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*Regulation*

*May/2019*

REGULATION

FOR STUDENTS' APPEAL IN THE UBT COLLEGE

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**PRISHTINE, May 2019**

Pursuant to the relevant provisions of LAW NO. 04 / L-037 ON HIGH EDUCATION IN THE REPUBLIC OF KOSOVO, as well as the provision of Article 88 of the Statute of HEPP UBT College, on 15.05.2019 issues this

## **REGULATION**

### **FOR APPEALING PROCEDURES OF STUDENTS**

#### **I. INTRODUCTORY PROVISION**

##### **1. Subject matter and application of this Regulation**

With this REGULATION FOR APPEALING PROCEDURES OF STUDENTS IN UBT COLLEGE (**REGULATION**), are sanctioned and regulated in particular:

- **Objection to grade**
- **Appealing procedure**
- **Violation of obligations,**
- **Initiating and implementing certification and accountability procedures,**
- **deadlines,**
- **measures,**
- **evidence, and**
- **other relevant issues.**

#### **Objection to grade**

##### **Article 1.**

The teacher needs the student to justify the final grade.

A student who has been evaluated negatively on the exam or is dissatisfied with the assessment has the right to file a protest complaint. The objection is filed to the Dean of the Faculty within two (48) days of notice and / or publication of the grade. Objection should be reasoned well.

If the objection on the grade is reasoned, the Dean of the Faculty will approve a decision allowing the student to repeat the examination, appoints the Evaluation Commission and sets the time for retention.

The Evaluation Commission consists of: Chairperson and two (2) members, one of whom should be of narrow field. The subject teacher who is objected cannot be Chairman of the Evaluation Committee.

Against the assessment of the Evaluation Commission for a repeated examination, no further submission of the opposition is permitted.

## **Repetition of the exam**

### **Article 2.**

The re-examination is organized no later than three (3) days from the date of the assessment of the grounded objection.

Based on the grades proposed by all members of the Evaluation Committee, the Chair of the Evaluation Committee closes the final grade and if the grade is positive, the Chair of the Commission records the grade in the appropriate document. The final score cannot be positive if two (2) members of the Evaluation Commission have proposed a negative grade.

No further objection can be made in the evaluation committee's decision.

## **2. Students' responsibility**

### **Article 2.**

The student has the right for his request to be proceeded at an institutional level:

In order to ensure the quality of the services provided to the student; avoiding cases where students may feel dissatisfied with teaching and learning; other conditions and other administrative services in cases when decisions which can affect students can be taken; decisions that can be taken both at the administrative level as well as in the academic level and for the purpose of protecting students' rights as defined by the UBT Statute and Regulation.

### **3. People with student status and staff status**

#### **Article 3.**

The regulation applies to any person who has a regular statutory of student and part-time student, as well as to staff at all levels in UBT.

The student and staff status is evidenced on the basis of the appropriate public document issued by UBT, as well as on the basis of the relevant evidence that leads the Department of Student Affairs as well as the Department of Human Resources.

### **4. The person with non-student status or staff status**

#### **Article 4.**

Within this Regulation, the general rules on liability apply to persons who do not have the status of a student and a regular staff and who have violated the rules and procedures within the institution as prescribed by law, normative acts of UBT criminal and civil liability applicable to the application in the territory of the Republic of Kosovo.

Against the persons from the previous paragraph of this article, submit adequate DENOUNCEMENT to the competent state body.

### **Quality in the implementation of the violation of the obligation**

### **Article 5.**

Violation of disciplinary and material obligations can be performed in quality,

- a) Executors or co-executors,
- b) Promoters,
- c) Assistants, and
- d) Coverers.

The quality from the previous paragraph of this Article, as well as the degree of liability in committing the violation of the obligations are established in the relevant procedure.

### **6. Place of committing the violation of the obligation**

#### **Article 6.**

Violation of the obligation may be made:

- a) In any place and space in or outside the UBT building or in the vicinity of UBT facilities,**
- b) In the spaces or in front of the spaces in which the academic teaching takes place,**
- c) in any other country, if, with the actions taken, the violation of the prestige as well as the authority of UBT, student, professors or associates, or any other person outside the teaching staff (false information, incorrect data and alike)**
- d) In any other country, if by any action taken in purpose, it will have the benefit of any right contrary to the law or gain unlawful ownership (*eg. falsification of the public document issued by UBT, and alike*).**

### **7. Place of committing the violation of the obligation**

#### **Article 7.**

Violation of obligation is considered when students and the staff didn't act or didn't have a reasonable behavior, in failing to provide the adequate services refusing to apply the rules within the institution.

## **8. Application of rules for causing damage**

### **Article 8.**

These rules are also applied strictly in cases of material injury.

