating in the making of any decision by virtue of his office as an employee;
- (e) by inducing any other person, by the use, whether directly or indirectly, of his office as employee to perform, or refrain from performing, any act.

- 2.3 Violation of the Universities Act No. 16 of 1978 and its subsequent amendments, all other Acts or Laws kept alive thereunder; Orders made by the Minister under the Act; Ordinances, Regulations and Rules made thereunder, and any other appropriate instruments; the provisions of this Code; Circulars and other instructions issued from time to time by the Commission subject to provisions made in sub-paragraph 3.5.3 of Chapter 1 of this Code or by Authorities or Officers of the Commission or Higher Educational Institutions/ Institutes shall be considered as specific offences which may arise from incompetence, negligence, lack of integrity or improper conduct, etc.
- Deviation from the Act and appropriate instruments, etc.
- 2.4 The seriousness of an offence should be judged not only in relation to the nature of the act or omission which constitutes the offence, but also in relation to the office held by the person concerned, his seniority and experience, his level of responsibility and all the circumstances surrounding it. Even a minor offence when committed repeatedly in spite of warning and/ or punishments will assume graver proportions for disciplinary purposes.
- Gravity of an offence
- 3. Reporting of offences**
- 3.1 Every person employed in the Commission/ a Higher Educational Institution/ Institute is duty bound to report to his superiors, any act alleged to have been committed by any person employed in the Commission/ Higher Educational Institution/ Institute, which has come to his knowledge, which may be considered as offences calling for disciplinary action under this Chapter. The superior to whom such report is made is bound to transmit it immediately to the appropriate disciplinary authority.
- Every person employed in the university system entitled to report

3.2 It is the responsibility of supervisory personnel to report to their superiors, cases of inefficiency or incompetence or acts which may be categorized as negligence, lack of integrity, improper conduct, indiscipline, corruption or plagiarism and other offences calling for disciplinary action under this Chapter in respect of their subordinates.

Responsibility of  
supervisory  
officers

#### 4. Punishments

4.1 Punishments are classified into minor punishments and major punishments.

4.1.1 Minor punishments include:

Reprimand or severe reprimand; censure; a fine not exceeding a week's pay; stoppage, reduction or deferment of increment for periods not exceeding one year; surcharge after disciplinary inquiry; disciplinary transfer at his own expense; any other punishment not more severe than those above.

Minor  
punishments

4.1.2 Major punishments include:

Stoppage, reduction or deferment of one or more increments for a period exceeding one year; disqualifying from sitting any promotional examinations for a specified period; deferment of promotion for a specified period; reduction in seniority by a specified number of years in a grade; reduction in rank, i.e. reversion to the next lower class in the same grade or to a lower post; retirement for general inefficiency; termination of services after disciplinary inquiry; dismissal or compulsory retirement as a merciful alternative to dismissal which can be ordered only by the Commission,

Major  
punishments

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| 4.2  | Where a fine is inflicted on a person holding a subordinate post, it should be imposed with due regard to the proportion it bears to his salary.   | Capacity to bear a fine                               |
| 4.3  | In the case of a person holding an appointment to a post which does not carry a salary scale, but the holder receives the salary of his substantive post together with an allowance, "increment" for the purpose of punishment referred to in sub-paragraph 4.1 above is the increment payable on the salary of the substantive post.                            | "Increments" in posts not carrying a salary scale     |
| 4.4  | A "Warning" is not a punishment but is administered to caution the person concerned against the repetition of an act or an omission which may lead to disciplinary action. A warning should be administered by the Disciplinary Authority and a copy of the letter conveying the warning should be filed of record in the personal file of the person concerned. | "Warning"   |
| <b>5. Delegation of the exercise of disciplinary power</b> |  |   |
| 5.1  | The Commission may by resolution delegate to the Chairman its disciplinary powers over the staff of the Commission under Section 7(3) and 8(3) (a) of the Act.   | Commission to Chairman                                |
| 5.2  | The Council of a University may delegate its disciplinary powers to the Vice-Chancellor over persons in the employment of the University other than officers and teachers in terms of Section 45 (2) (xii) of the Act.   | The Council to Vice-Chancellor                        |
| 5.3  | The Board of Management of a University College may delegate its disciplinary powers to the Director over persons in the employment of the University College other than officers and teachers in terms of Section 63(3) of the Act.   | Board of Management to Director of University College |
| 5.4  | The staff attached to Campuses and Institutes shall come under the disciplinary control of the Council of the University to which such Campus is attached or Institute is affiliated. However, such power may be delegated to the Vice-Chancellor by the Council, except in the cases of teachers and officers.  | Staff attached to Campuses and Institutes             |

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| 5.5       | The staff attached to a Center for Higher Learning which is not affiliated to a university shall come under the disciplinary control of the Director of the respective Center for Higher Learning, provided such power is delegated by the Governing Authority.  | Staff attached to Centers for Higher Learning   |
| 5.6       | The staff of the University Services Appeals Board shall be subject to the disciplinary control of the Board in terms of Section 84(1) and (2) of the Act.   | Staff provided to the Appeals Board   |
| 5.7       | Considering the work-load which would devolve on Disciplinary Authorities, under the delegation permitted by the Act, the Commission or the Governing Authority of the Higher Educational Institution/Institute shall delegate power for imposing of minor and major punishments in accordance with sub-paragraphs 4.1.1 and 4.1.2 above as per Schedule A, B, C and D annexed at the end of this Chapter. | Delegation as per Schedule A, B, C and D  |
| 5.7.1     | The delegation of disciplinary powers in this sub-paragraph does not in any way apply to officers and teachers.  | Not applicable to officers and teachers   |
| <b>6.</b> | <b>Persons to conduct preliminary investigations and formal inquiries</b>  |   |
| 6.1       | A person or persons comprising a tribunal, drawn from those in the following sub-paragraph and appointed by the Disciplinary Authority may hold a preliminary investigation or a formal disciplinary inquiry.  | Inquiring officers or Tribunals   |
| 6.1.1     | The following persons are authorized to hold preliminary investigations or formal disciplinary inquiries as and when they are nominated to do so by the appropriate Disciplinary Authority under sub-paragraph 1.3 of this Chapter:  | Persons authorized to hold Preliminary Investigations and Formal Disciplinary Inquiries |
| (a)       | Any member of Governing Authority of a Higher Educational Institution/ Institute for a disciplinary matter in any other Institute/Institution;   |   |

- (b) Any teacher holding the rank of Senior Lecturer Grade II and above or Senior Assistant Librarian and above in any Higher Educational Institution/ Institute
- (c) Any officer in executive categories in the Commission or any Higher Educational Institution / Institute
- (d) Persons who have experience and ability to conduct any such preliminary investigation or formal inquiry from outside the Commission or Higher Educational Institution / Institute who are appointed by the Disciplinary Authority;
- (e) Any officer/s listed by the Ministry of Public Administration from time to time.

Any person who is directly or indirectly connected to the incident under investigation and the officer who assists in the prosecution of a preliminary investigation or formal disciplinary inquiry should not be appointed to conduct such inquiries.

- 6.2 In selecting any of the above persons for holding a preliminary investigation or formal disciplinary inquiry, gravity of the alleged offence, knowledge of the particular field of activity connected with the alleged offence, the seniority and standing of the accused person, etc. should be taken into consideration.

Selection of appropriate person

## 7. Procedure for summary punishment in minor offences

- 7.1 Where disciplinary action is contemplated against an employee in the non-academic staff below the rank of an officer in the executive grade, in connection with a minor offence which does not warrant a punishment more

Applicable to non-academic staff below the rank of executive-grades

severe than one of the minor punishments listed in sub-paragraph 4.1.1 of this Chapter, his immediate superior (the Head of a Department of Study/Centre/Unit or an officer of the administrative staff under whom he works) may wherever possible inquire into the matter. He should inform the suspected person in writing the act of misconduct disclosed to have been committed by him and order him to show cause, if any, within an appropriate and reasonable period of time as to why he should not be punished for such misconduct. He shall also be informed by the same letter that, if he fails to submit his explanations within the stipulated period of time, action will be taken presuming that the suspected person has no explanation to offer.

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| 7.2 | When the explanation submitted by the suspected person is insufficient to acquit him or where he fails to submit his explanations within the stipulated time period, a report should be submitted through the normal channels of superior officers with their recommendations to the appropriate disciplinary authority for his decision by the officer who called for explanations. | Report to<br>Disciplinary<br>Authority<br>through normal<br>channels |
| 7.3 | Where the Disciplinary Authority is satisfied that the person is guilty of a minor offence, he will order one of the minor punishments listed in sub-paragraph 4.1.1 of this Chapter.  | Order of<br>summary<br>punishment                                    |
| 7.4 | If during the course of or at the conclusion of an inquiry under sub-paragraph 7.1 above, it transpires that an offence punishable by one of the major punishments listed in sub-paragraph 4.1.2 of this Chapter has been committed, the matter should be referred back for a formal inquiry procedure under paragraph 8 below.  | Where a graver<br>offence is<br>revealed                             |
| 8.  | <b>Procedure for Preliminary Investigation and Formal Disciplinary Inquiry</b>   |  |
| 8.1 | Where disciplinary action is contemplated  | Procedure  |



against an employee in connection with any offence warranting one of the major punishments listed in sub-paragraph 4.1.2 of this Chapter or for a minor offence in respect of which summary procedure under paragraph 7 is not applicable to the person concerned, the Chairman of the Commission or the Principal Executive Officer of the Higher Educational Institution/ Institute shall order such preliminary investigation as are necessary depending on the circumstances and nature of the matter subject to covering approval of the relevant disciplinary authority.

