

Feedback: Adoption of new policies

Members have been consulted by the PSA to provide comments and inputs on the draft Disciplinary Procedure Policy and the Grievance Policy and Procedure. Several inputs were received from members and submitted to the employer for consideration. Some of the inputs, such as removal of the written warning from the file after expiry, were incorporated while other inputs, such as having the final written warning valid for six months instead of 12 months, were rejected.

The two policies meet the acceptable standards and provide reasonable protection to members. Members are urged to peruse the policies (*attached*), which have not yet been signed by the PSA, and provide their comments on or before **30 April 2021**. The PSA intends to adopt the policies by co-signing them if there are no substantial inputs and objections received from members by 30 April 2021.

Inputs should be sent to PSA shop stewards or to joseph.mashigo@psa.co.za.

GENERAL MANAGER



Companies and Intellectual
Property Commission

a member of **the dti** group

DISCIPLINARY PROCEDURE POLICY FOR COMPANIES AND INTELLECTUAL PROPERTY COMMISSION (CIPC)

DOCUMENT CONTROL SHEET

Document Title:	Disciplinary Procedure Policy
Author:	
Division: Unit:	Human Capital Management
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VERSION CONTROL

Version #	Div: Unit	Date	Author	Comments
Ver. 0.1	ER	JAN 2017		1 st Draft
Ver. 0.2	ER	MAY 2017		2 nd Draft
Ver. 0.3	ER	JAN 2018		3 rd Draft

APPROVAL

THE COMMISSIONER: _____ DATE: _____

ADV. RW VOLLER

POLICY APPROVAL

The signatories hereof, being duly authorised, by their signatures hereto authorise the execution of the work detailed in the policy, and authorise the implementation / adoption of the policy, for and on behalf of the parties represented by them.


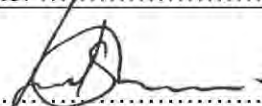
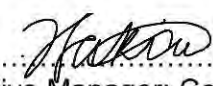

POLICY ACKNOWLEDGEMENT	REVIEW AND	COMMENTS
 Senior Manager: Employee Engagement Date: 25/01/2021		Certified that content is aligned with the Commission's strategy, the Division's mandate, and that the rules and processes are clearly defined.
 Divisional Manager: Human Capital Management Date: 25/01/2021		Certified that content is aligned with the Commission's strategy, the Division's mandate, and that the rules and processes are clearly defined.
 Executive Manager: Corporate Services Date: 26/01/2021		Certified that content is aligned with the Commission's strategy, the Division's mandate, and that the rules and processes are clearly defined.
 Divisional Manager: Group Governance, Compliance and Risk Date: 01/02/2021		Certified that policy followed all the necessary CIPC approval processes.
..... Representative of PSA Date:		Confirms that Organised Labour was consulted after pre-approval by EXCO.
..... Representative of NEHAWU Date:		Confirms that Organised Labour was consulted after pre-approval by EXCO.

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1. SCOPE OF APPLICATION

The policy applies to all employees of Companies and Intellectual Property Commission (CIPC). Disciplinary action against the Commissioner will be dealt with by the Minister of the DTIC in line with the applicable policy.

2. DEFINITIONS

- 2.1. All expressions used in this policy, which are defined in the Labour Relations Act (LRA), 1995 as amended shall bear the same meaning as in the Act unless the contrary intention appears.
- 2.2. Words importing the same masculine gender shall include the feminine.
- 2.3. All references to days shall be a reference to working days.

3. PURPOSE

To provide organisational framework which govern work ethics, conduct and practices at the CIPC. Employees must know what is expected of them and management must be aware of the method of dealing with alleged indiscipline.

To provide guidance for the application of rules and regulations which are essential for effectively and efficiently carrying out the activities of the CIPC in an orderly manner.

To provide mechanisms for management to correct practices that do not conform to the standards required for the safe and efficient operation of the work at the CIPC.

To support constructive labour relations at the CIPC, and to prevent arbitrary, discriminatory or unfair practices.

To promote mutual respect between employees and between employees and employer.

To promote acceptable conduct.