## **II. The appeal procedure before the commencement of the appeals procedure**

### **Article 9.**

Students and UBT staff will make all reasonable efforts to resolve the issue in good faith.

The student has the right to file a formal complaint to the Dean or the Chief of the Department within a period of 15 days in cases when the case cannot be resolved in the pre-trial procedure.

The student submits the complaint formally through the protocol, and specifies the nature of the case.

The Dean within 30 days is obliged to provide the student with a solution and answer a written reply.

## **III. GENERAL RULES OF PROCEDURE**

### **1. The regularity of the procedure**

#### **Article 10.**

Procedure of responsibility of appeal must be fair and transparent.

### **1. Presumption of innocence (in dubio pro reo)**

#### **2. Article 11.**

The staff shall be deemed innocent until a decision is rendered ineffective.

The doubt in the view of the existence of evidence and facts or affect the certification of liability will be considered in the most favorable form and manner against which the appeal procedure is conducted.

### **3. The rights of the staf**

#### **4. Article 12.**

The staff has the right to timely notice of alleged breaches of suspicion and evidence supporting the responsibility.

Staff should be allowed to declare for all the evidence and arguments that they upload, as well as to present all the evidence and arguments that are in favor of protection.

The staff is not obliged to submit his or her defense, has the right to silence protection and does not respond to the questions asked.

### **5. Right to a procedure without delay**

#### **Article 13.**

The appeal procedure should be conducted in order to draw up all the evidence and arguments and evidence necessary for a correct determination of the factual situation and the adoption of a fair and law-based decision.

The appeal procedure must be completed within one (1) month from the day of adoption of the decision for the beginning of the appeals procedure.

### **6. Ne bis in idem**

#### **Article 14.**

Against the staff, no appeals procedure can be initiated if the previous appeal procedure against the same staff and for the same violation has ended with the approval of the final decision.

### **7. Language and documents**

### **Article 15.**

In the appeals and materials proceedings, the Albanian and English languages are equally used.

## **8. Right to protection**

### **Article 16.**

The student and the staff have the right to personal protection, or through the defender himself.

The student has the right to call the representative of the Student Union at the hearing.

## **9. Right to Appeal**

### **Article 17.**

Against the decision by which the first instance appeal procedure has been completed, a complaint can be filed to the UBT COMPLAINTS COMMISSION "as a second instance body..

## **IV. APEAL PROCEDURE**

### **1. Submission of Application Form**

### **Article 18.**

The submission of the application form for violation, when it is made known, may conduct:

- **any student,**
- **each employee in UBT,**
- **the head of the academic unit (dean),**
- **ex officio as well**
- **any person who is engaged in UBT.**

The application form must be signed, well-reasoned and, if possible, supported by substantive material evidence.



On the basis of the application of the Application Forms under paragraphs 1 and 2 of this Article, the head of the academic unit (Dean) or the person to whom it authorizes decides on the initiation of the proceeding.

The decision to initiate the procedure from line 3 of this article, issued in the form of a ruling, against each is allowed the appeal (appeals).

The ruling is submitted to the Chairperson of the Complaints Commission, the staff and the complainant.

## **2. Preliminary procedure**

### **Article 19.**

If the Application Form is filed, respectively, if it does not contain all the evidence of the violation and its perpetrator, or if the other source of data does not provide adequate evidence and evidence, the Dean of the academic unit will lead with the preliminary procedure.

The preliminary procedure must be completed as soon as possible but not later than fifteen (15) days from the filing date of the filing for the alleged violation.

## **3. Content of the decision to initiate the procedure**

### **Article 20.**

The decision to initiate the appeal procedure must contain all the necessary information for the proceeding of the appeal procedures and the decision on liability, particularly:

- name and surname and address of the staff for whom there is a grounded suspicion that he has committed a violation,**
- the description of the breach of the violation, the place, the time and manner of committing, the type of violation, the reasons for suspicion that the staff has committed the violation, the consequences of the violation, the data on causing material damage, the circumstances under which the violation was committed, notes and other relevant data.**

## **4. Discard of the application form**

## **Article 21.**

The initiator of the procedure Conclusions will Reject the application for commencement of proceedings, if:

- **it is proved that the act or omission described in the Application for Initiation of the Appeal Procedure has not been sanctioned as a violation,**
- **Further proceeding of the appeal procedure is also prescribed, as well**
- **if the initiation of the appeals procedure is done by the unauthorized person.**

### **1. The deadline for initiating the procedure**

#### **Article 22.**

The right to initiate an easy violation procedure is prescribed within six (6) months - calculated from the day of commencement, respectively, of the knowledge of the offense and its perpetrator, and of grave misconduct within a period of twelve (12) months - calculated from the day of committing, respectively, recognition of the offense and its perpetrator.