## 8.2 Preliminary Investigation

A preliminary investigation is one that is conducted by a person or persons authorized to conduct preliminary investigations in sub-paragraph 6.1.1 of this Chapter to find facts as are necessary to ascertain the truth of a suspicion or information that an act of misconduct has been committed by an employee or several employees and to find out and report whether there is a prima facie case, sufficient material and evidence to prefer charges and take disciplinary action against the person or persons under suspicion.

Procedure of a preliminary investigation

8.2.1 It may involve the recording of statements of relevant persons, search for and examination of documents and records, obtaining of originals or certified copies thereof, taking over all articles and documents which are considered necessary and making observations and recommendations on matters found out by the person or persons who carried out the investigation regarding the act of misconduct committed.

Process involved

8.2.2 Since this process is not an 'inquiry' the suspected person or his representative

Presence of the suspected person

- should not be present when statements are recorded from relevant parties. He should, however be present if stores, cash or any electronic devices he has been using, etc. in his charge are verified in connection with an alleged offence, so that he could confirm by placing his signature that the verification was done in his presence and he is satisfied with the results of the verification and also when it is necessary to have him identified by a witness etc. Further he has the right to be present when materials that seem to be necessary for production at a formal inquiry have to be selected and sealed and observe such process.
- 8.2.3 All relevant parties should ensure that such preliminary investigations are carried out and are completed and the report is furnished with the least possible delay.
- 8.2.4 It would be an act of grave misconduct for an employee to refuse to make a statement with regard to an investigation when he is required to do so by a person or persons duly appointed to conduct a preliminary investigation. When such an incident is reported by a person or persons conducting a preliminary investigation, it shall be the responsibility of the authority concerned to report such fact to the relevant Disciplinary Authority to enable him to take disciplinary action against the employee concerned.
- 8.2.5 Although the suspect employee or employees admit that they have committed the particular act of misconduct in the course of the preliminary investigation, it shall be the
- if necessary
- Report with least possible delay
- Refusing to make a statement
- Continue the inquiry to its end

responsibility of the person or persons conducting the preliminary investigation to continue the investigation to its end and forward his/ their observations and recommendations to the appropriate authority.

The person or persons conducting the preliminary investigation should also prepare a draft charge sheet and forward it to the relevant authority in the event that sufficient material is disclosed that call for disciplinary action against the suspect employee or employees.

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| 8.2.6 | 8.2.6.1 | It shall be the duty of the Disciplinary Authority who ordered the preliminary investigation to arrange the Secretary to the Governing Authority or a suitable officer to take over, after proper verification, all documents etc. handed over by a preliminary investigation officer.  | Forwarding the report                                      |
|       | 8.2.6.2 | It shall be the duty of the relevant Disciplinary Authority to ensure confidentiality and security of all documents etc. taken over from a preliminary investigation officer. The documents shall be in the personal custody of the relevant officer as mentioned in sub paragraph 8.2.6.1 expressly authorized by the relevant Disciplinary Authority. | Ensuring confidentiality and security of all documents etc |
|       | 8.2.6.3 | After a thorough study of the documents handed over by a preliminary investigation officer, the relevant Disciplinary Authority shall satisfy itself that   |  |

the preliminary investigation had been comprehensively and duly held.

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| 8.2.6.4 | If the preliminary investigation report reveals that no act of misconduct had taken place the relevant Disciplinary Authority shall terminate the preliminary proceedings and disciplinary action, and arrange to record such decision.  | Where no act of misconduct was revealed |
| 8.2.6.5 | Where in the opinion of the relevant Disciplinary Authority the preliminary investigation report reveals that an employee had committed an act of misconduct, it shall decide, after a careful study of the preliminary investigation report and documentary evidence etc., whether the draft charge sheet and report of evidence handed over by the preliminary investigation officer could be utilized or whether they should be amended. Where it appears to the Disciplinary Authority that such draft charge sheets and report or evidence need to be amended, it shall take prompt action to duly affect necessary amendments. | Where an act of misconduct was revealed |
| 8.2.6.6 | Where after the study of all documents received, if the Disciplinary Authority is of the view that there are no compelling or reasonable grounds to issue a Charge Sheet or call for explanations, it may record such finding and terminate the disciplinary action.   | Termination of disciplinary inquiry     |

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| 8.2.6.7 | Where after the study of all documents received, if the Disciplinary Authority is of the view that a Charge Sheet should be preferred against an employee or that his explanations should be called for, as the case may be, it must initiate formal disciplinary proceedings as provided herein.  | Continuation of disciplinary proceedings       |
| 8.2.7   | Where a criminal offence or bribery is suspected or disclosed in the course of a preliminary investigation, paragraph 16 of this Chapter shall apply.  | Where criminal offence or bribery is disclosed |
| 8.3     | If the preliminary investigation discloses a prima facie case against the suspected person, the Disciplinary Authority shall issue a Charge Sheet against him and call upon him to show cause as to why he should not be punished. Approval of the appropriate Disciplinary Authority shall be obtained for the charge sheet and the Disciplinary Authority shall authorize a specific natural person holding the Office such as Chairman of the Commission, or the Principal Executive Officer of the Higher Educational Institution/Institute to personally sign and issue the Charge Sheet. | Show cause notice                              |
| 8.3.1   | The charge sheet need not take a legalistic form. All that is required is a clear and simple statement/s of any acts of misconduct, lapses or omissions committed or alleged to have been committed calling for a formal disciplinary inquiry. It is not necessary to fit the offence into one of the definitions of offences given in subparagraph 2.2 above. The following requirements should be observed in presenting a charge sheet to an accused person;  | Issuing a charge sheet:                        |

It should be done in as;

- (a) Whenever a charge sheet is issued against an accused employee by a Disciplinary Authority or any other authority duly authorized by the former, it should be in the format as given in the Appendix XVII
- (b) It should be addressed to the accused person by name and designation and sent to him through his superior officers or by registered post to his home address given by him as the case may be.
- (c) It should be indicated whether the offence is punishable under subparagraph 4.1.1 (minor punishments) or under subparagraph 4.1.2 (major punishments) of this Chapter.
- (d) A narration of the offence/s (charges) should be given in clear, unambiguous language. The date, time and place of the offence/s as are material to the charge should also be given.
- (e) A list of documents which constitute evidence relating to the matter under inquiry should be given. How and where they could be examined by the accused person or his representative should also be given. The documents may, where necessary, include statements made by witnesses at a preliminary investigation.

Appendix XVII

**Note:**

The accused person or his representative will be entitled to

have copies of the documents or statements under surveillance at the discretion of the officer in-charge of the documents after making a payment decided by the officer concerned.

- (f) It should stipulate the date before which and to whom the answers to the charges should be furnished. In fixing the date, due consideration should be given to the complexity of the charges and the time that would reasonably be taken to prepare a well-considered answer.

**Note:**

On a written request of the accused person, the Chairman of the Commission or the Principal Executive Officer of the Higher Educational Institution/Institute as the case may be, may at his discretion grant reasonable extensions of time to answer the charges.

- (g) The name/s, post/s and present place/s of work of witness/witnesses who are expected to be summoned for the formal inquiry to substantiate the charges should be included in the charge sheet.
- (h) It should be indicated whether the accused employee has the right to appoint an officer to represent him.
- (i) Action that would be taken, if answers to the charge sheet are not received within the stipulated

- time period should also be indicated in the charge sheet.
- 8.3.2 The appropriate Disciplinary Authority may obtain the assistance of a Legal Officer of the institution concerned/ Attorney-at-Law to prepare the final charge sheet wherever necessary. Assistance of Legal Officer/ Attorney-at-Law
- 8.3.3 When a formal charge sheet has been issued against a person for disciplinary action against him, granting him salary increments, promotions, foreign trips, scholarships, study leave with pay, loans and advances, leave without pay locally and abroad should forthwith be suspended until the final outcome of the inquiry. Privileges to be suspended
- 8.4 A person to call upon to answer a charge/charges should furnish a full and complete answer in writing within the stipulated time period. He is not entitled merely to plead 'not guilty' to the charge/s. He should bear in mind the fact that the Disciplinary Authority is empowered to arrive at findings and make a punitive order on the documents alone without referring the matter for a formal inquiry. Full and complete answer to be submitted
- 8.4.1 The answer should be accompanied by original or certified copies of documents on which he relies to exculpate himself as well as affidavits containing statements of his witnesses, if any. Supporting documents to an answer
- 8.5 In the case of an accused employee who fails or willfully neglects to furnish his answers to the charge/s within the stipulated time period, the Disciplinary Authority may at its discretion make an appropriate disciplinary order or take some other course of action as it deems fit presuming that the accused employee is guilty of all the charges or part thereof. When the accused fails or neglects to provide answer/s



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| 8.6  | Where the accused employee pleads guilty in his answers to only one or some of the charges in the charge sheet or where it appears from his answers that he is guilty of one or some of the charges, the Disciplinary Authority should order a formal disciplinary inquiry into the entire charge sheet.   | Inquiry in relation to entire charges                           |
| 8.7  | Where the Disciplinary Authority finds that the accused person has in his answers sufficiently established his innocence, the accused person may be cleared of all the charges and be acquitted.<br><br>If the Disciplinary Authority is of the opinion that the accused person has not exculpated himself in his answer, he may either be ordered an appropriate punishment if the offence is one for which a minor punishment is appropriate or appoint an inquiry officer/tribunal to conduct a formal inquiry and submit his/their findings and recommendations. | Answer sufficient to prove innocence<br><br>When not exculpated |
| 8.8  | Where a person to whom a charge sheet is issued pleads guilty to the charges, the Disciplinary Authority shall decide whether to accept the plea and impose an appropriate punishment on the basis of the plea or to proceed with a formal inquiry if it considers that the interests of justice and/or the Commission/ Governing Authority of the Higher Educational Institution/ Institute are served thereby.   | “Guilty” plea   |
| 8.9  | In the case of serious offences in which persons holding high office in the Commission or a Higher Educational Institution /Institute are involved, the Disciplinary Authority may at its discretion appoint a Tribunal of Inquiry consisting of one or not more than three persons drawn from those to whom power to hold disciplinary inquiries has been authorized in paragraph 6 above.  | When persons holding high office are involved                   |
| 8.10 | A person appointed to hold a preliminary investigation or formal disciplinary inquiry should be of higher rank to the accused person.  | Inquiry Officer to be of higher rank                            |

