



POLICY ON THE GENERAL STANDARDS WITH WHICH PERSONS MUST COMPLY TO SERVE ON STRUCTURES OR ACTIVELY PARTICIPATE IN ACTIVITIES

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| Responsible Executive | Registrar |
| Approved by | Council |
| Date of approval | 13 June 2019 |
| Dates of amendments | |
| Next review date | |
| Related documents | |
| <p style="text-align: center;">UJ documents</p> <p>(e.g. Policies, Regulations, Guidelines, Contracts)</p> <ul style="list-style-type: none"> • UJ Statute • Conditions of Service • Policies related to staff and students' disciplinary processes • Policies related to access control | <p style="text-align: center;">Other</p> <p>(e.g. Legislation, DoE and HEQC directives and guidelines)</p> <ul style="list-style-type: none"> • Higher Education Act • South African Constitution |
| Website address of this document: | UJ INTRANET |

1 Preamble

- 1.1 As a public higher education institution committed to the values which underlie an open and democratic society based on human dignity, equality and freedom, the University of Johannesburg must achieve and maintain a high level of public trust and respect. This trust and respect can be attained and sustained only if those who serve on the University's structures and who participate in its activities comply with, and continue to comply with, the high standards of honesty, integrity and good standing commensurate with the University's vision, mission and values.
- 1.2 In pursuit of its vision of being an international university of choice, anchored in Africa, dynamically shaping the future, the University recognises that the conduct of those who serve on the University's structures and participate in its activities, is measured against existing norms and standards which include:
- the South African Constitution, especially the Bill of Rights contained in Chapter 2, and other relevant Law;
 - the University's vision, mission, values and strategic objectives;
 - codes of conduct and all other applicable rules, regulations, policies, practices and procedures of the University that govern the relations between the University and those who serve on its structures and participate in its activities;
 - various policies of the University that deal with the principles, procedures, and practices of conflict resolution, for example the policy on whistle-blowing;
 - institutional autonomy and freedom of speech (including academic freedom).
- 1.2 The University provides a uniform framework for a General Standard required from those who serve on its structures and participate in its activities.

2 PURPOSE OF THE POLICY

- 2.1 In carrying out its statutory duty to govern the University, the purpose of this Policy is to record and publish the General Standard required by Council from those who serve on the University's structures or participate in its activities.
- 2.2 The Policy upholds the Constitution, other Law, and international best practice applicable to the Policy.

3 POLICY OBJECTIVES

The objectives of the Policy are to create:

- 3.1 uniform guidelines regarding the General Standard with which those who serve on the University's structures or participate in its activities must comply with a view –
 - 3.1.1 to recognise the rights and freedoms of those who serve or seek to serve on University structures, or participate or seek to participate in the University's activities, including the rights and freedoms which are guaranteed by the Constitution;
 - 3.1.2 to seek to uphold the rights and freedoms of those who serve or seek to serve on University structures, or participate or seek to participate in its activities to the greatest extent possible, and to strike the appropriate balance, where necessary, between the enjoyment of those rights and freedoms with, amongst others, the rights and freedoms of the University and others;
 - 3.1.3 to provide transparency in connection with the principles adopted by the University to guide decisions of decision-makers relating to the issues it covers with the aim of reaching consistent, reasonable and rational decisions;
 - 3.1.4 to inform those who serve or seek to serve on University structures, or participate or seek to participate in the University's activities of the principles adopted by the University;

3.1.5 to prevent or reduce the risk of –

- (a) the University suffering harm or reputational damage, and
- (b) the University or others suffering harm, injury or damages.

3.1.6 To provide a procedural framework to consider and making findings about the compliance of persons who serve on the University's structures or participate in its activities.

4. SCOPE

4.1 The Policy applies to all those who serve on the University's structures and participates in its activities.

4.2 The University does not seek to apply the Policy with a view to regulate or interfere with the attendance at events of the University by persons who attend events of the University without active participation in them, except where such attendance causes or is likely to cause harm to the University or others.

4.3 The Policy does not detract from the requirements to serve as members of structures or participate in events as provided for beyond the provisions of the Policy, for example in the Law or other rules, regulations, codes of conduct, policies, procedures and practices of the University.