4. POLICY STATEMENT

Enforcement of the rules and regulations at the workplace is management's prerogative, and all levels of management shall take appropriate disciplinary action when warranted. The intention of this action, in the first place, shall be preventative and corrective, rather than punitive. To achieve this aim, the following principles shall be observed:

- 4.1. Management shall, in the first place, seek to correct an employee's poor performance or behaviour through informal counselling in line with the Performance Management Policy in case an employee scores a rating of 1 or 2.
- 4.2. Management shall apply the formal disciplinary process only when informed that counselling is inappropriate depending on the type of misconduct committed.
- 4.3. Management shall accept that no employee shall be formally disciplined without a fair hearing and an opportunity to state his / her case.
- 4.4. Management undertakes to consider the circumstances of the case carefully, and establish clear evidence of breach of rules and regulation, or unsatisfactory performance, before disciplinary action is taken
- 4.5. Management shall strive, wherever possible, and with due reference to the circumstances of each case, to be consistent in taking disciplinary action.
- 4.6. Management shall ensure that disciplinary action is prompt and fair.
- 4.7. Management accept that discipline is a management function.

5. LEGISLATIVE FRAMEWORK

- 5.1 The Constitution of Republic South Africa, 1996
- 5.2 Labour Relations Act 66 of 1995, as amended
- 5.3 Basic Conditions of Employment Act 75 of 1997, as amended
- 5.4 Employment Equity Act 76 of 1998, as amended
- 5.5 Companies Act 71 of 2008, as amended
- 5.6 Public Finance Management Act 1 of 1999

6. DISCIPLINARY CODE

The Disciplinary Code is the establishment of a formal framework for disciplinary action. It sets out rules and regulations with which employees are required to comply. The code shall be based on the following principles:

- 6.1. The right of management to take disciplinary steps against any employee who acts in a manner conflicting with the interests of the CIPC.
- 6.2. The right of the employee to a hearing that is both procedurally and substantively fair.
 - a) Procedural Fairness requires taking action in the correct manner by applying a fair procedure in accordance with the existing legislation.
 - b) Substantive Fairness requires establishing whether the alleged transgression or misdemeanour did in fact take place and whether the employee was, or could reasonably be expected to have been, aware of the existing rules and regulations at the CIPC.
- 6.3. The right of the employee to appeal against any disciplinary measures considered unjust, unfair, and inappropriate or in breach of any of the rights conferred upon the employee by the governing laws of South Africa.
- 6.4. The employee's right of access to information without disregard of relevant legislation.

7. DISCIPLINARY PROCEDURE

It is the duty and prerogative of management to correct work practices that do not conform to the disciplinary code. The disciplinary procedure allows for measures to deal progressively with more serious and repetitive misconduct and offences more severely. The progression consists of:

7.1. Corrective Counselling

Managers may resort to corrective counselling in cases where the seriousness of the misconduct or poor performance does not merit the institution of formal disciplinary actions. The manager shall:

- a) Draw the employee's attention to the offence
- b) Determine the reasons for the offence
- c) Give the employee opportunity to respond to the allegation
- d) Seek agreement on remedial measures
- e) Take steps to implement the agreed course of action

Records of all discussions and counselling sessions pertaining to the matter shall be kept.

7.2. Level 1 - Verbal Warning

7.2.1 If the immediate supervisor / manager is of the opinion that the behaviour or performance of an employee is unsatisfactory, but that it does not warrant a written warning, a Verbal Warning shall be given. A verbal warning indicates to all parties that further disciplinary action may take place should the unsatisfactory behaviour not improve.

7.2.2 The immediate supervisor / manager shall record the warning on the Verbal Warning Form and file in the employee's personal file. A copy shall be given to the employee and the employee shall be informed (and it shall be noted on the form) of the consequences of a re-occurrence of the offence.

7.2.3 The Verbal Warning shall remain valid for a clearly stated period not exceeding three (3) months. After three (3) months, the Verbal Warning will be removed from your personal file and be destroyed.

