

# DISCIPLINARY CODE AND PROCEDURE FOR NTEU MEMBERS AND OFFICE BEARERS

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## 1. OBJECTIVE

- 1.1 The objective of this code is to ensure that each member or office bearer of the union complies with all the terms and conditions of the **NTEU** Constitution and fulfils his/her obligations to the Union.
- 1.2 It further aims to ensure that a member or office bearer is fairly dealt with and that a proper investigation is conducted in each instance, before taking any disciplinary action.
- 1.3 To further accentuate any corrective aspects of disciplinary matters, members or office bearers shall be counselled on minor behavioural issues.
- 1.4 Where a member or office bearer's behaviour is alleged to be in serious contravention of the Union's Constitution and the rules and regulations that are listed in this code, a disciplinary inquiry will be held following an initial investigation.
- 1.5 The disciplinary code will be applied consistently.
- 1.6 All members or office bearers will be made aware of the Disciplinary Code and Procedure and the standards that are expected of them.
- 1.7 The effective date of this code is August 2011.

## 2. RULES AND REGULATIONS

- 2.1 These are the basic rules and regulations of the union, which members or office bearers are expected to comply with at all times. Failure to comply with these rules shall entitle the governing body which has jurisdiction (Branch Executive Committee or National Executive Committee) to initiate disciplinary steps deemed appropriate in the circumstances, which may include counselling, verbal warnings, written warnings, and termination of membership after a proper and fair investigation and in accordance with the standing disciplinary procedure set out below. These rules are not to be read in isolation, but include any related activity, which has a bearing on them.
- 2.2 All members or office bearers must comply with the **NTEU** Constitution, which may be revised from time to time.
- 2.3 All accidents involving you or others, equipment or property, however minor during **NTEU** business must be reported immediately to the branch Secretary.

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- 2.4 Members or office bearers may not enter **NTEU** premises after business hours unless prior permission is granted by person/s having jurisdiction to grant such request.
- 2.5 No equipment may be removed from **NTEU** premises without permission granted by person/s having jurisdiction to grant such request.
- 2.6 Assaults, threats, victimisation, harassment, intimidation and obscenity are regarded in a serious light. Members or office bearers are required to refrain from such behaviour. Where a complaint of this nature is lodged, **NTEU** retains the right to hold an independent inquiry.
- 2.7 Members or office bearers may not disclose confidential information or information prejudicial to the union to non-members or office bearers, nor the press or any other person or organisation, without prior permission of the President.
- 2.8 Members or office bearers are expected to apply themselves dutifully and diligently and should use their best means and endeavours to promote the union. Members or office bearers should at all times refrain from bringing the union in disrepute.

## 3. PROCEDURE

- 3.1 In the event of an alleged breach of this code which cannot be resolved through counselling, the disciplinary code shall be applied.
- 3.2 In the event of an alleged breach of the Constitution, investigation and discipline procedures shall be followed as per the constitution.
- 3.3 The NEC may precautionarily suspend a member, office bearer or in cases of serious allegations.
- 3.4 For a disciplinary committee for a member or office bearer, the BEC or NEC shall appoint a disciplinary committee consisting of up to three persons, one of which may be nominated by the member, or office bearer, to deal with the breach of code.
- 3.5 In the event of a disciplinary committee for an employee this shall be formed under the direction of the NEC as provided for by the constitution and in line with schedule 8 of the LRA.
- 3.6 The union shall keep written records of all disciplinary action in order that the system may be monitored for fairness and equity.

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- 3.7 It is accepted that the principles of natural justice must apply to disciplinary enquiries and these are as follows:
- 3.7.1 The member or office bearer must know the allegation against him/her.
  - 3.7.2 The member or office bearer is entitled to representation in the form of a co-member or office bearer of his/her choice.
  - 3.7.3 The member or office bearer or his/her representative is entitled to copies of all documentation pertaining to the enquiry in order to properly prepare a defence.
  - 3.7.4 The member or office bearer is entitled to an impartial enquiry.
  - 3.7.5 The member or office bearer is entitled to a translator should English not be his/her mother tongue.
  - 3.7.6 The member or office bearer is entitled to state his/her case and cross examine witnesses.
  - 3.7.7 The member or office bearer is entitled to know the outcome of the enquiry in writing.
  - 3.7.8 The member or office bearer is entitled to appeal to the higher authority against the outcome of the enquiry.
- 3.8 The disciplinary committee should consider:
- 3.8.1 Cause and effect of all the alleged misconduct.
  - 3.8.2 The disciplinary action must suit the offence and must be fair and reasonable
  - 3.8.3 Mitigating circumstances
- 3.9 No member or office bearer's membership or employment may be terminated without the approval of the NEC.
- 3.10 **NTEU** retains the right to recoup any financial losses resulting from offences by members, s or office bearers found guilty of the charges brought against them.

## 4. DISCIPLINARY ACTION

- 4.1 The disciplinary committee shall be entitled to take any of the following corrective action in terms of the Guidelines:

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- 4.1.1 Temporarily suspend a member or office bearer pending a disciplinary hearing in cases of serious allegations.
- 4.1.2 Issue a written warning.
- 4.1.3 Issue a final written warning.
- 4.1.4 Recommend termination of membership or dismissal as the case may be to the NEC.
- 4.2 After consideration of all the evidence, the decision to take the appropriate action must be explained to the member or office bearer and conveyed in writing.

## 5. APPEAL PROCEDURE

- 5.1 In the event of any disciplinary action being taken against a member or office bearer, that member or office bearer shall have the right to appeal against the action taken.
- 5.2 A letter stating the intention to appeal must be lodged with the National Secretary within three working days after notice of the decision in a disciplinary hearing was served on the member or office bearer. The appeal shall be referred to the National Appeals Board whose decision shall be binding on all parties.

## 6. GUIDELINES REGARDING OFFENCES

- 6.1 The following are possible offences which could be considered within the scope of this disciplinary code:
  - 6.1.1. Breach of **NTEU** Constitution.
  - 6.1.2 Abusive or denigrating behaviour, including sexual harassment whilst on **NTEU** business.
  - 6.1.3 Behaviour, speech or actions which may have the effect of causing bad relations between members or office bearers or between staff of **NTEU** and other organisations.
  - 6.1.4 Intimidation of other members or office bearers and/or staff.
  - 6.1.5 Fraudulent claims for travels and reimbursements.

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- 6.1.6 Assault on another member or office bearer or staff member, or office bearer.
  - 6.1.7 Divulging confidential information to person/s not entitled to receive that information or where such information is legally privileged.
  - 6.1.8 Making public statements or remarks or behave in a manner which has the intention of bringing the Union into disrepute.
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