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# **LEGAL AFFAIRS UNIT**

## **Student Sanctions and Disciplinary Measures**

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# INTRODUCTION – LEGAL AFFAIRS UNIT

The Legal Affairs Unit and its staff are under the overall direction, supervision and control of the General Manager.

The office provides the following broad categories of assistance:

- supervises all litigation and other legal actions entered into by the University, following and caring the internal procedures

# INTRODUCTION – LEGAL AFFAIRS UNIT

- prepares and coordinates reports on topics and facts for the legal defense of the University
  - prepares the Administration Council's resolutions concerning legal issues
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# INTRODUCTION – LEGAL AFFAIRS UNIT

- provides the University Departments and Offices with legal advice
- provides technical support to the Rector, the Academic Senate, the Department Directors Board during the application of disciplinary measures for students' academic misconduct, and writes the related documents;

# INTRODUCTION – LEGAL AFFAIRS UNIT

When the University is accused or sued in a lawsuit, the legal defence is generally carried out by the «Avvocatura dello Stato» (Lawyers Board established by the State for defending Public Administrations) to which the Office provides reports or asks for advice in questionable cases.

Let's focus now on Protocols for Student Sanctions and Disciplinary Measures.



# PROTOCOLS FOR STUDENT SANCTIONS

Which are the rules governing the sanctions and disciplinary measures ?

The rules on disciplinary punishment of students are governed by legislation dating back to the thirties of the last century (art. 16 of the R.D.L. June 20, 1935, n. 1071, converted into Law 2 January 1936, n. 78)

Further rules are foreseen in the Law no. 241, dated 7.8.1990.

# PROTOCOLS FOR STUDENT SANCTIONS

**Which are the main “undesirable conduct of events” of a student within university jurisdiction?**

1. Cheating, plagiarism, forgery of academic documents
2. Disruption of a lecture hall, laboratory, or any other premises used for academic purposes
3. Failure to return library books, or destruction of all or part of a library book or archival document
4. Interference with access to classrooms, laboratories, or academic offices

# PROTOCOLS FOR STUDENT SANCTIONS

**Which are the main “undesirable conduct of events” of a student within university jurisdiction?**

5. Forgery of instruments of identification with intent to defraud
6. Theft of, or want on damage to, University property
7. Engaging in conduct which interferes with or disrupts any academic function, or which prevents or limits the free expression of ideas, or which physically obstructs or restrains another member of the University community or a visitor
8. (others) ...



# PROTOCOLS FOR STUDENT SANCTIONS

**Which kind of sanctions could be applied in order to ensure students' discipline?**

Sanctions that may be imposed upon a student could be a combination of any of the following:

- a. warning
- b. exclusion from one or more classes for a definite period of time
- c. exclusion from participation in one examination session for one or more specified exams
- d. temporary suspension of student status
- e. expulsion (for very few and serious cases)

# PROTOCOLS FOR STUDENT SANCTIONS

Who is in charge of student disciplinary procedures application?

The disciplinary jurisdiction on students is up to:

- the Rector in case of written warning or reprimand  
**(a);**

# PROTOCOLS FOR STUDENT SANCTIONS

## Who is in charge of student disciplinary procedures application?

The disciplinary jurisdiction on students is up to:

- the Department Council in case of:
  - temporary exclusion from one or more classes **(b)**;
  - right's denial to participate in one examination session or to take one or more exams **(c )**

# PROTOCOLS FOR STUDENT SANCTIONS

## Who is in charge of student disciplinary procedures application?

The disciplinary jurisdiction on students is up to:

- the Academic Senate in case of temporary suspension of university student status **(d)**.

In this case, the student is not allowed to attend classes and take exams for the entire period of the suspension



# PROTOCOLS FOR STUDENT SANCTIONS

On which bases is the kind of sanction identified?

It depends on the nature and seriousness of the student's misconduct



# MAIN STEPS OF DISCIPLINARY PROCEDURE

Any member of the faculty, administration, or staff or any student may file a complaint against any student for the student offense

1. The student's violation or behavioral issue is reported to the Head of the Department (who forwards it to the Rector) or directly to the Rector.
2. The Rector, with the support of the Legal Affairs Unit, makes a preliminary investigation on the complaint lodged and, if the infringement falls within its competence:
  - convenes the student giving him/her the opportunity to be heard;
  - in case of evidence of guilty, issues written warning (oral warning, provided in case of light events, does not affect student career).

The notice of the warning signed by the Rector is sent to the student and to Student Affairs Office and remains on the student's file throughout his/her academic career

# MAIN STEPS OF DISCIPLINARY PROCEDURE

3. If the Rector considers the student guilty of more serious violation of rules and code of conduct so that a warning is not sufficient and a Disciplinary Action must be applied, the investigation as well as the interview results are forwarded to the concerned Department Council

# MAIN STEPS OF DISCIPLINARY PROCEDURE

4. Once the Department Council acknowledges that the violation falls within its competences:
  - sends a written notice to the student advising him/her of the date of its hearing to take place not earlier than 10 days after the sending of such notice;
  - provides the hearing or reads the written statements provided by the student concerning the facts;
  - in case the student is considered guilty, according to the nature and seriousness of the infringement, imposes one of the following sanctions:
    - temporary exclusion from one or more classes (b);
    - temporary suspension of the right to take one or more examinations (c).