7.3. Level 2 – Written Warning

- 7.3.1 If, subsequent to issuing a Verbal Warning and the employee's unbecoming conduct persists, or if the employee commits an offence within the prescribed period, or if an employee commits any offence that warrants a Written Warning, the immediate supervisor / manager may give the employee a Written Warning for the transgression.
- 7.3.2 The Written Warning form shall be completed and signed by the employee as an acknowledgement of receipt of the warning, even though the employee may not necessarily agree with the disciplinary action applied. Should the employee refuse to sign the warning, this fact shall be noted thereon and witnessed by a fellow employee.
- 7.3.3 The warning shall be filed in the employee's personal file and shall be valid for a period of six (6) months from the date of issue. After six (6) months, the Written Warning will be removed from your personal file and be destroyed.
- 7.3.4 The written warning shall include:
 - a) A description of the cause of the warning
 - b) Information about any verbal warnings previously given to the employee, and which may still be current
 - c) Consequence of a re-occurrence.

7.4. Level 3 - Final Written Warning

- 7.4.1 If, subsequent to issuing a Written Warning and the employee's unbecoming conduct persists, or if the employee commits an offence within the prescribed period, or if an employee commits any offence that warrants a Final Written Warning, the procedure as detailed in Level 2 shall be followed, except that the Final Written Warning form shall be used.
- 7.4.2 The Final Written Warning shall be valid for a period of twelve (12) months from the date of issue. After twelve (12) months, the Final Written Warning will be removed from your personal file and be destroyed.

7.4.3 The employee and the employee's representative if any shall be made aware that, should the employee commit a further offence within the period of twelve (12) months following receipt of the Final Written Warning, that offence shall be subject to the decision reached at the formal disciplinary enquiry.

7.5. For less serious misconduct no formal disciplinary inquiry shall be held.

7.6. An allegation / accusation of misconduct against an employee shall be brought in writing to the attention of the Commissioner or his authorised representative for investigation if necessary.

7.7. If the Commissioner or his authorised representative is satisfied that there is prima facie cause to believe that an act of misconduct has been committed, he may institute disciplinary proceedings against the employee concerned.

7.8. Formal Disciplinary Enquiry

If, subsequent to issuing a Warning and the employee's unbecoming conduct persists, or if the employee commits an offence within the prescribed period, or if an employee commits any offence which could render him liable for disciplinary action, the supervisor / Line Manager shall inform the employee in writing of his / her intention to institute Formal Disciplinary Enquiry.

7.8.1 Notice of a Disciplinary Hearing

The notice shall be drawn up by the Initiator / Employer Representative and its purpose shall be to inform the alleged offender of the charge laid or allegation/s of misconduct made against him or her. It shall contain:

- a) Details of the date, time and venue of the hearing where it is scheduled to take place, as well as the name of the proposed disciplinary hearing chairperson, should the chairperson have been appointed.

- b) Information on the rights of the employee, especially with regard to the right to representation by a fellow employee or a shop steward, the right to call witnesses and the right to an interpreter.
- c) The disciplinary notice shall be served on the employee at least seven (7) working days before the scheduled date of the Disciplinary Hearing.
- d) The Employee shall sign receipt of the notice. However, should the Employee refuse to sign receipt of the notice, it shall be given to him / her in the presence of a fellow employee who shall sign in confirmation that the notice has been served to the Employee.
- e) The name of the Chairperson and the details where the notices and relevant correspondence may be submitted shall be set out in a notice of misconduct.

8. DISCIPLINARY ACTION AGAINST THE COMMISSIONER

Any disciplinary action that involves the Commissioner, The Minister of the DTIC will be responsible.

9. CONDUCTING DISCIPLINARY HEARING

- 9.1. The disciplinary hearing must be held within fourteen (14) days after the notice of misconduct referred to in Clause 7.8.1 above is served on the employee.
- 9.2. The employee may if he / she wishes be represented by a fellow employee, representative / shop steward of a recognised trade union in the disciplinary hearing.
- 9.3. The Commissioner shall appoint a person to be referred to as the employer representative to represent the employer and to serve the function of prosecution.
- 9.4. The person referred to on 9.3 above may be sourced from within the organisation, public service or State Owned Entities.
- 9.5. The Commissioner shall also appoint a person to serve as Chairperson / Presiding Officer from within the organisation, public service or State Owned Entities.