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| 8.11 A person associated with a preliminary investigation should not be appointed to hold the formal disciplinary inquiry.  | Persons involved in the preliminary investigation         |
| 8.12 It shall be the duty of the Disciplinary Authority to authorize the Chairman of the Commission/Principal Executive Officer of the Higher Educational Institution/Institute as appropriate to issue a letter of appointment to the Inquiry Officer or the Tribunal. Where a Tribunal of not more than three members is appointed, the Disciplinary Authority shall appoint one of the Members as the Chairperson of the Tribunal. | Letter of appointment to the Tribunal/<br>Inquiry Officer |

## 9. Documents

The following procedure should be followed in regard to documents produced at any inquiry or for any purpose under the provision of this Chapter;	Documents to be produced
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| 9.1 All documents produced at a formal inquiry to establish charges against an accused officer should be confined to only those cited as documentary evidence in the relevant charge sheet. Fresh documents may be introduced whenever the charge sheet is duly amended.   |                    |
| 9.2 The officer presenting the case for the prosecution may produce relevant documents in terms of sub-paragraph 9.1 above before the Tribunal either personally or through witnesses as is appropriate.   |                    |
| 9.3 The original of an official document in the custody of an officer in the Commission/ Higher Educational Institution/ Institute need not be produced at any inquiry or for any purpose under the provisions of this Chapter. A duly certified copy of the document would suffice unless a Disciplinary Authority or a Tribunal/Inquiry Officer considers it necessary to peruse the original document itself. | Official documents |

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| <p>9.4 In the case of a document which is not official as referred to in sub-paragraph 9.3 above, the original itself must be produced at an inquiry.</p> <p>Provided however, a certified copy of any document, or of any register either deposited or maintained or kept in the custody, (or a certified copy of any register or book) maintained in the ordinary course of business, at any Public Office, Public Corporation, Provincial Council or Local Authority, is admissible and it shall not be necessary to adduce proof of any document which is, ex facie, an original document or a certified copy issued by a Public Office, Public Corporation, Provincial Council or any Local Authority.</p> <p>Provided further, any opposite party may call evidence to impeach any such document.</p> | <p>Unofficial documents</p>                                    |
| <p>9.5 Documents need not be formally produced by witnesses unless the Tribunal/Inquiry Officer considers that the evidence of such witnesses on the contents of the documents should also be recorded in the interest of justice. Otherwise it would be sufficient if the Tribunal/Inquiry Officer marks the documents as a production, shows it to the defence and makes note of the fact in the record of proceedings.</p>   | <p>Formal production of documents by witnesses unnecessary</p> |
| <p>9.6 An accused person or his representative should be permitted to examine any document that is intended to be used against him. Normally some reasonable time is given for this purpose before the date by which he is required to answer the charges. But where a document is made available only in the course of an inquiry it will be sufficient if the Tribunal/inquiry Officer permits the defence to examine it on production with an adjournment of the inquiry where necessary.</p>  | <p>Examination of documents by accused persons</p>             |

- 9.7 Sub-paragraph 9.6 above shall not apply to documents which are certified by an authorized officer of the Commission/ Higher Educational Institution/ Institute or State Officer to be of a confidential nature. Such documents may be perused by the Tribunal/ Inquiry Officer, but if the contents of document or part of the document are to be used against the accused person, the document or such part of it which is intended to be used against him should be shown to the accused person. Confidential documents
- 9.8 Sub-paragraph 9.6 above shall not apply to any Law, Regulations, Hansard, Maps/Plans signed by the Surveyor General or his subordinate officers, Gazettes, books purporting to be printed or published under the authority of the Government or Parliament or Rules, Circulars or Ordinances published by the Commission, Circulars issued by the General Treasury or the Ministry of Public Administration and Financial Regulation which a Tribunal/Inquiry Officer may refer to in order to assist in arriving at any conclusion, even though it had not been produced in evidence, though such document is not properly regarded as evidence in the inquiry. Documents not produced in evidence
- 9.9 Documents produced by the prosecution should be marked and referred to as P1, P2, P3, etc. in that order in which they were produced; and documents produced by the defense should similarly be marked and referred to as D1, D2, D3, etc. Marking and submission of documents  
The documents should be initialed by the Tribunal/ Inquiry Officer and attached to the record of proceedings and submitted to the Disciplinary Authority.
- 9.10 At the conclusion of the formal disciplinary inquiry proceedings the documents marked Delivering marked

and produced in evidence shall be delivered to the Tribunal/Inquiry Officer by the Prosecution Officer or Defence Officer who produced such documents keeping copies of such documents for his reference.

documents to the Tribunal/Inquiry Officer

9.11 The contents of documents may be proved either by primary or by secondary evidence. Primary evidence means the document itself produced for the inspection of the Tribunal/Inquiry Officer. Secondary evidence means and includes;

Definition of primary and secondary evidence

- a) certified copy of any public document given by an officer in whose custody the original of the document is kept;
- b) certified copies of any private document given by an officer in whose custody the original of the document is kept;
- c) certified copy of any banker book given by a Manager of the Bank where the bankers book is held;
- d) copies made from the original by mechanical process which in themselves ensure the accuracy of the copy, and copies compared with such copies;
- e) copies made from a compared with the original;
- f) counterfoils of documents;
- g) oral accounts of the contents of a document given by some person who has himself seen it.

9.12 The Tribunal/Inquiry Officer shall presume every document purporting to be a certificate, certified copy, or other document, which is by

Documents declared by law to be admissible

law declared to be admissible as evidence of any particular fact, and which purports to be duly certified by any officer in Sri Lanka, to be genuine. The Tribunal/Inquiry Officer shall also presume that any officer, by whom any such document, purports to be signed or certified, held, when he signed it, the official character which he claims in such paper.

as evidence

9.13 No fact need be proved in any formal disciplinary proceeding which the accused person thereto or his defence officer agree to admit at the inquiry, or which, before the inquiry, to admit in writing under their hands, or which the accused has admitted in his Answer.

9.14 Any information contained in a data message, or any electronic document, electronic record or other communication.

Data messages,  
electronic  
records/  
documents or  
other  
communication

(a) touching any fact in issue or relevant

(b) Complied, received or obtained during the course of any business, trade or profession or other regularly conducted activity, shall be admissible in any proceedings;

Provided that, direct oral evidence of such fact in issue or relevant fact if available, shall be admissible; and there is no reason to believe that the information contained in a data message, or any electronic document, electronic record or other communication is unreliable or inaccurate.

9.15 The Tribunal/Inquiry Officer shall, unless the contrary is proved presume the truth of information contained in a data message, or in any electronic document or electronic record or other communication and was made by the person who is purported to have made it and similarly, shall presume the genuineness of any electronic signature or distinctive identification mark therein

Interpretations

“date message” means information generated, sent, received to store by electronic, magnetic, optical or other similar means;

“electronic” means information generated, sent received or stored by electronic, magnetic, optical or similar capacities regardless of the medium;

“electronic document” includes documents, records, information, communications or transactions in electronic form;

“electronic record” means a written document or other record created, stored, generated, received or communicated by electronic means;

“electronic signature” means any letters, numbers, symbols, images, characters or any combination thereof in electronic form, applied to, incorporated in or logically associated with an electronic document, with the intention of authenticating and, or approving the same, in order to establish authenticity or integrity, or both;

“information” includes text, message, data, voice, sound, database, video, signals, software, computer programs, including object codes and source codes;

“information system” means and electronic system for creating, generating, sending, receiving, storing, reproducing, displaying, recording or processing information.”

## 10. Representation at disciplinary inquiries

10.1 On recommendation of the Chairman of the Commission or the Principal Executive Officer

Officer to assist the prosecution

of the Higher Educational Institution/ Institute as the case may be, the Disciplinary Authority shall, subject to sub-paragraph 10.2.3 below appoint a person employed in the Commission/ Higher Educational Institution/ Institute or any person outside the institution concerned, who is not a material witness in the proceedings and who has no vested interest in the matter to assist in to conduct the prosecution at a disciplinary inquiry. Where possible, such person should be of higher rank to the accused person.