### **2. Subcommittee on Complaints (hereinafter referred to as Complaints Commission) - as a body of first instance**

#### **Article 23.**

The appeals procedure is conducted and decisions are made by the Appeals Commission - as a first instance body.

The Appellate Committee elects and appoints the academic (dean) of the academic unit, for a duration of two (2) years, with an option for a two (2) year extension).

The Complaints Commission consists of:

- **The President - the former is the Dean;**
- **A representative of the research sector within the faculty;**
- **A faculty staff representative as well**
- **A representative of the Student Organization.**

### **3. Exemption of members of the Appeals Committee**

#### **Article 24.**

The student who initiated the appeal procedure as well as the staff may, from the day when information is initiated for the initiation of the appeal procedure and until the receipt of the Invitation for a Session, submit to the Complaints Commission a request for the dismissal of any of the members of the Complaints Commission, there is a grounded suspicion that a member of the Complaints Commission who is required to be excluded from the Complaints Commission is in a special relationship vis-a-vis the student or the Staff.

Regarding the Request for Exemption of the member of the Complaints Commission, the final decision will be issued by the Appeals Commission - before the opening of the hearing.

#### **4. Statement of guilt**

##### **Article 25.**

Upon receipt of the Complaint File, respectively, the decision to initiate the appeals procedure, and before the hearing is scheduled, the Appeals Commission will call the staff against whom an appeals procedure has been initiated to declare whether or not it has committed a lawsuit , and is or is not responsible for the violation.

If the staff from the previous paragraph of this Article is declared to have committed the violation and is liable, the Appeals Commission shall initiate Appel proceedings before the Appel Commission.

A record is kept in the case that describes the staff statement regarding the violation. The minutes are signed by the members of the commission, the recording clerk and the staff against whom an appeal procedure has been initiated.

The ruling issued on the basis of the informed statement of the staff that accepts the violation and the responsibility, becomes final and cannot be appealed against.

If the staff during the interrogation declares that it is not a violation and for the same does not feel responsible, the Chairman of the Appeals Commission shall without delay take all the necessary actions for the scheduling of the hearing.

#### **5. Calling the Hearing**

##### **Article 26.**

After taking into account, the Chairperson of the Appellate immediately schedule a hearing and sends invitations to hearings HEARING.

The invitation is sent to members of the Complaints Commission, students, staff, witnesses, as well as other persons who can assist in resolving the matter.

The invitation contains the subject matter, place and time of holding the SENACA, as well as notification of the quality of the person being called.

PENALTY SENSE INVESTIGATION should be sent at least eight (8) days before the hearing, with the purpose of notifying the case as well as preparing the defense.

The Student Organization may also be notified of the session.

The place and time of holding the hearing is published in UBT's TABLE SHEET at least three (3) days prior to the same hearing.

## **6. Do not attend the hearings**

### **Article 27.**

At the beginning of the Hearing, the Chairperson of the Appeals Committee finds that all the invited persons are present.

If the guests are on a regular basis, the hearing is adjourned, and if there is no reason for the next hearing, it will be held in their absence.

## **7. The hearing session flow**

### **Article 28.**

The hearing before the Appeals Committee begins with the reading of the Complaint File, respectively, with the reading of the ruling on the commencement of the appeals procedure, after which each party is invited to the statement.

Witnesses do not present themselves in the Hearing until the staff makes their statements and defense. The Witnesses give their statements separately and after questioning the staff. A witness

who has not been questioned can not present at the hearing until other witnesses give their statements.

If the Appeals Committee deems it necessary, witnesses can be confronted with staff or witnesses, and other necessary actions may also be taken.

After the end of the hearing session, parties are invited to give their final say.

## **8. Management of session**

### **Article 29.**

At the Hearing Attorney's Hearing is chaired by the Chairperson of the Complaints Committee, who gives and gives the floor, asks questions and asks for clarification.

In addition to the Chairperson of the Ankle Commission, questions can also be filed by the members of the Appeals Committee - always after receiving the prior consent of the Chairperson of the Complaints Commission.

## **9. Termination and continuation of the hearing**

### **Article 30.**

The hearing may be terminated and extended on the same working day. If the necessary reasons exist, the continuation of the session may be postponed for the following working day.

In cases from the preceding paragraph of this Article, the Appeals Commission works in the same composition.

If the Appeals Committee continues its work in an amended composition, the hearing session shall start from scratch.

In the case outlined in paragraph 3 of this Article, the Complaints Commission may decide that the evidence procedure conducted before the Complaints Committee in the foregoing shall not be repeated except that the minutes on the implementation of the probationary procedure are read. The Commission may decide to proceed with the processing of evidence which had not previously been proposed or the evidence for which the previous hearings have been waived.