- 9.6. The process followed during and before the hearing will depend on the nature of the hearing.
- 9.7. The Chairperson shall not consult, confer or have casual contact with any of the parties or their representatives regarding the case while handling the matter without the presence or consent of the other party.
- 9.8. The employer representative shall have the duty to begin as well as the burden to prove each and every allegation of misconduct on a balance of probabilities.
- 9.9. The employee summoned before the disciplinary hearing may on good cause shown, make an application for the recusal of the Chairperson.
- 9.10. The Chairperson shall have the power to determine the procedure to be followed for the conduct of the hearing that he / she deems appropriate with the minimum of legal formalities provided that the rules of natural justice are observed.
- 9.11. The Chairperson may ask clarity seeking questions if necessary during the disciplinary hearing.
- 9.12. The Chairperson may with the consent of the parties propose compromise settlements in disposal of the whole matter or a portion of the issues.
- 9.13. The Chairperson may make a finding of fact after having considered the evidence.
- 9.14. The Chairperson shall invite and hear evidence or plea in mitigation and aggravation prior to deciding on the sanction to impose.
- 9.15. On matters that involve the Commissioner, Department of Trade Industry and Competition (DTIC) will appoint the employer representative and Chairperson.
- 9.16. The proceedings of the disciplinary hearing shall be recorded by means of a mechanical device.
- 9.17. The chairperson of the disciplinary hearing must pronounce a sanction within fourteen (14) days depending on the nature and seriousness of the misconduct, the employee's previous disciplinary record and any mitigating and aggravating circumstances.

- 9.18. A copy of the sanction / determination shall be provided to the Commissioner or his / her representative and to the employee or his or her representative.
- 9.19. The sanction / determination of the Chairperson cannot be altered by the Commissioner and shall be final and binding on the employer and employee subject to Clause 13 below.

10. ABSCONDMENT

- 10.1. In the event the employee has absented himself / herself for a period of more than fifteen (15) consecutive days without notification to the employer, such an employee shall be deemed to have absconded from duty.
- 10.2. The employer is expected to make every possible attempt to establish where the employee is and will issue a letter to the employee informing him of his alleged abscondment.
- 10.3. If the employee reports for duty after the steps referred to in clauses 10.1 and 10.2 above have been taken, will be afforded the opportunity to make written representations to the Commissioner prior to the decision to terminate his services.
- 10.4. The provisions of the Appeal Procedure as provided for in clause 14 below is applicable when the decision to terminate the employee' services through abscondment is undertaken.

11. NON-ATTENDANCE

- 11.1. In the event the employee fails to attend the disciplinary hearing or appeal without the good cause and the chairperson concludes that the employee did not have a valid reason, the hearing may continue in the employee's absence.

12. PRECAUTIONARY SUSPENSION

The Employer may suspend an employee with full pay if:

- a) The employee is alleged to have committed a serious offence.

- b) The employer believes that the presence of the employee at the workplace might jeopardise any investigation into the alleged misconduct, or endanger the well-being or safety of any person or the Employer's property.
- c) A suspension of this kind is a precautionary measure that does not constitute a judgment, and a disciplinary hearing shall be held within sixty (60) days of the suspension being imposed. The 60 days period depends on the complexity of the matter and the length of the investigation. On good cause shown, the 60 days period may be extended by 30 days only.

13. SANCTIONS

Sanctions consist of the following;

- a) Corrective counselling
- b) Verbal warning valid for six (6) months
- c) Written warning valid for six (6) months
- d) Final written warning valid for twelve (12) months
- e) Suspension without pay for a maximum period of two (2) months
- f) Demotion to one (1) level down with financial loss
- g) A combination of the above or
- h) Dismissal

- 13.1. If an employee is demoted, he / she may not be eligible to apply for position within the CIPC for a period not less than one (1) year from the date of demotion.
- 13.2. The demoted employee may also request to be transferred laterally after 1 (one) year from the demotion date.

14. APPEAL PROCEDURE

- 14.1. An employee shall have the right to appeal against any disciplinary action.
- 14.2. The employee in a form of appeal should refer a dispute as provided for in the LRA to the CCMA.