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| 10.2   | An accused person may be represented by any person employed in the Commission/ Higher Educational Institution/ Institute or in the public service or a person who has retired from either of these services  | To represent accused person                    |
| 10.2.1 | Where an accused person desires to be so represented by another person,–he should obtain the permission of the Disciplinary Authority, furnishing the name of the person, his designation (in the case of a retired person, his designation at the time of retirement) and his professional status if any and a letter of consent from him.                                    | By prior permission                            |
| 10.2.2 | A Tribunal/ Inquiry Officer may permit such person to represent the accused person if permission had been granted under sub-paragraph 10.2.1 above.  |  |
| 10.2.3 | If the person representing the accused person is an Attorney-at-Law the Prosecution may also be represented by an Attorney-at-law as the Prosecuting Officer, and the Disciplinary Authority on its own motion or at the request of Chairman of the Commission or the Principal Executive Officer of the Higher Educational Institution/ Institute, may make such appointment. | When an Attorney-at-Law represents the accused |



- 10.3 The Tribunal/ Inquiry Officer may permit an Attorney-at-law to represent the Commission/ Higher Educational Institution/ Institute in which event; the accused person will also be entitled to be represented by an Attorney-at-law.
- 10.4 The Tribunal/ Inquiry Officer may at any time withdraw the permission granted under subparagraphs 10.2 or 10.3 above, provided that the reasons for the decision are intimated to the accused person. In such a case, the accused person may seek permission to substitute some other person to represent him who shall be a person employed in the Commission/ Higher Educational Institution/ Institute or in the public service or a person who has retired from either of these services. Substitution
- 10.5 It is an offence for a person employed in the Commission/ Higher Educational Institution/ Institute or in the public service to charge fees for appearing for an accused person. Where any such person repeatedly applies to appear for accused persons, the Chairman of the Commission or the Principal Executive Officer of the Higher Educational Institution/ Institute may in his discretion refuse permission for such person to represent accused persons. Charging of fees not permitted
- 11. Conduct of disciplinary inquiries**
- 11.1 It is essential in the interests of all concerned that disciplinary inquiries should be completed as expeditiously as possible. The Tribunal/ Inquiry Officer should hold the inquiry without delay and transmit the report of inquiry within a period specified by the Disciplinary Authority or three months from the date of appointment which ever falls earlier. Request for postponements should not be granted on trivial grounds and/ or where it is evident that representations made by a particular party are done with the sole purpose of delaying or frustrating the course of justice. Continuous sitting and completion in 3 months

- 11.2 If an accused person absents himself without any valid reason/s, consecutively on more than two occasions, the Inquiry should be adjourned and he should be warned by registered post or any appropriate means that proceedings will be held ex-parte. The inquiry when resumed should be proceeded ex-parte if the accused person persists in his absence.
- Ex-parte proceedings
- 11.3 The Tribunal/ Inquiry Officer may, depending on the nature of the charges, arrive at a decision on documentary evidence alone. In the event supporting oral evidence is required to arrive at a decision, such evidence should be tested for veracity by cross examination. The accused person should also have the right of cross examination and be provided the opportunity to be able to do so.
- Decision on documentary evidence alone
- 11.4 Notwithstanding the provisions of subparagraph 8.3.1 above, the disciplinary authorities may at any stage of the proceedings amend the charge sheet on not more than two occasions with the permission of the Inquiry Officer.
- Amendment to charges, new witnesses or recall of witnesses
- Witnesses may be recalled or new witnesses may be summoned, or further documents produced as may be necessary, provided that the accused person is given an adequate opportunity of defending himself against such amended charge/ s. Where documents, which were not earlier made available for inspection or listed in the charge sheet are produced, the accused person should be permitted to examine them on production, subject to subparagraphs 9.7 and 9.8 above.
- 11.5 Where any matter of procedure or any objection on procedural grounds is raised at a disciplinary inquiry, the decision of the Tribunal/ Inquiry Officer shall be final. The principle by which the Tribunal or Inquiring
- Decisions on objections

Officer be guided in such matters is the objective of the inquiry to arrive at the truth speedily and that mere inconsequential technicalities whether procedural or otherwise should not be allowed to impede the progress of the inquiry. All objections and rulings thereon with reasons where necessary should be recorded at the stage at which they are raised.

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| 11.6   | The Tribunal/Inquiry Officer should be directed by the best available evidence which it can procure or which is led at the inquiry, whether or not such evidence is admissible in a Court of Law. This does not permit the Tribunal to exclude secondary evidence when primary evidence is not available. Primary evidence means the document itself produced for the inspection of the Tribunal/Inquiry Officer.  | Evidence whether or not admissible in a Court                  |
| 11.7   | If a person's handwriting or signature or "initialed" signature is in question in the course of an inquiry, it would be sufficient if by the evidence of the party who signed or wrote the document or by the evidence of someone who saw the executant signing or writing it or by the evidence of someone who is acquainted with his handwriting or by comparison by the Tribunal/Inquiry officer or by an opinion from expert Examiner of Questioned Documents. | When signatures, handwritings on documents etc. are questioned |
| 11.8   | The evidence recorded in the course of a preliminary investigation need not be led afresh at the Inquiry. The decision on this matter is entirely within the discretion of the Tribunal/ Inquiry Officer.  | Evidence recorded at preliminary investigation                 |
| 11.8.1 | In case where evidence is not led afresh, the Tribunal/ Inquiry Officer may question the witness on any matter on which further elucidation is necessary and permit the defense to   | When further elucidation is necessary                          |

cross examine the witness on his recorded statement and on any oral evidence led at the inquiry.

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| 11.9  | The accused person may give evidence on his own behalf, in which event he may be cross examined. In any event he is required to answer any questions that may be put to him by the Tribunal/ Inquiry Officer in clarification of matters arising from the inquiry proceedings.  | Evidence of accused person  |
| 11.10 | All witnesses should be summoned by the Tribunal/ Inquiry Officer to the formal inquiry. Witnesses employed in the Commission or Higher Educational Institution/Institute should be summoned through the Head of the institution concerned.   | Summoning of witnesses  |
|       | 11.10.1 Witnesses employed in other organizations should be summoned through the Heads of such organizations with a request to release the witness to attend and give evidence at the Inquiry.  | External witnesses  |
| 11.11 | The Tribunal/Inquiry Officer may refuse to summon any witness or may not examine a witness, who has been summoned, if it is considered that the number of witnesses is excessive or their attendance is unnecessary or their evidence is not material to the charges. The same principle will apply when an accused person requests the production of official documents for his defense. | Summoning of witnesses is within the discretion of Tribunal/ Inquiry Officer                  |
| 11.12 | Where a witness who is employed in the Commission or a Higher Educational Institution/ Institute fails to attend an inquiry when summoned to do so, the Tribunal/Inquiry Officer should report the matter through the appropriate authority to the Chairman of the Commission / Principal Executive Officer of the Higher Educational   | Non-attendance of witnesses employed in Commission/ Higher Educational Institution/ Institute |

Institution / Institute in which he is employed and it shall be the duty of the Chairman / Principal Executive Officer of the Higher Educational Institution /Institute to compel the witness to attend the inquiry.

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| 11.13 | When a person who is employed in any other organization is summoned as a witness in accordance with sub-paragraph 11.10.1 above, fails to attend an inquiry, the Tribunal/ Inquiry Officer should report the matter through the appropriate authority to the Chairman of the Commission or the Principal Executive Officer of the Higher Educational Institution/ Institute concerned so that the appropriate officer may make further attempts to require the witness to attend the inquiry. If non-attendance persists in spite of these attempts, the Tribunal/ Inquiry Officer should make a note of this in the record of proceedings and proceed with the inquiry with available witnesses. | Non-attendance of other witnesses   |
| 11.14 | The non-attendance of private witnesses should be noted in the record of proceedings and the inquiry should proceed with available witnesses.   | Non-attendance of private witnesses |
| 11.15 | No witness should be allowed to be present when evidence of any other witness is being recorded.  | Evidence recorded confidentially    |
| 11.16 | No person other than those officially involved in the Inquiry in terms of these provisions and the accused person and his representative or Attorney-at-Law may be present when the evidence of a witness or of the accused person is being recorded.   |                                     |
| 11.17 | An accused person has the right to testify on his own behalf at a formal disciplinary inquiry. Such evidence shall be subject to cross-examination. The accused person may if he so desires elect to make a statement after all the evidence has been recorded. The fact  | Statement by accused person         |

that in such a case, he will not be liable to cross examined on such a statement by the prosecution, will have to be taken into consideration by the Tribunal/Inquiry Officer when assessing the evidentiary value of such a statement. However, even though such a statement is not liable to be cross-examined, the Tribunal/Inquiry Officer may seek further elucidation, which it considers necessary, from the accused person on matters arising from such statement.

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| 11.18 | Written submissions if any, by the defence should be sent to the Tribunal/ Inquiry Officer within two weeks of the completion of the inquiry. Such submissions will form part of the record of proceedings.   | Written submissions by accused person |
| 11.19 | At the conclusion of the inquiry, any objections made as to the conduct of the inquiry and the comments of the Tribunal/ Inquiry Officer thereon should be recorded. The record should then be signed by all the parties connected to the inquiry.  | Conclusion of inquiry                 |
| 11.20 | The Tribunal/ Inquiry Officer should at no time give any indication to any one of what its findings are likely to be.   |                                       |
| 11.21 | The Tribunal/Inquiry Officer should as soon as possible after the conclusion of the inquiry transmit the record of proceedings and all connected documents and productions together with the report thereon to the Disciplinary Authority through the Chairman of the Commission or Principal Executive Officer of the Higher Educational Institution/ Institute as the case may be. Where the transmission of the inquiry report is inordinately delayed the reasons for such delay should accompany the report. | Transmission of inquiry report        |

- 11.21.1 In preparing the Disciplinary Inquiry Report, the Tribunal/Inquiry Officer shall include the following among other matters:
- Findings,  
recommendations  
etc.
- (a) background to the incident in brief
  - (b) general remarks about the manner the inquiry was held
  - (c) summary of evidence analysis and the Inquiry Officer's findings on each charge;
  - (d) Where the accused person had been found guilty of at least one charge, the opinion of the Tribunal/Inquiry Officer on the gravity of the charge and his recommendations as to factors that should receive the attention of the Disciplinary Authority in imposing punishment;
  - (e) Where it has been revealed at the inquiry that an officer who is a witness or any other officer has committed an act of misconduct or that the accused person has committed another act of misconduct all particulars regarding such acts so that disciplinary proceedings could be taken against them;
  - (f) Where any deficiencies of the institution in which the acts of misconduct had occurred, have been revealed at the inquiry, all particulars regarding such and the observations and recommendations of the Tribunal/Inquiry Officer to remedy the deficiencies;
  - (g) Where any deficiency in investigation or prosecution of the relevant misconduct;

(h) Observations and constructive proposals of the Tribunal/Inquiry Officer regarding any changes to be made in the administration and procedure so as to avoid the recurrence of misdeeds as revealed at the inquiry and to ensure the well-being of the public service.

