

Disciplinary Code for Students of CU

Under section 36 (2) of Act No. 111/1998 Sb., to regulate higher education institutions and to change and amend other laws (the Higher Education Act), the Ministry of Education, Youth and Sports registered the Disciplinary Code for Students of Charles University under ref. n. MSMT-38084/2016 on 14 December 2016.

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Director of the Higher Education Department

Disciplinary Code for Students of CU of Charles University of 14 December 2016

Under sections 9 (1) (b) and 17 (1) (i) of Act No. 111/1998 Sb., to regulate higher education institutions and to change and amend other laws (“the Higher Education Act”), as amended, the Academic Senate of Charles University has adopted the following Disciplinary Code for Students of Charles University as an internal regulation:

Article 1

Introductory Provision

1. The Code provides the details on the consideration of infringements of disciplinary rules by students, the imposition of sanctions for such infringements, and the disciplinary proceedings ¹.
2. Further details conformable to this Code are provided in the Disciplinary Code of each faculty.
3. Where the Higher Education Act provides no special regulation, the decision on an infringement of disciplinary rules is governed by the Administrative Procedure Code.

Article 2

Infringement of Disciplinary Rules and Sanctions

1. An infringement of disciplinary rules is an intentional breach of duties provided in legislation or the internal regulations of the University and its units.²
2. The following sanctions may be imposed on the student for an infringement of disciplinary rules:³

a) admonition;

b) conditional expulsion for a set time period and conditions for proving one's discipline during the period of conditional expulsion; or

c) expulsion from study.

3. The following factors are taken into consideration before the imposition of sanctions: the nature of the conduct which resulted in the infringement; the circumstances of the infringement and its consequences; the extent of fault; and the previous conduct of the student in question and his efforts to remedy the consequences.⁴

4. The imposition of sanctions may be waived if the mere consideration of the infringement leads to its correction,⁵ mainly in the case of an infringement of disciplinary rules resulting from negligence, or a minor infringement.

5. An admonition may be issued only for an infringement resulting from negligence or for a minor infringement.

6. The sanction of expulsion from study may be imposed only for a serious and intentional infringement of disciplinary rules. The sanction of conditional expulsion may be imposed only if the conditions for the expulsion from study were fulfilled but the infringement was not committed in a most contemptible way, and if the student has shown repentance and can reasonably be expected not to commit a serious infringement in the future.

7. The period of conditional expulsion and conditions therefor are determined according to the seriousness of the infringement of disciplinary rules; the period is not shorter than six months or longer than three years.

8. If the student fulfils the set conditions within the period of conditional expulsion, the dean decides that he has improved his behaviour; in the contrary case, the dean decides that the sanction of expulsion from study will be applied, even during the course of the conditional expulsion. If the dean fails to make a decision within two months of the lapse of the period of conditional expulsion under the preceding sentence, the student is deemed to have improved his behaviour.

Article 3

Disciplinary Board

1. Any accusation of an infringement of disciplinary rules is considered by the Disciplinary Board of the faculty⁶ ("the Board").

2. The members and alternate members of the Board are appointed by the dean from among the members of the academic community of the faculty, subject to the approval of the academic senate of the faculty⁷. The Board elects the chairperson from among its members, and dismisses him. The dean convenes the first session of the Board, during which the

election of the chairperson will take place, within thirty days of the appointment of Board members.

3. The Board has at least six members. Half of the members are students.⁸ Two members of the academic staff and two students are the alternate members.

4. The term of office of the members of the Board is no more than two years.⁹ When establishing the Board, the dean bears in mind the principle of the continuity of its activities.

5. Members and alternate members must participate in those sessions of the Board to which they are invited. If it is known that a member of the Board is not able to participate in a session, the chairperson invites the appropriate alternate member so that the parity of composition of the Board is preserved. Such alternate member has the rights and duties of a member of the Board at a session to which he has been invited.

6. The session of the Board is presided over by its chairperson.

7. Only the members of the Board, or the secretary designated by the chairperson of the Board, may be present during consideration and voting.

8. The Board decides on the following questions in the given order:

a) the guilt;

b) whether a sanction will be imposed; and

c) the type of sanction;

9. In the case of voting under paragraph 8 (c), the first vote is on the sanction of expulsion from study. In the case of the sanction of conditional expulsion from study, the Board votes on the period and conditions of conditional expulsion.

10. The Board has a quorum if a majority of its members is present. Each member of the Board must vote. A resolution of the Board is passed if a majority of present members vote for it.

11. If the Board:

a) fails to arrive at a decision that the student is guilty, it proposes to the dean to discontinue the proceedings;

b) fails to arrive at a decision that a sanction will be imposed, it proposes to the dean to waive the imposition of a sanction;

c) fails to arrive at a decision to impose the sanction of expulsion from study, it votes on the imposition of sanction of conditional expulsion from study;

d) fails to arrive at a decision to impose the sanction of conditional expulsion from study, it proposes to the dean to impose the sanction of admonition on the student.