15. INQUIRY BY ARBITRATOR

- 15.1. An employer may, with the consent of the employee, request the Commission for Conciliation, Mediation and Arbitration (CCMA) to appoint an Arbitrator to conduct an inquiry about the conduct or capacity of an employee as provided for under section 188A of the Labour Relations Act, 1995 as amended.
- 15.2. The provisions of section 138 of the Labour Relations Act, read with the changes required by the context, applies to any inquiry by Arbitrator.

16. INCAPACITY (ILL HEALTH AND INJURY)

Incapacity on the grounds of ill health may be of a temporary or permanent nature, and shall be dealt with in accordance with the provisions of Schedule 8 of the Labour Relations Act, 66 of 1995 as amended.

17. REVIEW

Copies of this document shall be issued as controlled copies. No amendments, variations or alterations shall be of any effect, unless approved by the EXCO and the Commissioner.

This document shall be reviewed after every 3 years if necessary or if required by changes in legislation.

18. DISPUTE RESOLUTION

If there's a dispute about the interpretation or application of this agreement, any party may refer the matter to the CCMA for resolution in terms of the dispute resolution mechanisms of the CCMA or to the relevant body in terms of the LRA.

19. DATE OF IMPLEMENTATION

This agreement shall come into effect on the date of the signing by the Commissioner of CIPC and will remain valid until terminated or amended by agreement.

20. ACTS OF MISCONDUCT

The attached list of offences is not necessarily exhaustive, and the penalties are quoted as a guide only. Each case shall be dealt with on its own merits. The disciplinary action taken may be of lesser or greater severity depending on the seriousness of the offence and the intent with which it was committed.

As a guideline, an employee will be guilty of misconduct if he or she among other things for;

- Contravening a policy, an Act, regulation or legal obligation
- Intimidation, fighting and or attempt or threatening to assault another person or another person while on duty
- Divulging confidential information
- Wasting and abusing employer's resources
- Theft, unauthorised possession of another employee or employer's property
- Malicious damage to employer's property
- Being under the influence of alcohol or intoxicating drugs, unauthorised, habit forming and or stupefying drugs whilst on duty or consumption of alcohol
- Any act of dishonesty / gross dishonesty
- Any act of negligence / gross negligence
- Gross insubordination and or insolence
- Any act of bribery or corruption or fraud or forgery and misappropriation of funds
- Fraudulent time keeping including clocking in for another employee
- Possessing or wrongfully using the property of the State or another employee/s and or a visitor without permission
- Wilful, intentional or negligent damage and or causing loss of state property
- Endangering the lives of self or others by disregarding safety rules or regulations
- Prejudicing the administration, discipline or efficiency of the CIPC
- Misusing his or her position in the organisation to promote or to prejudice the interest of any political party
- Accepts any compensation in cash or otherwise from a member of the public or another employee for performing his or her duties without written approval from the Commissioner
- Failing to carry out a lawful order or routine instruction without just or reasonable cause
- Absenting or repeatedly from work without reason or permission
- Committing an act of sexual harassment
- Discriminating against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the Constitution
- Performing poorly or inadequately for reasons other than incapacity
- Performing work for compensation in a private capacity for another person or organisation either during or outside working hours without written approval
- Sleeping on duty without authorisation
- Conducting himself or herself in an improper, disgraceful and unacceptable manner while on duty
- Inciting other personnel to commit unprocedural and unlawful conduct
- Using of abusive language and or derogatory and or offensive language and signs
- Displaying disrespect towards others in the workplace or demonstrates abusive or insolent behaviour
- Victimising fellow employees
- Preventing other employees from belonging to any trade union or body

- Operating any money lending schemes for own benefit during working hours or from the premises of the organisation
- Carrying or keeping firearms or other dangerous weapons on state premises, without the written authorisation of the employer
- Refusing to obey security regulations
- Giving false statements or evidence in the execution of his or her duties
- Falsifying records or any other documentation
- Participating in unprocedural, unprotected and or unlawful industrial action
- Sabotaging and deliberate undermining of the employer and its personnel by misinformation and lies
- Bringing the name of the organisation into disrepute
- Committing any other act of misconduct which will constitute just cause dismissal