5. DEFINITIONS

For purposes of this Policy, unless otherwise stated or the context indicates otherwise, the following abbreviations and terms will bear the following meaning and other grammatical forms of the terms have corresponding meanings:

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| | Activity | An official activity or event of the University |
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| Conduct | An act (commission) or omission, and includes behaviour |
| Constitution | The Constitution of the Republic of South Africa, 1996 |
| Council | The Council of the University |
| General Standard | A standard of honesty, integrity and good standing commensurate with the University's vision, mission and values as a South African public higher education institution which must achieve and maintain a high level of public trust and respect |
| Law | Any law of general application including the Constitution, common law and any statute, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including national, provincial and local government), statutory or regulatory body that has the force of law, including the UJ Institutional Statute |
| Person | A natural person who serves, or has been nominated to serve, in any structure, or participates or seeks to participate in any activity |
| Policy | Policy on the General Standard with which Persons must comply to serve on structures or actively participate in activities |
| Structure | A formal or informal structure of the University |
| University | University of Johannesburg |

6 COMPLIANCE WITH GENERAL STANDARD

6.1 Persons must comply with the General Standard.

6.2 Whilst Clause 6.3 provides examples of factors which may be considered when determining a Person's compliance with the General Standard, each case must be determined on its own merits and the weight, if any, accorded to a particular factor, must be determined having regard to all relevant factors, including:

6.2.1 The extent to which the conduct speaks to a Person's compliance with the General Standard;

- 6.2.2 the seriousness of a Person's conduct that has or could potentially have a negative impact on a person's compliance with the General Standard;
 - 6.2.3 the surrounding circumstances to the conduct that has or could potentially have a negative impact on a person's compliance with the General Standard;
 - 6.2.4 the relevance of such conduct that has or could potentially have a negative impact on the Persons' compliance with the General Standard, to the duties that are or are to be performed and the responsibilities that are or are to be assumed by that Person;
 - 6.2.5 the passage of time since the occurrence of the conduct that had a negative impact on the person's compliance with the General Standard;
 - 6.2.6 the explanation by the Person of the conduct concerned; and
 - 6.2.7 evidence of the Person's rehabilitation in respect to the conduct.
- 6.3 Without limiting the generality of the General Standard, but subject to determining the weight thereof (if any) in terms of Clause 6.2, including the extent to which it speaks to a Person's honesty, integrity and good standing, the following factors detract from a Person's meeting the General Standard:
- 6.3.1 Where the Person has been found guilty (and that finding has not been expunged) in any criminal proceedings by a court under any law in any jurisdiction. It particularly detracts from meeting the General Standard if the Person has been found guilty of an offence involving dishonesty and a penalty of imprisonment without option of a fine, or a significant fine, was imposed.
 - 6.3.2 Where the Person has been the subject of any adverse finding or any settlement in civil proceedings in any jurisdiction. It particularly detracts from meeting the General Standard if the finding or settlement arose from a Person's dishonesty, theft, fraud, forgery, utterance of a forged document, perjury,

breach of fiduciary duty, misrepresentation, corrupt activities, or dishonourable, unprofessional or corrupt conduct.

- 6.3.3 Where the Person has been the subject of, or interviewed during, any existing or previous investigation or disciplinary proceedings. It particularly detracts from meeting the General Standard where a person has been found guilty of an offence or transgression by the University or any other higher education institution, any regulatory authority, professional body, or government body or agency.
- 6.3.4 Where the Person is or has been the subject of any proceedings of a disciplinary or criminal nature or has been notified of any potential proceedings or any investigation which might lead to those proceedings.
- 6.3.5 Where the Person has been involved with a company, partnership or other entity that has been refused registration, authorisation, membership or a licence to carry out a trade, business or profession, or has had that registration, authorisation, membership or licence revoked, withdrawn or terminated, or has been expelled by a regulatory or government body.
- 6.3.6 Where, as a result of the removal of the relevant licence, registration or other authority, the Person has been refused the right to carry on a trade, business or profession requiring a licence, registration or other authority.
- 6.3.7 Where the Person has been a director, partner, or concerned in the management of a business that has gone into insolvency, liquidation or business rescue while the Person was connected with that organisation or within one year of that connection.
- 6.3.8 Where the Person, or any business with which the Person has been involved, has been investigated, disciplined, censured or suspended or criticised by a regulatory or professional body, a court or tribunal, whether publicly or privately.