12. A record is made of the sessions and voting of the Board.

13. The Disciplinary Code of individual faculties provide further details on the number and term of office of the members of the Board, the rules of order of the Board, and the provision of expert assistance for the Board.

Article 4

Commencement of Disciplinary Proceedings

1. Disciplinary proceedings are held at the faculty where the student accused of an infringement of disciplinary rules (“the student”) is enrolled. If the student is enrolled at more than one faculty, disciplinary proceedings concerning the same case may be held only at one of them.¹⁰

2. The dean presents a proposal to the Board to commence disciplinary proceedings if he finds that the student’s conduct has breached a duty laid down in Article 5 (8) of the Constitution, or his other conduct has breached the duty to heed the reputation of the University.

3. The dean’s proposal must contain the description of the act, including the evidence upon which the proposal relies, and the reasons for which the act is considered to be an infringement of disciplinary rules.¹¹

4. The disciplinary proceedings are begun on the date of delivery of the notice of the commencement of proceedings, along with the counterpart of the dean’s proposal, to the student.¹²

Article 5

Consideration of Proposal and the Dean’s Decision in Disciplinary Proceedings

1. The chairperson of the Board convenes a session of the Board immediately upon commencement of the disciplinary proceedings.

2. The student must be invited to every session of the Board.

3. With the exception of discussions and voting, the accused student has the right to be present at the sessions of the Board, as well as to offer and submit evidence, express his opinion on all documents considered, inspect written documents and, with the exception of records of voting, inspect written minutes of sessions of the Board, and take extracts from them.

4. The student may choose someone to be his representative (“the chosen representative”). The chosen representative shows the Board the written authorisation from the student, or is granted authorisation by the student before the Board, and has the rights provided in paragraph 3.

5. The Board may resolve to act when the student is not present only if neither the accused nor his chosen representative has appeared at a session without any justification. Justification must be in writing and must be delivered to the chairperson of the Board not later than on the date of the session of the Board.

6. The Board is obliged to produce necessary evidence and to consider the case in such a way that it may be established without any doubt whether the student has infringed the disciplinary rules. The consideration must be led in such a way as to enable the Board to make a proposal under paragraph (7), usually no later than thirty days after its first session.

7. The dean issues a decision on the disciplinary proceedings upon the proposal of the Board without undue delay after the date of delivery of the proposal.

8. If a situation arises which makes the consideration of an infringement of disciplinary rules under section 66 of the Higher Education Act impossible, the dean discontinues the proceedings.

9. If it becomes apparent that no infringement of disciplinary rules was committed, if the Board fails to prove that an infringement of disciplinary rules was committed by the student, or if the person ceased to be a student, the disciplinary proceedings are discontinued.¹³

10. If he believes it to be necessary for due clarification of the case, the dean may refer the case back to the Board for further examination, stating his reasons in written form, before he issues a decision.

11. The student must be given an opportunity to comment on the documents creating the basis for a decision before a decision on merits is issued.

12. The dean may:

a) impose the sanction proposed by the Board;

b) impose a milder sanction; or

c) waive the imposition of a sanction.

13. The decision is executed in writing. The decision contains a statement part, reasoning, and the notice of the right to appeal.

14. The statement part provides the identification of the student by his first name, surname, date of birth or personal identification number, permanent address, programme of study, description of the act, the finding of the infringement of disciplinary rules and the determination of a sanction, or the finding of the infringement of disciplinary rules and the waiver of a sanction, or the statement about the discontinuation of disciplinary proceedings. The dean imposes the duty to cover the costs of proceedings on the student who was found guilty in a separate statement.¹⁴