21. DISCIPLINARY FRAMEWORK FOR THE CIPC

CATEGORY	NATURE OF OFFENCE	DISCIPLINARY ACTION			
		FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE
Time-keeping Offences	Late for work or leaving early without good reason	Verbal Warning	Written Warning	Final Written Warning	Dismissal
	Unwarranted and excessive absence during the working day from work station, without good reason	Verbal Warning	Written Warning	Final Written Warning	Dismissal
	Desertion: Away from work for seven working days without good reason, or without notifying a senior manager during the period of absence. A medical certificate must be produced if absence is for medical reasons.	Final Written Warning	Dismissal		
	Fraudulent time-keeping, including clocking in for another employee, or allowing another employee to sign in for one	Dismissal			
Work Output Offences	Unsatisfactory work performance (unreliable, non co-operative and counterproductive)	Written Warning	Final Written Warning	Dismissal	
	Refusal to work	Dismissal			
	Not working to agreed schedules and standards of output and deadlines	Verbal Warning	Written Warning	Final Written Warning	Dismissal

Quality of Work Offences	Poor care and maintenance of Employer equipment for which employee is responsible	Written Warning	Final Written Warning	Dismissal	
	Incompetence/not meeting agreed standards (sub-standard work output)	Written Warning	Final Written Warning	Dismissal	
	Injury to another through negligence/Not adhering to safety standards	Final Written Warning	Dismissal		
	Non-compliance with prescribed procedures and regulations	Written Warning	Final Written Warning	Dismissal	
	Divulging of confidential information to unauthorized persons	Final Written Warning	Dismissal		
	Wastage and abuse of Employer's resources	Verbal Warning	Written Warning	Final Written Warning	Dismissal
Social Offences	Under the influence of alcohol or prohibited drugs	Written Warning and Counselling	Final Written Warning	Dismissal	
Social Offences	Unauthorized consumption of alcohol and/or the administration of drugs for non-medical purposes on the Employer's premises	Written Warning and Counselling	Final Written Warning	Dismissal	
	Selling or distribution of alcohol/drugs on the Employer's property	Dismissal			
	Assault	Dismissal			
	Threat of Assault	Final Written Warning	Dismissal		
	Intimidation or incitement	Dismissal			
	Possession of dangerous weapons at the workplace	Final Written Warning	Dismissal		
	Committing unsanitary acts	Final Written Warning	Dismissal		
	Sexual Harassment	Final Written Warning	Dismissal		
	Breach of Employee's duty of good faith	Final Written Warning	Dismissal		

Attitudinal Offences	Failure to carry out a lawful and reasonable instruction	Final Written Warning	Dismissal		
	Failure to observe health, safety and security rules and regulations	Final Written Warning	Dismissal		
	Use of abusive and/or derogatory and/or offensive language and signs	Written Warning	Final Written Warning	Dismissal	
	Gross insubordination, disrespect, impudence and insolence	Final Written Warning	Dismissal		
	Gross negligence	Dismissal			
	Deliberately supplying incorrect or falsified information	Dismissal			
	Theft, Fraud, Forgery and Misappropriation of funds	Dismissal			
	Accepting or offering bribes	Dismissal			
	Wilful damage to employer's or fellow employees materials, equipment, possessions and property	Dismissal			
	Unlawful Industrial Action	Final Written Warning	Dismissal		
Other Offences	Gross Misconduct	Final Written Warning	Dismissal		
	Sabotage and deliberate undermining of the Employer and its personnel by misinformation and lies	Dismissal			



Companies and Intellectual
Property Commission

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GRIEVANCE PROCEDURE POLICY FOR COMPANIES AND INTELLECTUAL PROPERTY COMMISSION (CIPC)

DOCUMENT CONTROL SHEET

Document Title:	Grievance Procedure Policy
Author:	
Division: Unit:	Human Capital Management
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VERSION CONTROL

Version #	Div: Unit	Date	Author	Comments
Ver. 0.1	ER	JAN 2017		1 st Draft
Ver. 0.2	ER	MAY 2017		2 nd Draft
Ver. 0.3	ER	JAN 2018		3 rd Draft

APPROVAL

THE COMMISSIONER: _____ DATE: _____

ADV. RW VOLLER

POLICY APPROVAL

The signatories hereof, being duly authorised, by their signatures hereto authorise the execution of the work detailed in the policy, and authorise the implementation / adoption of the policy, for and on behalf of the parties represented by them.