- 6.3.9 Where the Person has been asked to resign, and did resign, from employment or from a position of trust, fiduciary appointment or similar.
- 6.3.10 Where the Person has been suspended, dismissed or disqualified from acting as a director, from a position of trust, fiduciary appointment or similar, or from acting in any managerial capacity.
- 6.3.11 Where in the past the Person has not been candid and truthful in all dealings with any regulatory or other body and where the Person has not demonstrated a readiness and willingness to comply with the requirements and standards of a code of conduct or other legal, regulatory and professional requirements and standards.
- 6.3.12 Where a Person has been denied registration or membership of any professional body or has had that registration or membership revoked, withdrawn or terminated by a professional body.
- 6.3.13 Where a Person's conduct was, or there is a likelihood of conduct to be, harmful, detrimental or injurious to the University, its image, brand, and reputation or the University's relationships with others or groups.
- 6.3.14 Where a Person's conduct was, or there is a likelihood of conduct to be, harmful, detrimental or injurious to the University or others.
- 6.3.15 Access to the University's premises or activities by Persons who were found not to meet the General Standard are regulated by the University's Access Control Policy and the Law.

PROCEDURAL MATTERS

- 7.1 If the Registrar has reasonable grounds to believe that a Person who serves or seeks to serve on a structure of the University, or participates or seeks to participate in an activity, does not comply with the General Standard, the matter must be referred to as follows:

- 7.1.1 Council, structures approved by Council or accountable to Council, and Council activities: The Chair of Council, dependent on whether the Chair has a conflict of interest in the matter, the matter is referred to the members of the Executive Committee of Council who do not have a conflict of interest in the matter.
- 7.1.2 All other structures and activities: The Vice Chancellor, dependent on whether the Vice Chancellor has a conflict of interest in the matter, the matter is referred to the members of the Management Executive Committee who do not have a conflict of interest in the matter.
- 7.2 The Chair of Council or the Executive Committee of Council (in the instance of 7.1.1) and Vice Chancellor or the Management Executive Committee (in the instance of 7.1.2) may refer the matter to any existing internal structure of the University, or an *ad hoc* committee as determined by them, to consider and make a finding on the matter.
- 7.3 The format and the procedure to be followed in considering the matter and making a finding must be determined by the Chair of this internal structure or committee with due regard to the Promotion of Administrative Justice Act 3 of 2000, substantive fairness and the circumstances of the case.
- 7.4 If the internal structure or committee determines that a Person does not comply with the General Standard, it may direct that the Person may not serve on a structure or participate in activities, provided that:
- 7.4.1 It may limit the enforcement of its finding to a particular structure or activity;
- 7.4.2 It may determine the period for which its finding will be enforced;
- 7.4.3 It may suspend the enforcement of its finding subject to conditions it may impose.

8 APPEAL

The finding of the internal substructure or committee is final and binding and there is no further internal remedy available to a person following such finding.

9. INTERPRETATION AND COMMENCEMENT

- 9.1 Any reference to the singular includes the plural and vice versa. A reference to gender includes all genders.
- 9.2 Should any statute or statutory provision to which the Policy refers be amended or replaced by another statute, any reference in the Policy to that statute or statutory provision will be interpreted to refer to the amended statute or statutory provision, or to the statute or statutory provision which replaces the statute or statutory provision to which the Policy refers.
- 9.3 If any provision of the Policy is or becomes invalid or unenforceable due to law, such provision shall be divisible and be regarded as *pro non scripto* and the remainder of the Policy shall be regarded as valid and enforceable.
- 9.4 If any definition contains a substantive provision, notwithstanding that it is only in the definition (or such other clause), effect shall be given to it as if it were a substantive provision in the body of the Policy.
- 9.5 The use of the word "including" or other grammatical forms thereof followed by specific examples, shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific examples.
- 9.6 The Policy does not seek to fully codify the issues to which it refers and shall not be interpreted to (in any way) amount to a waiver, or prejudice or limit the University's rights and remedies against Persons in terms of the Law or any other rule, policy, regulation, code or practice applicable to a Person.
- 9.7 The Policy or any amendment thereof will come into operation when approved by Council. It will also apply to all Persons serving on structures or participating in activities when it comes into operation and seek to serve on structures or participate in activities after it comes into operation.