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| 11.22 | 11.22.1 | <p>The Tribunal/Inquiry Officer shall together with the disciplinary inquiry report submit the following documents to the Disciplinary Authority:</p> <ul style="list-style-type: none"> <li>(a) Record of proceedings each page of which signed by the Inquiry Officer, prosecuting party and the accused party;</li> <li>(b) All documents and materials produced and marked as evidence by the prosecution at the inquiry in their consecutive order;</li> <li>(c) All documents and materials produced and marked as evidence by the accused party at the inquiry in their consecutive order;</li> <li>(d) The written statement, if any, submitted by the accused person;</li> <li>(e) Written submissions of the by the prosecuting officer;</li> <li>(f) Written submissions of the defence officer;</li> <li>(g) Documents that the Inquiry Officer used though not produced at the inquiry to arrive at his findings in terms of Section 9.8;</li> <li>(h) Journal containing the notes on the Inquiry.</li> </ul> | <p>Documents to be submitted along with the inquiry report</p> |
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11.22.2	The Tribunal/Inquiry Officer shall submit a comprehensive disciplinary inquiry report to the Disciplinary Authority within 60 days from the last date of the inquiry, for the purpose of handing over the inquiry report and other inquiry documents.	Deadline for submission of inquiry report
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## 12. Action against plagiarism

12.1	Prompt action should be taken against any alleged violation of the rules against plagiarism.	Prompt action
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12.2 The existing rules relating to the conduct of investigations and inquiries could be used to take disciplinary action on complaints of plagiarism.

12.3	If the existing rules relating to the conduct of disciplinary or fact-finding investigations and inquiries relating to staff are not suitable or adequate to deal with the allegations or complaints of plagiarism, the Commission/ the University/ University College/ Center for Higher Learning can make its own rules and provide for an effective complaint handling mechanism against alleged acts of plagiarism or the institution on its own motion takes cognizance and commences investigation and inquiry into any allegation of plagiarism. With regard to the staff of a Campus/an Institute, acts of plagiarism should be reported to the University to which such Campus/ Institute is attached / affiliated for appropriate action.	Universities can make its own rules
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12.4	The said rules formulated for conducting investigations and inquiries by the Commission/ Higher Educational Institution should ensure that the process is objective and transparent. In the circumstances, it would be desirable to have a retired professor and retired judicial officer on the inquiry	Inquiry panel to have retired Professor and retired Judicial Officer
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panel which would observe the rules of natural justice in its conduct of the inquiry.

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| 12.5 | Evidence obtained through software specially designed to detect acts of plagiarism may be treated as admissible evidence at an inquiry.  | Electronic evidence                          |
| 12.6 | The Commission/ Higher Educational Institution may impose a punishment as appropriate on an employee if he is found to have committed the offence of plagiarism. The rules should provide for such course of action if such rules are not existent at present. | Punishments to be imposed according to rules |

### 13. Order of the Disciplinary Authority

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| 13.1 | On receipt of an Inquiry Report and all connected documents from Tribunal/Inquiry Officer, the Disciplinary Authority shall satisfy itself that such Report and documents have been duly and formally prepared. Where the Disciplinary Authority notices any deficiency in them, it shall bring such fact to the notice of the Tribunal/Inquiry Officer and get them corrected. | Responsibility of the Disciplinary Authority |
| 13.2 | The Disciplinary Authority shall confirm in writing the receipt of documents referred to it by the Tribunal/Inquiry Officer.  | Confirming the receipt of documents          |
| 13.3 | It shall be the duty of the Disciplinary Authority to ensure the confidentiality and security of the disciplinary inquiry documents received by him.  | Ensuring confidentiality of documents        |
| 13.4 | It shall be the responsibility of the Disciplinary Authority to study the Inquiry Report submitted and arrive at a decision independent of the decision of the Tribunal/Inquiry Officers. Where necessary, it may summon the Tribunal/Inquiry Officer for clarifications.   | Decision of the Disciplinary Authority       |
| 13.5 | The Disciplinary Authority shall have power to accept, reject or revise all the findings of the   | Power to accept, reject or revise            |

Tribunal/Inquiry Officer or several or one of them in arriving at any decision based on the evidence adduced. When the Disciplinary Authority rejects or revise any finding of the Tribunal/Inquiry Officer, it shall be the responsibility of the Disciplinary Authority to record the reasons in detail as to why the decision reject or revise the findings, in the relevant Disciplinary file.

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| 13.6  | After studying of the Inquiry Report and connected documents, the Disciplinary Authority may determine that the Accused person is guilty or not guilty of all the charges or guilty of several or one of the charges or quashed the disciplinary inquiry and order a fresh disciplinary inquiry.   | Determination of the Disciplinary Authority |
| 13.7  | Where the Disciplinary Authority decides to hold a fresh formal disciplinary inquiry in terms of sub paragraph 13.4 above, it shall record reasons for such decision and take steps to hold such inquiry by a different Tribunal/Inquiry Officer without delay.  | If decides to hold a fresh/formal inquiry   |
| 13.8  | The Disciplinary Authority shall record reasons for any decision made by him in the relevant Disciplinary file clearly and specifically at the time of making such decision.   | Reasons to be recorded                      |
| 13.9  | The Disciplinary Authority shall quash a formal disciplinary inquiry only where the Tribunal/Inquiry Officer has not conducted the inquiry in accordance with the approved procedure or where the Prosecuting Officer has failed willfully, negligently or inattentively to conduct the prosecution protecting the interests of the Commission/Higher Educational Institutions/ Institute. | When to quash a formal inquiry              |
| 13.10 | Where any other act of misconduct by the accused person has been revealed by an Inquiry Report, it shall be the responsibility of  | When other act of misconduct is reveled     |

the Disciplinary Authority to take disciplinary action on such act of misconduct forthwith.

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| 13.11 | Where it has been revealed by a disciplinary inquiry report that any officer who is a witness or any other officer has committed any act of misconduct and where the Disciplinary Authority of the officer is itself, it shall be the responsibility of the Disciplinary Authority to take disciplinary action against such officer. In the event, it is not the Disciplinary Authority of such officer; it shall immediately report such misconduct to the relevant Disciplinary Authority.  | When an act of misconduct of any other officer is revealed |
| 13.12 | Where any shortcoming in the Commission, a Higher Educational Institution/ Institute in which the act of misconduct has occurred has been revealed by an Inquiry Report, the Disciplinary Authority shall report such shortcoming to the Chairman of the Commission or the Principal Executive Officer of the respective Higher Educational Institution/Institute or the Chairman of the Appeals Board. It is the responsibility of relevant Head to take suitable action to remedy such situation.   | Where shortcoming of the Institution is revealed           |
| 13.13 | Where a Tribunal/Inquiry Officer has made his observations and constructive proposals in his inquiry report on changes to be effected in administration or procedure to avoid the recurrence of offences revealed at the inquiry and maintain the well being of the public service, it shall be the duty of the Disciplinary Authority to bring such fact to the notice of the Commission or the Secretary to the Ministry of Higher Education or the Secretary to the Ministry of Finance or any other authority as the case may be without delay. | Duty of the Disciplinary Authority                         |
| 13.14 | A disciplinary order made by a Disciplinary Authority should invariably contain the following;  | Contents of the disciplinary order                         |

- (a) Whether the person is guilty or not guilty of each charge or the charges preferred against him in the charge sheet
- (b) Punishment/s and/or conditions imposed in respect of charge/s of which the accused person is found guilty, inclusive of one or more of the following punishments;
  - a) Reprimand;
  - b) Severe reprimand;
  - c) Censure;
  - d) Fine not exceeding a week's pay;
  - e) Stoppage, reduction, deferment of increment for periods not exceeding one year;
  - f) Surcharge after disciplinary inquiry;
  - g) Disciplinary transfer;
  - h) Stoppage, reduction or deferment of one or more increments for periods exceeding one year;
  - i) Disqualifying from sitting any promotional examinations or being considered for any promotions for specified periods;
  - j) Deferment of promotion for a specified period;
  - k) Reduction in seniority (by a specified number of places) in a grade to which he belongs;
  - l) Reduction in rank (reversion to the next lower class in the same grade or reduction to a lower post);
  - m) Retirement for general inefficiency;
  - n) Termination of services after disciplinary inquiry;
  - o) Dismissal.

13.15 When a Disciplinary Authority decides to acquit an accused person of all the charges against him, such decision should be forthwith communicated to him. The disciplinary order should contain an order for

When the Disciplinary Authority decides to acquit an accused person

reinstatement if the accused person is under interdiction in connection with the charges and an order to pay or with-hold any emoluments withheld during the period of interdiction.

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| 13.16 | Where the offence is one that should be dealt with as falling under minor punishments, the Disciplinary Authority may impose only minor punishment.   | Offence falling under minor punishments        |
| 13.17 | Where the Charge Sheet states that the offence is one that should be dealt with as falling under major punishments, the Disciplinary Authority may impose a minor punishment and/or a major punishment in terms of sub-paragraph 13.18 below.   | Offence falling under major punishments        |
| 13.18 | When it finds the accused person is guilty of one or some or all of the charges preferred against him, the Disciplinary Authority may impose a separate punishment in respect of each charge or a punishment in respect of any combination of charges. A punishment for this purpose will be a single punishment or any combination of punishments as described in paragraph 4 of this Chapter.   | Separate punishments in respect of each charge |
| 13.19 | If a punishment less than dismissal is imposed on an accused person who is under interdiction, the order shall include the immediate reinstatement and as to whether the whole of the emoluments withheld from him or a specified portion thereof should be paid to him. In deciding on such an order, consideration should be given to the length of the period of interdiction necessitated by the disciplinary proceedings against the accused person, especially when any unusual delay cannot be directly attributed to any act on the part of the person concerned. | When punishment imposed is less than dismissal |
| 13.20 | The effective date of a punishment imposed by the Disciplinary Authority on an accused  | Effective date of a punishment                 |

person after the completion of a formal disciplinary inquiry or after calling for his explanations should be the date on which the formal charge sheet was served on him or the date on which his explanations were called for, as the case may be.