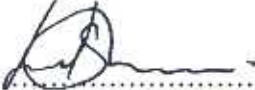


POLICY REVIEW AND ACKNOWLEDGEMENT	COMMENTS
 Senior Manager: Employee Engagement Date: 25/01/2021.....	Certified that content is aligned with the Commission's strategy, the Division's mandate, and that the rules and processes are clearly defined.
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1. INTRODUCTION

- 1.1 Unresolved grievances may be damaging to the morale of employees and the effective operation of the Companies and Intellectual Property Commission (CIPC). A Grievance procedure policy is necessary to eliminate the possibility of any detrimental effects arising out of unresolved grievances. This Grievance Policy aims to ensure that all communication channels are open and receptive, and that all employees have an adequate opportunity to express their grievances. It further aims to ensure that grievances are resolved timeously and fairly by adopting a problem solving approach and implementing appropriate corrective action where necessary.

2. DEFINITIONS

- 2.1 All expressions used in this policy, which are defined in the Labour Relations Act (LRA), 1995 as amended shall bear the same meaning as in the Act unless the contrary intention appears.
- 2.2 Words importing the same masculine gender shall include the feminine.
- 2.3 All references to days shall be a reference to working days.

3. SCOPE OF APPLICATION

- 3.1 The policy shall apply to all employees of Companies and Intellectual Property Commission.

4. PURPOSE OF THE POLICY

- 4.1 The purpose of this policy is to give guidance and to provide a framework for all employees and the Companies and Intellectual Property Commission to deal with grievances raised effectively, and at the earliest possible stage in line with legislation.
- 4.2 Any grievance against the Commissioner will be handled by the Minister of the DTIC in line with the DTIC policy.

5. LEGISLATIVE FRAMEWORK

- 5.1 The Constitution of Republic South Africa, 1996
- 5.2 Labour Relations Act 66 of 1995, as amended
- 5.3 Basic Conditions of Employment Act 75 of 1997, as amended

- 5.4 Employment Equity Act 76 of 1998, as amended
- 5.5 Companies Act 71 of 2008, as amended

6. OBJECTIVES OF GRIEVANCE POLICY

- 6.1 The objects and purposes of the Grievance Procedure will only be achieved if it functions effectively and is properly utilised. In light of the above, the Companies and Intellectual Property Commission is committed to ensuring that:
 - 6.1.1 Employees are aware of the opportunity and procedure to express grievances.
 - 6.1.2 Employees feel free to express their grievances without fear of victimisation or intimidation or prejudice to their employment relationship.
 - 6.1.3 Employees are encouraged to use the procedure, but also warned not to abuse it with false grievances with malicious intent.
 - 6.1.4 All grievances are dealt with privately, and confidentiality of information is maintained.
- 6.2 CIPC in accepting this policy gives commitment to the following:
 - 6.2.1 The resolution of all grievances timeously.
 - 6.2.2 Recognising the employee/s right to be represented by a fellow employee or representative of a union if he / she wishes to do so.
 - 6.2.3 Ensuring that Management handles grievances with the Human Capital acting in an advisory capacity.
 - 6.2.4 Creating an environment in which an employee may lodge a grievance without fear of being victimised or prejudiced.
 - 6.2.5 Ensure that all grievances are handled in a confidential manner.
 - 6.2.6 Ensure that each step in the procedure shall be subject to the stipulated time limits, unless otherwise determined by the parties through mutual agreement.

7. GRIEVANCE PROCEDURE

7.1 IDENTIFICATION AND PRELIMINARY INVESTIGATIONS

- 7.1.1 Employees must be informed of their rights to lodge a grievance and where the applicable Grievance Application Form can be obtained.
- 7.1.2 All grievances must be lodged in writing with the direct supervisor on the prescribed form setting out the complaint and the desired result. Should the grievance concern the direct supervisor of the aggrieved employee, the employee may proceed to the next line of reporting.
- 7.1.3 No employee may leave his / her normal place of work or engage in any grievance discussion without prior permission, and such permission shall not be unreasonably withheld.
- 7.1.4 Assistance must be offered to the aggrieved employee by the supervisor and or union official in lodging such a grievance and completing the Grievance Application Form.
- 7.1.5 The supervisor must consider the nature and type of the grievance lodged and based on this assessment make a decision as to the best grievance resolution procedure to follow. The mild grievance can be dealt with via the informal route, however a serious grievance and sensitive grievance requires a formal processes.