15. A dean's decision which has been announced and which may not be reviewed is in legal force.

Article 6

Appeal

1. A student may file an appeal against the dean's decision.¹⁵ A student who has waived his right to appeal after being notified of the decision no longer has the right to file an appeal.¹⁶ If the student withdraws an appeal once filed, he may not file such appeal again.¹⁷
2. The appeal may challenge the statement part of the decision, or any of its statements or subsidiary provisions; the appeal against the reasoning is inadmissible.¹⁸ The student states in his appeal his first name and surname, the date of birth and permanent address. It must be clearly stated in the appeal which decision it challenges, what it proposes and what the alleged disagreement between the decision, or the proceedings which preceded, and legislation or internal regulations is.
3. Any new facts and proposals of new evidence, which are mentioned in the appeal or during the appeal proceedings, will be taken into account only in cases where the student could not use the facts or proposals earlier; where the student claims that he could not have carried out a certain act in the proceedings of the first instance, such act must be carried out simultaneously with the appeal.¹⁹
4. The period for filing an appeal is within 30 days of the notification of the decision;²⁰ the deadline has been met if the letter containing the appeal is handed to the postal service operator on the last day of the deadline.²¹ An appeal may not be filed before a decision has been issued; if an appeal is filed before the decision is notified to the student, it is deemed to have been filed on the first day of the appeal period.²²
5. In the case of missing, incomplete or incorrect notification of the right to appeal, an appeal may be filed within 15 days of the date of notification of a rectifying resolution if such resolution has been issued, but no later than 90 days of the date of notification of the decision.²³ Non-notification of a decision cannot be invoked by a student who has become demonstrably aware of the decision; in this case an appeal may be filed within 90 days of the date on which the student became aware of the decision.²⁴
6. The student may apply for a waiver of default on appeal within fifteen days of the date on which the obstacle that prevented him from filing an appeal ceased to exist; the request for a waiver of a default may be granted a suspensive effect if the student faces a risk of serious harm. The application will not be dealt with unless an appeal is filed simultaneously with it. A default on an appeal will be waived if the student proves that the obstacle was due to serious reasons arising through no fault of his own. A decision on the waiver of default is made by the dean in the form of a resolution. A default may not be waived if one year has lapsed from the day on which the application therefor was to be filed.²⁵
7. An admissible appeal that was filed on time has a suspensive effect. Owing to the suspensive effect of an appeal, the decision neither comes into full force and effect, nor is enforceable, nor do any other legal consequences arise as a result of the suspensive effect.²⁶ The suspensive effect of an appeal may not be excluded.²⁷

8. An appeal is filed with the Dean.²⁸

9. The Dean amends the proceedings according to the circumstances; this does not apply if the appeal was filed late or if it was inadmissible.²⁹

10. The Dean may change or cancel the decision if it means granting the appeal; this decision may be appealed.³⁰ The provisions of Article 14 (7) to (12) apply accordingly.

11. If the dean fails to find conditions for proceeding under (10), he hands over the file with his opinion to the appellate administrative body, i.e., the Rector, within 30 days of the date of delivery of the appeal. In the case of an appeal that is late or inadmissible, the dean hands over the file to the Rector within ten days; in his opinion the dean will limit himself to the statement of reasons decisive for the assessment of the appeal as late or inadmissible.³¹

12. If, prior to the handover of the file to the Rector, the dean finds out that a circumstance justifying the discontinuance of proceedings has occurred, he will, without further ado, cancel the challenged decision and discontinue the proceedings.³²

13. The Rector reviews compliance of the appealed decision and proceedings preceding the decision with legal regulations and internal regulations.³³ Defects in the proceedings which may not reasonably be deemed to have influenced the compliance of the appealed decision with legal regulations and internal regulations are not taken into account.³⁴

14. If the Rector concludes that the appealed decision is in conflict with legislation or internal regulations:

a) he cancels the challenged decision or its part and discontinues proceedings,

b) he cancels the challenged decision or its part and returns the matter back to the dean for further consideration; in the reasoning of his decision the Rector expresses his legal opinion which is binding on the dean in new proceedings on the matter; the new decision may be appealed; or

c) he changes the challenged decision or its part; the change may not be made if the possibility of filing an appeal would thus be endangered; the student has a right to comment on the new documents provided by the Rector; the Rector changes the decision in the reasoning part if it is necessary for rectify errors in the reasoning; the Rector may not change the challenged decision to the detriment of the student unless the challenged decision contravenes legislation.³⁵

15. If the Rector fails to find a reason to apply to procedure under paragraphs (14), (16) or (17), he dismisses the appeal and affirms the appealed decision. If the Rector changes or cancels the challenged decision only in part, he affirms the remaining part.³⁶

16. If the Rector ascertains that a circumstance justifying the discontinuation of proceedings has arisen, he will cancel the appealed decision and discontinue proceedings.³⁷

17. The Rector will dismiss an appeal if it was filed late or if it is inadmissible. In the case of legally effective decisions, he will examine if there are reasons to review the decision in review proceedings, to open new proceedings, or to issue a new decision. If he finds grounds to initiate review proceedings, open new proceedings, or issue a new decision, a late or inadmissible appeal is deemed to be the impulse to initiate review proceedings, or as an application for new proceedings, or as an application for the issuance of a new decision.³⁸ If the Rector concludes that the appeal was filed on time and is admissible, he will return the case to the dean.³⁹

18. The Rector issues a decision in the appeal proceedings within 30 days; the period starts to run on the date on which the file is handed over to the Rector.⁴⁰ Provisions of Article 14 (7) to (11) apply to the Rector's decision accordingly.

19. No appeal may be filed against the Rector's decision; the Rector's decision comes into legal force when it is notified to the student.⁴¹ The dean's decision affirmed under paragraph (15) comes into legal force simultaneously with the Rector's decision.