Provided however, if a person who is on interdiction with half pay and if the Disciplinary Order is to terminate his services, the effective date of termination should be the date of the decision taken by the Disciplinary Authority.

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| 13.21 | The Disciplinary Authority shall forthwith issue the disciplinary order on the accused person. The disciplinary order made by the Disciplinary Authority should contain whether the accused person is guilty or not of each charge in the charge sheet preferred against him, the punishments imposed on charges the accused officer is found guilty and conditions imposed if any.                             | Nature of the disciplinary order                 |
| 13.22 | The disciplinary order shall be sent direct to the accused person under registered post. The disciplinary authority shall sent simultaneously under registered post or duly hand over copies of such disciplinary order to all authorities and officers to whom copies of the Charge Sheet were sent.   | Order to be sent direct to the accused person    |
| 13.23 | A disciplinary order made to exonerate an accused person may contain the following decisions. .<br><ul style="list-style-type: none"> <li>a) Order of reinstatement, where the employee is under interdiction;</li> <li>b) Order for payment of salary withheld during the period of interdiction;</li> <li>c) Order for payment of all salary increments withheld based on the disciplinary action;</li> </ul> | When the order is to exonerate an accused person |

- 13.24 Where at the time of the issuance of the disciplinary order, after a formal disciplinary inquiry, another formal disciplinary inquiry against the same person is pending; the issuance of the order in respect of the concluded disciplinary inquiry shall be withheld until the formal disciplinary order in responding of the pending formal disciplinary inquiry.
- When another inquiry is pending

#### 14. Revision or Variation of Disciplinary Orders

- 14.1 A Disciplinary Authority (Officers who have been delegated disciplinary authority as per Schedule) other than the Commission/ Governing Authority of a Higher Educational Institution/ Institute may not revise or vary a disciplinary order, except to correct errors that appear on the face of the order.
- Disciplinary order may not be revised
- 14.2 Application to the Commission or the Governing Authority of a Higher Educational Institution/ Institute for a variation or revision of a disciplinary order should be made and dealt with substantially as prescribed in subparagraph 20.11 of Chapter III, provided that an application in respect of an order of dismissal should be made within six months of the date of dismissal.
- Application for revision or variation on dismissal

#### 15. Appeal against Disciplinary Orders

- 15.1 The Appellate Authority with regard to disciplinary matters of the employees attached to the Commission or Higher Educational Institutions/ Institutes is the University Services Appeals Board in terms of Section 86 of the Act.
- The University Services Appeals Board
- 15.1.1 Notwithstanding the powers of the Commission/ Council/ Board of Management or any Authority or body of the Higher Educational Institution/ Institute, the University
- Appeals against disciplinary orders



Services Appeals Board shall have power to hear and decide on appeals under Sections 86 and 87 of the Act.

- 15.1.2 A decision made by the Appeals Board in the exercise, performance and discharge of its powers, duties and functions under Section 86 shall be final and where remedial action has to be taken in consequence of such a decision, the Commission or the Governing Authority of such Higher Educational Institution/ Institute concerned, as the case may be, shall implement such decision (Section 87 of the Act).
- Decisions of  
USAB final

**16. Criminal Offences, Bribery Charges and matters of Sub-Judice**

- 16.1 When a criminal offence categorized under the Code of Criminal Procedure Act or an offence of bribery or corruption is disclosed in the course of a preliminary investigation, the matter should be reported to the Chairman of the Commission or Principal Executive Officer of the Higher Educational Institution/ Institute, as the case may be, together with a copy of the notes of such investigation without delay so that he may refer the matter to the Police or the Commission to Investigate Allegations of Bribery or Corruption or such other statutory authority for suitable action under the appropriate law.
- Criminal offences  
or bribery charges  
disclosed during  
preliminary  
investigation
- 16.2 If a criminal offence or an offence of bribery or corruption is disclosed during the course of or at the end of a disciplinary proceeding, the tribunal/ inquiry officer shall report the matter to the Chairman of the Commission or Principal Executive Officer of the Higher Educational Institution/ Institute as the case may be, together with copies of records of proceedings so that he may refer the matter to
- During the course  
of or at the  
conclusion of a  
disciplinary  
inquiry

the Police or the Commission to Investigate Allegations of Bribery or Corruption or such other statutory authority for suitable action under the appropriate law.

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| <p>16.2.1 Where disciplinary proceedings have been finalized, the disciplinary order may be made before the matter is referred to the Police or the Commission to Investigate Allegations of Bribery or Corruption or such other statutory authority for suitable action under the appropriate law.</p>  | <p>Where inquiry has been finalized</p>                            |
| <p>16.3 Even though transmission of information to the respective authorities has been done as referred to in sub-paragraphs 16.1 and 16.2 above, a preliminary investigation in progress should not be suspended or postponed unless there are compelling reasons or unavoidable circumstances for such suspension. Any investigation suspended due to above reasons should be recommenced and concluded as soon as possible.</p> | <p>Preliminary investigations to continue</p>                      |
| <p>16.4 Where respective authorities have been informed to take legal action and such authorities request for documents, any relevant articles or anything else that are deemed relevant for their investigations and legal proceedings, the Disciplinary Authority or the officers who have been delegated such authority should make available such items to the respective authorities.</p>                                     | <p>Documents to be made available to investigating authorities</p> |
| <p>16.5 Where documents which are deemed necessary for preliminary investigations or legal proceedings are handed over to the respective authorities, photocopies of such documents certified by them should be retained for any disciplinary proceedings likely to be taken against the accused person</p>  | <p>Photocopies of documents to be retained</p>                     |

by the Commission/ Higher Educational Institution/Institute. Certified copies of the documents thus retained should be totally admissible in a formal disciplinary inquiry against the person concerned.

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| 16.6  | Where an employee is taken into custody by the Police or some other statutory authority pending legal proceedings against him or where he is remanded before the commencement of legal proceedings in a Court of Law, he should be granted compulsory leave to cover such period.   | Compulsory leave when remanded or taken into custody      |
| 16.7  | If a person employed in the Commission/ Higher Educational Institution/ Institute is remanded by a Court of Law he shall be interdicted forthwith.  | Remanded by Court   |
| 16.8  | When an employee taken into custody by the Police or any other statutory authority is released from custody, he may be reinstated by the Appointing Authority. However, if such reinstatement would obstruct a preliminary investigation or a formal disciplinary inquiry scheduled to be held by the Disciplinary Authority, the accused person should not be reinstated but remain interdicted. | Conditions for re-instatement while inquiry is proceeding |
| 16.9  | Even when Court proceedings are in progress against the accused person, the Disciplinary Authority should hold a disciplinary inquiry against him independent of Court proceedings. Suspension or postponement of the disciplinary inquiry should be done only when there is a compelling reason or unavoidable obstacle.   | Disciplinary inquiry independent of court proceedings     |
| 16.10 | The fact that the Court proceedings against him are still in progress shall in no way affect the making of a disciplinary order at the conclusion of the disciplinary inquiry against him.  | No effect when making disciplinary order                  |

16.11 Where a person acquitted by an inquiry held at the institution of a charge or charges is found guilty by a Court of Law of the same charges, the fact that he has been acquitted by the institutional inquiry should not stand in the way of taking action against him.

Acquitted by inquiry but found guilty by court of law

16.12 Where Court proceedings and an institutional inquiry have been held with regard to a charge or charges and where the institutional inquiry finds the person guilty, the fact that he is acquitted in the court proceedings should in no way affect the implementing of the disciplinary order made on matters revealed in the institutional disciplinary inquiry.

Findings of the institutional inquiry to prevail

#### **17. Conviction in Court or imposition of penalties by Statutory Authorities**

17.1 If a person employed in the Commission/ Higher Educational Institution/ Institute is convicted in any criminal proceedings or is summarily convicted by a Court of Law under Section 449 of the Code of Criminal Procedure Act or is found guilty of any offence or is subjected to any penalty by a Statutory Authority such as the Director General of Customs or the Commissioner General of Examinations, etc., in whom such power is vested by law, that Court or Statutory Authority will report the facts of the case to the Chairman of the Commission/ Principal Executive Officer of the Higher Educational Institution/ Institute concerned with a certified copy of the proceedings.

Report to the appropriate Head of the HEI

17.2 On receiving a report under sub-paragraph 17.1 above, the matter should be referred to the Disciplinary Authority for action who will inquire into the circumstances of the case, institute any further proceedings as he considers necessary and order such

Action by Disciplinary Authority

punishment as he deems fit in the circumstances of the case. If the person furnishes to the Disciplinary Authority, proof of the fact that he has appealed against the conviction order or findings of the Court or Statutory Authority, the Disciplinary Authority shall await the outcome of such appeal before ordering punishment.

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| 17.3 | The fact that a person has been acquitted or discharged or found not guilty by a Court of Law or a Statutory Authority does not mean that the person should not be dealt with under these provisions if there is sufficient material on which disciplinary proceedings can be instituted against him. | Application of disciplinary proceedings even after acquitted or discharged by court of law |
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Normally such an inquiry should commence if the offence had been committed while on duty or within the premises of the Commission or a Higher Educational Institution/ Institute.