7.2 THE INFORMAL GRIEVANCE PROCEDURE

- 7.2.1 The aggrieved employee's supervisor, or person with whom the grievance has been lodged must ensure the Grievance form has been correctly completed and the grievance is clearly understood.
- 7.2.2 The supervisor must then discuss the grievance and propose corrective action with the employee in private. The decision on corrective action, if any, must be detailed on the Grievance Form.
- 7.2.3 If the aggrieved employee is still dissatisfied with the informal grievance processes or the decision of the supervisor, he / she may proceed to formally lodge the grievance within five (5) working days of the outcome being received.
- 7.2.4 If the employee is satisfied with the decisions, the corrective action must be implemented and recorded on the form.

7.3 THE FORMAL GRIEVANCE PROCEDURE

- 7.3.1 The supervisor must endeavour to resolve the grievance within the stipulated time frame.
- 7.3.2 The employee must be notified of the grievance meeting in writing.
- 7.3.3 Ensure the aggrieved employee/s receive such notification.
- 7.3.4 If the grievance has been lodged against another party, such party must also receive the notification of the meeting and be informed of his / her rights, as well as the grievance/s lodged,

8. THE FORMAL GRIEVANCE STEPS

8.1 Step 1: Employee to supervisor

An aggrieved employee or group of employees must lodge his / her grievance with the immediate Supervisor to start the formal process within five (5) days from the date the employee first becomes aware of the matter that gave rise to such grievance. Should the grievance involves the immediate supervisor, it must be escalated to the next level of reporting.

8.2 Step 2: Grievance to Manager

The manager of the supervisor must arrange a grievance inquiry, within five (5) working days. The manager may chair the grievance enquiry, if not resolved the grievance is escalated to the next level.

8.3 Step 3: Grievance to Senior Manager

The Senior Manager must arrange a grievance inquiry, within five (5) working days. The Senior manager may chair the grievance enquiry, if not resolved the grievance must be escalated to the next level.

8.4 Step 4: Grievance to Divisional Manager

The Divisional Manager must arrange a grievance inquiry, within five (5) working days. The Divisional manager may chair the grievance enquiry, if not resolved the grievance must be escalated to the next level.

8.5 Step 5: Grievance to Executive Manager

The Executive Manager must arrange a grievance inquiry, within five (5) working days. The Executive manager may chair the grievance enquiry, if not resolved the grievance must be escalated to the next level.

8.6 Step 6: Grievance to Commissioner

The Commissioner must arrange a grievance inquiry, within ten (10) working days. The Commissioner may chair the grievance enquiry, if not resolved, the employee may refer the dispute to the CCMA or relevant forum in line with the dispute resolution mechanisms.

If the grievance is against the Commissioner, the aggrieved employee/s shall notify the Commissioner within 14 days of his or her intention to escalate the matter to external dispute resolution forum/s. If the grievance is not resolved after notifying the Commissioner, the employee/s may refer the grievance to the CCMA or relevant forum in line with the dispute resolution mechanisms. If the grievance is resolved in any of the steps mentioned above, the agreement must be clearly recorded in the form as resolved.

8.7 Step 7: Grievance against the Commissioner

Grievance against the Commissioner will be dealt with by the Minister of the DTIC in line with the applicable policy.

9. FORMS

Annexure A: Grievance Application Form

Annexure B: Notice to attend Grievance Meeting

Annexure C: Outcome of Grievance

10. DISPUTE RESOLUTION

If there's a dispute about the interpretation or application of this agreement, any party may refer the matter to the CCMA for resolution in terms of the dispute resolution mechanisms of the CCMA.

11. DATE OF IMPLEMENTATION

This agreement shall come into effect on the date of the signing by the Commissioner of CIPC and will remain valid until terminated or amended by agreement.