20. If the student withdraws the filed appeal, the appeal proceedings are discontinued on the day on which the appeal is withdrawn. The appealed decision comes into legal force on the day following the date of discontinuance of proceedings; a resolution is issued regarding the fact that the proceedings were discontinued. This resolution is recorded in the files and the student is notified thereof. An appeal may only be withdrawn before the issuance of a Rector's decision.⁴²

21. Further to the decision under paragraph (14), the Rector or the Dean takes such measures as necessary to restore the rights of the student and eliminate or at least alleviate the damage caused to the student by the erroneous decision.⁴³

Article 7

Transitional and Final Provisions

1. The Student Disciplinary Code of Charles University in Prague, registered by the Ministry of Education, Youth and Sports on April 26 1999, is hereby repealed.

2. Proceedings started before the legal effect of this Code will be completed under this Code.

3. The Code was approved by the Academic Senate of the University on November 25, 2016.

4. The Code comes into force on the date of registration by the Ministry of Education, Youth and Sports.⁴⁴

5. The Code becomes effective on the first day of the calendar month following the date of coming into force.

President of the Academic Senate

Rector

Poznámky

- ¹ Translator's note: Words importing the masculine include the feminine, and unless the context otherwise requires, words in the singular include the plural and words in the plural include the singular.
- ² S. 64 of the Higher Education Act.
- ³ S. 65 (3) of the Higher Education Act.
- ⁴ S. 65 (3) of the Higher Education Act.
- ⁵ S. 65 (2) of the Higher Education Act.
- ⁶ S. 31 (3) of the Higher Education Act.
- ⁷ Sentence one of s. 31 (1) of the Higher Education Act.
- ⁸ Sentence two of s. 31 (1) of the Higher Education Act.
- ⁹ S. 31 (2) of the Higher Education Act.
- ¹⁰ Sentence one of s. 69 (1) of the Higher Education Act.
- ¹¹ Sentence two of s. 69 (1) of the Higher Education Act.
- ¹² Sentence three of s. 69 (1) of the Higher Education Act.
- ¹³ S. 69 (2) of the Higher Education Act.
- ¹⁴ S. 79 (5) of the Administrative Procedure Code and the regulation of the Ministry of the Interior No. 520/2005 Sb., on the scope of expenses in cash and loss of earnings which the administrative body reimburses to other persons and on the flat fees for the costs of proceedings.
- ¹⁵ S. 81 (1) of the Administrative Procedure Code.
- ¹⁶ S. 81 (2) of the Administrative Procedure Code.
- ¹⁷ S. 81 (3) of the Administrative Procedure Code.
- ¹⁸ S. 82 (1) of the Administrative Procedure Code.
- ¹⁹ S. 82 (4) of the Administrative Procedure Code.
- ²⁰ Sentence one of s. 68 (4) of the Higher Education Act.
- ²¹ S. 40 (1) (d) of the Administrative Procedure Code.
- ²² Sentence two and three of s. 83 (1) of the Administrative Procedure Code.
- ²³ S. 83 (2) of the Administrative Procedure Code.
- ²⁴ S. 84 (2) of the Administrative Procedure Code.
- ²⁵ S. 41 (2) to (4) and (6) of the Administrative Procedure Code.

- ²⁶ S. 85 (1) of the Administrative Procedure Code.
- ²⁷ Sentence two of s. 68 (4) of the Higher Education Act.
- ²⁸ S. 86 (1) of the Administrative Procedure Code.
- ²⁹ Sentence two and three of s. 86 (2) of the Administrative Procedure Code.
- ³⁰ S. 87 of the Administrative Procedure Code.
- ³¹ S. 88 (1) of the Administrative Procedure Code and s. 68 (5) of the Higher Education Act.
- ³² S. 88 (2) of the Administrative Procedure Code.
- ³³ S. 68 (6) of the Higher Education Act.
- ³⁴ Sentence three of s. 89 (2) of the Administrative Procedure Code.
- ³⁵ S. 90 (1) and (3) of the Administrative Procedure Code.
- ³⁶ S. 90 (5) of the Administrative Procedure Code.
- ³⁷ S. 90 (4) of the Administrative Procedure Code.
- ³⁸ S. 92 (1) of the Administrative Procedure Code.
- ³⁹ S. 92 (2) of the Administrative Procedure Code.
- ⁴⁰ S. 90 (6) of the Administrative Procedure Code.
- ⁴¹ S. 91 (1) of the Administrative Procedure Code.
- ⁴² S. 91 (3) of the Administrative Procedure Code.
- ⁴³ S. 68 (7) of the Higher Education Act.
- ⁴⁴ S. 36 of the Higher Education Act. The registration was completed on December 14, 2016.