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| 17.4 | A person who had been punished under these provisions by a Disciplinary Authority for any offence may not claim remission of such punishment on the grounds that he has been subsequently acquitted or discharged by a Court of Law in respect of the same offence or that an order of a Court has been set aside in appeal. | No remission of punishment |
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## 18. Offences disclosed in Reports of Commissions of Inquiry and Audit Reports

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| 18.1 | If the Chairman of the Commission or Principal Executive Officer of the Higher Educational Institution/ Institute concerned is satisfied that the report of a Commission of Inquiry or of the Auditor General/Internal Auditor discloses any acts or omissions on the part of a person for which he too is accountable, he shall call upon the person to | Call for written submissions |
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make his submission in writing and forward them with his own observations to the appropriate Disciplinary Authority.

- 18.2 The Disciplinary Authority shall institute an inquiry as it may consider necessary and impose such punishment as he deems fit.

Action by  
Disciplinary  
Authority

19. **Interdiction and Compulsory Leave** (This section should be read with paragraph 8 of Chapter VI)

- 19.1 Where it is considered undesirable that a person employed in the Commission or a Higher Educational institution/ Institute should continue to exercise the functions of his office, he may forthwith be interdicted from office by the Chairman of the Commission or the Principal Executive Officer of the Higher Educational Institution provided that:

When interdiction  
is appropriate

- (a) disciplinary proceedings or criminal proceedings have been or are about to be instituted on charges which if established are sufficiently serious to warrant his dismissal; or
- (b) a report has been received from a Court of Law or Statutory Authority in terms of sub-paragraph 17.1 above or an offence has been disclosed in terms of sub-paragraph 16.1 above in a matter sufficiently serious to warrant his eventual dismissal after the matter has been considered by the appropriate Disciplinary Authority in terms of sub-paragraph 17.2 above.

- 19.1.1 Where serious charges are made against employees other than those who are in the permanent cadre warranting interdiction, he should generally not be interdicted pending disciplinary inquiry, but should be discontinued in terms of his employment. He may be re-

Those who are  
not in the  
permanent cadre

employed on completion of the inquiry if the circumstances of his case justify re-employment. If special circumstances exist for exercising some control over such employee which would be lost if he is discontinued, the Chairman of the Commission or the Principal Executive Officer of the Higher Educational Institution/ Institute concerned should be consulted.

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| 19.2 | A person convicted of a crime shall deem to be interdicted as from the date of such conviction notwithstanding the fact that an appeal to a higher court may be pending and shall remain under interdiction until a decision is made by the Disciplinary Authority in terms of sub-paragraph 17.2 above. He shall not be paid any emoluments during the period of such interdiction. | On conviction of a crime                            |
| 19.3 | If a person has been interdicted, for reasons other than the reason given in sub paragraph 19.2, it is essential that proceedings against him should be completed with the least possible delay.   | Completion of proceedings with least possible delay |
| 19.4 | If a person under interdiction is subjected to a Final Disciplinary Order of punishment lesser than dismissal or retirement for inefficiency, he should be immediately re-instated subject to further Order as to back wages should be paid or not by the Disciplinary Authority.  | Re-instatement                                      |
| 19.5 | The emoluments to be paid to a person under interdiction shall be determined under the provisions of paragraph 8 of Chapter VI.  | Emoluments while under interdiction                 |
| 19.6 | If a punishment lesser than dismissal is imposed on a person under interdiction, the emoluments or proportion thereof to be paid to him on re-instatement shall be determined by the Disciplinary Authority who makes the disciplinary order and shall form part of that   | Amount as determined by Disciplinary Authority      |

order under sub- paragraph 19.5 above.

- 19.7 If the person cannot appropriately be interdicted in terms of this section, but it is in the interest of the investigation or inquiry that he should not exercise the functions of his office, he should be transferred, or placed on compulsory leave in terms of paragraph 15 of Chapter X.
- Transfer or compulsory leave

## 20. Retirement for General inefficiency

- 20.1 Where warnings, reprimands and other punishments imposed on a person over a long period of time on various occasions during his period of service for acts of misconduct, misdemeanor, negligence or inadvertence have failed in improving his conduct and efficiency, the Disciplinary Authority may, if it determines that his continuation in the service is detrimental to the efficient conduct of the place where he works, retire the person for general inefficiency, having followed the procedure specified below;
- When continuation in service is detrimental to efficient conduct of the place of work

- 20.1.1 Where the Chairman of the Commission or the Principal Executive Officer of the Higher Educational Institution/ Institute is of the opinion that a person should be compulsorily retired on grounds of general inefficiency, which cannot be appropriately dealt with by specific charges, he will obtain reports on the person's work and conduct from all institutions in which he has previously served.
- Report on work and conduct

- 20.1.2 When the reports are received, the person shall be informed in writing of the grounds in which it is proposed to retire him for general inefficiency and he should be asked to show cause in writing within a stipulated period of
- Person informed of reasons for retirement



time as to why he should not be retired for general inefficiency or otherwise dealt with for inefficiency. The grounds should cover all cases of inefficiency arising from lack of competence and failures due to indifference, neglect or other defects etc. in the discharge of his duties at the Commission/ Higher Educational Institutions/ Institutes in which the person has served, whether or not such grounds had been the subject of disciplinary action in the past or not.

20.1.3 On receiving his explanation, the matter shall be referred to the appropriate Disciplinary Authority for a decision. If the explanation is found to be unsatisfactory or where he fails or willfully neglects to submit his explanation within the stipulated period of time it will be deemed that he has no explanation to offer and the Disciplinary Authority shall either make an order of retirement for general inefficiency or impose other appropriate punishment as it deems fit.

Order of retirement or other punishment

20.1.4 The date on which the retirement will be effective is the date on which the order of retirement was made by the Disciplinary Authority.

Effective date

**21. Retirement, Resignation and permission to leave the island when disciplinary proceedings are pending or contemplated**

21.1 A person, against whom disciplinary proceedings are pending or contemplated, should not be granted permission to leave the island without the concurrence of the Disciplinary Authority.

Permission to leave the island

21.2 If such a person tenders his resignation while the disciplinary proceedings are in progress or after disciplinary proceedings, but before an order is made at the conclusion of the disciplinary inquiry, his request for resignation shall not be considered and he shall be deemed to have been dismissed and shall be subjected to all actions taken in the dismissal of a person in the service.

Resignation  
Before  
proceedings are  
completed

21.3 If a pensioned person who has subsequently joined the Commission/ Higher Educational Institution/ Institute with a previous service in the public or local government sector and allowed to retire from the service of the Commission/ Higher Educational Institution/ Institute during the course of a disciplinary inquiry or at the end of it, his retirement will be subjected to Section 12 of the Minutes on Pensions.

Pensioned  
persons from the  
public sector

## 22. **Vacation of Post**

22.1 Where a person has been treated as having vacated his post under paragraph 7 of Chapter V and the Disciplinary Authority having considered his explanation has refused the person permission to resume duties or where such person has failed to volunteer an explanation within a period of six months from the date of the notice of vacation of post, such person may appeal for re-instatement to the University Services Appeals Board as in the case of dismissals.

Appeals as  
in dismissals

23. 23.1 The following provisions are applicable for any employee who is still in his probationary period imposed under his letter of appointment or extended period of probation, notwithstanding any other provision of this Code.

23.2 Notwithstanding anything contrary to the provisions of this Code, the Disciplinary

Authority is not necessarily obliged to conduct a formal disciplinary inquiry against any employee who is in his probationary period.

If the Disciplinary Authority is of the opinion that conducting a formal disciplinary inquiry is required, it may do so as appropriate.

- 23.3 Where an employee who is in his probationary period has found to have committed an offence listed under "misconduct", the Disciplinary Authority shall take action under the summary disciplinary procedure herein provided.
- 23.4 Where the Disciplinary Authority contemplates to take action under summary disciplinary procedure against an employee vide sub-paragraph 8.3 of this Chapter, he shall be informed the misconduct that have been committed by him by show cause notice and call upon him to show cause why his services should not be terminated in writing within a reasonable period of not less than 07 days.
- 23.5 The show cause notice may give him a reasonable period not less than seven (7) days to present his explanation and the same shall be sent under registered post or handed over to the accused employee and obtain his acknowledgement. Further, copies of such notice shall be sent to the immediate supervising officer.
- 23.6 Where the Disciplinary Authority accepts the explanation submitted by the accused employee in response to such show cause notice and decides to exonerate the employee, the Disciplinary Authority shall convey such decision without delay.

23.7 Where an employee who had been issued with a show cause notice and fails to submit his explanations within the prescribed period as to why his services should not be terminated or the Disciplinary Authority decides that the explanations submitted by the employee is insufficient to exonerate him, the Disciplinary Authority shall terminate his services forthwith.

**24. Disciplinary action against an employee, whenever there is a change of his Disciplinary Authority subsequent to the issue of the charge sheet**

24.1 Where a formal charge sheet has been issued to a particular person and where there is a change in his Disciplinary Authority at any stage before a disciplinary order is issued, such change will in no way affect the disciplinary proceedings in progress. The previous Disciplinary Authority should continue the disciplinary proceedings in accordance with the provisions of this Code irrespective of the change in the Disciplinary Authority.

When there is a change in Disciplinary Authority

24.2 The previous Disciplinary Authority pertaining to the accused person should, at the conclusion of the formal disciplinary inquiry forward, without delay, the findings of the Tribunal/Inquiry Officer and his recommendations on the findings and on the disciplinary order to be issued and all other documents in connection with the disciplinary inquiry to the present Disciplinary Authority pertaining to the accused person.