# MAIN STEPS OF DISCIPLINARY PROCEDURE

In this case, the Head of the Department forwards the resolution decided by the Departmental Council to the Rector.

The Rector imposes the decisions and provides a written substantiation of the measure adopted and transmits it to the student and to Student Affairs Office. It remains on the student's file throughout his/her academic career.

## MAIN STEPS OF DISCIPLINARY PROCEDURE

5. If the Departmental Council considers the student guilty of even more serious violation of rules and code of conduct – in such cases not falling in its competences - the complaint, the investigation, as well as the interview results are forwarded to the Academic Senate

# MAIN STEPS OF DISCIPLINARY PROCEDURE

6. The Academic Senate follows the same steps as the Departmental Council:
  - sends a written notice to the student advising him/her of the date of its hearing to take place not earlier than 10 days after the sending of such notice;
  - provides the hearing or reads the written statements provided by the student concerning the facts;
  - in case the student is proved to be guilty of violations considered very serious, imposes the termination of student status for a definite or even indefinite period (expulsion).

As seen above, also in this case the Rector follows the same steps: imposes the decisions, provides a written substantiation of the measure adopted and transmits it to the student and to Student Affairs Office. It **remains** on the student's file throughout his/her academic career.

## **APPEAL TO THE REGIONAL ADMINISTRATIVE COURT**

A student has the right to appeal the decision of each of the above university bodies to the competent courts within 60 days after receiving the Rector's decree. He can ask this court (TAR = Regional Administrative Court) to put the sanction on hold till the debate is completed

## **INFRINGEMENTS THAT ARE ALSO CRIMES**

In addition to falling within one of the categories of infringements within University jurisdiction, certain offenses may violate State laws and be considered crimes.

In this case the Rector informs the competent outside authority which proceeds autonomously according to national procedures.



# DISCIPLINARY PROCEDURE: QUESTIONS

**How can a student who is the subject of a complaint defend him/her self and explain his/her point of view?**

An accused student is informed of the complaint and has the right to ask for a hearing that he/she can attend directly or through a written file

# DISCIPLINARY PROCEDURE: QUESTIONS

**Has a student who is the subject of a complaint the right to appoint a legal advisor?**

Yes. Anyway, the student can defend him/her self directly



# DISCIPLINARY PROCEDURE: QUESTIONS

**Could the accused students ask for support to the Legal Affairs Unit?**

No. Our Unit works exclusively for the University interests and rights





# DISCIPLINARY PROCEDURE: QUESTIONS

## Where and how can a student ask for and obtain copy of administrative documents in case of controversy?

In our University the official requirement of access to files must be submitted to the Legal Affairs Unit (LAU) that supervises on the rights/duties of each university component. Once the requirement falls within the students' rights, the LAU staff contacts the offices which issued or keep the required documents, asks for a copy and provides them to the student.

# DISCIPLINARY PROCEDURE: QUESTIONS

**Can the complaints against student misconduct involve any civil or criminal court proceedings ?**

Yes, if the alleged facts constitute a crime, the University reports them to the concerned Authority.

The University disciplinary measures are not a substitute for the civil or criminal court system.



# DISCIPLINARY PROCEDURE: QUESTIONS

In this case, should the university disciplinary procedure be put on hold till the civil or criminal proceedings are completed?

No. The two proceedings are independent and act on different bases. The university disciplinary measures provide mechanisms for the University to determine if University rules, as established at institutional and national level, have been violated and act in accordance with the findings.

The civil and criminal proceedings persecute and punish behaviours which infringe the rules set out in the Civil or Penal Code.

In some cases the same misconduct is punished with both disciplinary sanction and criminal sentence.

For example, a student who takes an exam on the name of another student, providing false university identification card, commits, at the same time, a disciplinary infringement and a criminal offense.

## DISCIPLINARY PROCEDURE: QUESTIONS

Which are the most disciplinary infringements that are also criminal offenses?

- **Fraud**
- **Impersonation**
- **Insult**

# FRAUD

## What is “fraud”?

It happens when a student copies or steals and passes off the works/ideas of another student as one's own, or alters academic documents or transcripts.

According to Italian criminal code, art. 640, fraud occurs when

"Anyone, with artifice or deception, inducing someone into error, secures for himself or others an unfair advantage to the detriment of others"

This violation shall be punished by imprisonment for six months to three years and by a fine of

€ 51 to € 1,032

# IMPERSONATION

## What is “impersonation”?

It occurs when someone acts or plays the part of another person. For a student could be to take an exam on the name of another student.

According to art. 494 of the Italian Criminal Code, *“Whoever in order to procure for himself or for others an advantage, or to cause damage to others, induces someone into an error, by unlawfully replacing himself to another person, or by attributing to himself or others a false name, or a false status, or a quality to which the law grants legal effect, shall be punished, if the offense does not constitute another crime against the public trust, by imprisonment of up to one year”*

# INSULT

## What is insult?

According to the past Criminal Code, INSULT occurs when “anyone offends the honor or dignity of a person”

# INSULT

When does it normally occur “INSULT” among the students?

It occurs, for instance, when a student uses threatening, abusive or insulting words or behaviour towards the teacher while taking an exam.

It is no longer considered a criminal offence but it is punishable with a fine from 100 to 800 Euros

The penalty may be increased if the offence is committed in the presence of several persons

In this case, the fine is of 200 to 12,000 Euros



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