Documents including disciplinary order to be forwarded to the present Disciplinary Authority

24.3 It will be the responsibility of the Present Disciplinary Authority pertaining to the accused person, on receiving the documents and the observations and recommendations of the previous Disciplinary Authority

responsibility of the present Disciplinary Authority

pertaining to the accused person, to make an appropriate disciplinary order after careful study of the above documents.

24.4 Where the Present Disciplinary Authority disagrees with the findings of the Tribunal or with the recommendations of the previous Disciplinary Authority, he may make a disciplinary order contrary to the findings of the Tribunal/Inquiry Officer in accordance with the findings arrived at by him independently based on the report of the disciplinary inquiry and other documents. The Disciplinary Authority should state clearly and specifically the reason for making such contrary disciplinary order in the disciplinary file before such order is issued.

When the present Disciplinary Authority disagrees with the findings/recommendations of the previous Disciplinary Authority

**NOTES FOR THE GUIDANCE OF TRIBUNALS/INQUIRY OFFICERS**

1. The date and time of the inquiry, the place at which it is held, the name of persons presenting the case for the prosecution, the name of the accused employee and the name of the person appearing for the defence should be entered on the record at the commencement of each sitting.
2. The evidence of witnesses should be given in the language in which they are most familiar. If the Tribunal/ Inquiry Officer or the defences are not familiar with it, the evidence should be translated for which the services of a translator may be obtained. The evidence need not be given on oath.
3. All evidence should be recorded in direct speech as a continuous narrative and not in the form of question and answer, it may be so recorded i.e. "I then saw Perera leaving the office" and not, "witness states that he then saw Perera leaving the office". However, if on a particular point a record in question and answer form is necessary in order to put the meaning of what is being recorded beyond doubt, the question and answer form may be followed.
4. Where the evidence of a witness contradicts the evidence given by him at the preliminary investigation, he should be requested to explain the contradiction. The explanation of the witness, if any, should be recorded. If he states that he is unable to offer an explanation such statement should also be recorded. If the witness remains silent when so questioned, the fact should be recorded within square brackets.
5. If a witness refuses to give an answer, the question should be recorded and the observations "the witness does not answer" should be recorded in square brackets.
6. Any other observations arising out of the evidence being recorded and which the Tribunal/Inquiry Officer wishes to record, should be recorded in the same manner in square brackets [e.g. At this stage the defence objected to my asking him the question "Were you aware that James had been to jail", I overruled the objection after hearing the defense].
7. Similarly any other observations pertinent to the inquiry should be recorded at the stage at which they arise and in the body of the record i.e. (At this stage the witness turned boisterous and I/We adjourned the inquiry for half an hour).

8. After the evidence of the prosecution witnesses have been led, the accused person should be asked whether he is summoning any witnesses in his defence and his answer recorded. The evidence of the defence witnesses, if any, should then be recorded. If witnesses for the prosecution are re-examined or new witnesses are summoned after the defence has led its evidence, the defence will be permitted the same facility.
9. At the conclusion of a witness's evidence he should be asked to read over his statement and sign it with the endorsement "read and accepted as correct". The Tribunal/Inquiry Officer should also sign the statement. If the evidence is recorded in a language other than that in which he gave it, the Tribunal/Inquiry Officer should read over and explain to the witness the evidence as recorded by him and sign the statement with the endorsement "read and explained by me". If the witness denies having made any statement as recorded, such denial should be recorded within square brackets together with the comments of the Tribunal/Inquiry Officer immediately below evidence recorded and before the witness is asked to subscribe his signature to it.
10. The questions put to witness should be simple and so framed as to obtain from the witness, as far as possible in a chronological sequence, a narrative of all the relevant facts which he has witnessed, i.e., which he has in any manner directly seen or otherwise directly observed or perceived. A general request to a witness to tell what he knows or to state the facts of the case is, as a rule, not to be permitted because it affords an opening for a prepared story.
11. A witness should not be permitted to state in evidence what another person told him, unless the statement of that person has been recorded or will be recorded in the course of the inquiry.
12. It is the duty of the Tribunal/Inquiry Officer to ascertain facts of the case. The Tribunal/Inquiry Officer may recall witnesses already heard to get at the truth of the matter and should be in a position at the end of the inquiry to state clearly whether the person concerned is guilty or not guilty of the charge or charges made against him.
13. Productions at an inquiry for the prosecution should be marked P1, P2, P3, etc. (in the order in which they are produced) and productions of the defence marked D1, D2, D3, etc. and initialed by the Tribunal/Inquiry Officer.

14. The Tribunal/Inquiry Officer in arriving at conclusions should consider a fact to be proved, if after considering all available evidence, it is believed that such a fact exists or considers its existence so probable that a prudent man would in the circumstances act on the presumption that it exists. A fact should be considered as disproved if after considering all the available evidence it can be considered that the fact does not exist or its non-existence is so probable that a prudent man would in the circumstances act on the presumption that it does not exist. A fact is said not to be proved when it is neither proved nor disproved.
15. The conclusion of the Tribunal/Inquiry Officer should always be based on facts established in evidence given before it and not on any other conjectures. Inferences may, however, be drawn where they obviously arise from the facts of the case.



**SCHEDULE 'A'**

Delegated Authority for imposition of minor punishments to persons employed in the Commission in terms of sub-paragraph 4.1.1 of this Chapter

<b>Disciplinary Authority</b>	<b>Category of Staff</b>	<b>Minor Punishment</b>
Additional Secretaries	Persons employed in the Commission other than the Additional Secretaries and Secretary	1. Reprimand 2. Severe reprimand 3. Censure
Secretary	All persons employed in the Commission other than Additional Secretaries	1, 2 and 3 above and 4. Fine not exceeding a week's pay 5. Stoppage, reduction, deferment of increment for periods not exceeding one year
Chairman	All persons employed in the Commission	1, 2, 3, 4 and 5 above and 6. Surcharge after disciplinary inquiry 7. Disciplinary transfers 8. Any other punishment not severe than the above Chapter

**SCHEDULE 'B'**

Delegated Authority for imposition of minor punishments to persons employed in the Higher Educational Institutions/Institutes in terms of sub-paragraph 4.1.1 of this Chapter

Disciplinary Authority	Category of Staff	Minor Punishment
Deputy Registrar of a Higher Educational Institution or the most Senior Officer of the administrative staff attached to a Campus or an Institute	Persons other than teachers and officers in executive categories who are not attached to the Faculties	1.Reprimand 2.Severe reprimand
Dean of a Faculty/Librarian	Persons other than teachers and officers in executive categories who are attached to the Faculty/Library as appropriate	1 and 2 above and 3. Censure
Registrar of a University/ Secretary of a University College/ Rector of a Campus/ Director of an Institute	All persons other than teachers and officers in executive categories in the Higher Educational Institution/ Institute as the case may be	1, 2 and 3 above and 4. Fine not exceeding a week's pay 5. Stoppage, reduction, deferment of increment for periods not exceeding one year
Vice-Chancellor or Deputy Vice-Chancellor of a University/ Director of a University College/ Centre for Higher Learning	All persons other than teachers and officers in executive categories in the University/ Campus or University College or Centre for Higher Learning as the case may be	1, 2, 3, 4, and 5 above and 6. Surcharge after disciplinary inquiry 7. Disciplinary transfer 8. Any other punishment not severe than the above
Governing Authority	All persons employed in the University/ University College/ Campus or Institute/ Centre for Higher Learning as the case may be	1, 2, 3, 4, 5,6,7and 8 above

**SCHEDULE 'C'**

Delegated Authority for imposition of major punishments to persons employed in the Commission in terms of sub-paragraph 4.1.2 of this Chapter

<b>Disciplinary Authority</b>	<b>Category of Staff</b>	<b>Major Punishment</b>
Secretary	All persons employed in the Commission other than Additional Secretaries	9 Stoppage, reduction or deferment of one or more increments for periods exceeding one year
Chairman	All persons employed in the Commission	9. above and 10. Disqualifying from sitting any promotional examinations or being considered for any promotions for specified periods 11. Deferment of promotion for a specified period 12. Reduction in seniority (by a specified number of places) in a grade to which he belongs
The Commission	All persons employed in the Commission	9 to 12 above and 13. Reduction in rank (reversion to the next lower class in the same grade or reduction to a lower post) 14. Retirement for general inefficiency 15. Termination of services after disciplinary inquiry 16. Dismissal

**SCHEDULE 'D'**

Delegated Authority for imposition of major punishments to persons employed in the Higher Educational Institutions/ Institutes in terms of sub-paragraph 4.1.2 of this Chapter

<b>Disciplinary Authority</b>	<b>Category of Staff</b>	<b>Major Punishment</b>
Registrar of a University/ Secretary of a University College/ Rector of a Campus/ Director of an Institute	All persons other than teachers and officers in executive categories in the Higher Educational Institution / Institute as the case may be	9. Stoppage, reduction or deferment of one or more increments for periods exceeding one year 10. Disqualifying from sitting any promotional examination for a specified period for an examination offence
Vice-Chancellor or Deputy Vice-Chancellor of a University/ Director of a University College/ Centre for Higher Learning	All persons other than teachers and officers in executive categories in the Higher Educational Institution/Centre for Higher Learning as the case may be	9 and 10 above, and 11. Disqualifying from sitting any promotional examinations or for being considered for any promotions for specified periods 12. Deferment of promotions for a specified period 13. Suspension of service pending disciplinary investigations
The Governing Authority	All persons employed in the Higher Educational Institution/ Institute concerned	9 to 13 above, and 14. Reduction in seniority (by a specified number of places in a grade to which he belongs) 15. Reduction in rank (reversion to the next lower class in the same grade or reduction to a lower post) 16. Retirement for general inefficiency 17. Termination of services after disciplinary inquiry 18. Dismissal