## **10. Closure of the session, placement and voting.**

### **Article 31.**

The Chairperson of the Complaints Commission closes the Hearing, after which the Appeals Committee withdraws for placement and voting.

The placement is done without the presence of the parties in the procedure and in connection with the same shall be kept a special minutes.

The decision is approved by majority vote of the members of the Appeals Committee, immediately following the conclusion of the Hearing, and if for reasonable reasons this is not possible, then the next working day.

After the decision and the vote the Complaints Commission is obliged that the staff against whom the appeals procedure is conducted orally communicates the decision, whereas the written decision will be submitted within eight (8) days from the closing date of the hearing.

## **11. Decision of the Complaints Commission**

### **Article 32.**

The Appeals Commission may decide on one of the following forms

- a) To terminate the appeals procedure,**
- b) to free the staff from liability,**
- c) The staff is found responsible for the violation and submits the case to the Disciplinary Commission.**

The Disciplinary Commission will make a decision for interruption of the disciplinary procedure, in case:

- a) the staff ceased to have staff status,**
- b) if there is ongoing criminal proceedings against staff on the same issue, and**
- c) if the initiator of the procedure has withdrawn from the Complaint File,**

The Appeals Commission will make a decision to release the staff from liability:

- a) if it is proved that the act or omission due to each has been initiated the appeal procedure is not sanctioned as a violation,**

- b) if it has not been proved that the staff committed a violation for which an appeal procedure was initiated,**
- c) if circumstances exist that exclude the responsibility of the staff.**

## **12. Submission of the decision and evidencing**

### **Article 33.**

Appeals Commission decisions are issued in the form of a ruling and delivered to the staff and student as well as to the dean of the academic unit.

The Appellate Complaints Commission decisions are published in the UBT Announcement Tablet.

## **13. The content of a Appel ruling**

### **Article 34.**

The ruling contains:

- PREAMBLE,**
- DEVICE,**
- REASONING as well**
- LEGAL ADVICE.**

PREAMBLE (INTRODUCTION) contains the legal and normative legal basis, the name of the initiator of the Appeal, the name and surname of the staff, explanation of what the violation is about, as well as the place and date of closing the Appellate Hearing.

The PROVISION contains the parties' data as well as the decision of the Complaints Commission.

REASONING contains all the decisive facts on the basis of which the decision is based, and in particular the content of the Appeals, the protection of the staff, the verification of the factual

situation, the assessment of the material evidence, and the mitigating and aggravating circumstances.

THE LEGAL ADVICE contains the notice of the student and the initiator of the Complaint that they can file a complaint to the UBT Complaints Council ", within eight (8) days from the day of receipt of the ruling.

#### **IV. Measures**

##### **1. Type of measures**

###### **Article 35.**

The measures of the Complaints Commission are:

- Initiation of proceedings,**
- Recognition of the student's right.**

#### **V. PROCEDURE OF THE SECOND-INSTANCE DOCUMENT**

##### **1. APPEL Commission of the second- instance**

###### **Article 36.**

Against the decision of the Appel Commission of the first instance, the student and the dean of the academic unit have the right to file a complaint with the Administrative Council of "UBT" - as a Appel Commission of the second instance within eight (8) days from the day of receipt of the ruling.

##### **2. Reasons for filing a complaint**

###### **Article 37.**

The complaint may be filed for the following causes and circumstances:



- essential violation of procedural rules,
- incorrect or incomplete determination of the factual situation,
- The wrong application of the material right.

### **3. Time limits for placement on appeal**

#### **Article 38.**

The second instance Appeals Commission against the appeal filed must be within a period of fifteen (15) days, respectively, for a period of four ten (45) days, in cases when the appeal is approved, the first instance decision is annulled and the Hearing , counting the deadline from the filing date of the complaint to the Second Instance Appeals Commission.

If against the decision of the Complaints Commission of the first instance appeal has been filed only by the staff, the first instance verdict can not be changed to the detriment of the appealed student.

### **4. Session of the Second Instance Commission**

#### **Article 39.**

The second instance Appeals Commission considers the appeal at the hearing, assessing that the first instance body has accurately established the factual situation and whether the appeals were properly applied to the legal norms.

For the hearing before the second level commission, the initiator of the procedure and the staff will be notified.

The session of the second instance commission begins with the statement of the complainant, after which the other party will respond to the complaint. The second instance commission from the attendees may request additional explanations regarding the complaint and respond to the appeal.

The parties and the defense counsel may propose that certain documents be read and, with the permission of the Chairperson of the Second Instance Commission, provide additional

explanations for their positions and the complaint, respectively, in the complaint, not allowing the repetition of articulated issues in a complaint or a response to a complaint.

The absence of parties (initiators of the appeals procedure and the student) who have been timely and regularly informed do not prevent the holding of the hearing and decision by the Second Instance Appeals Commission.

Decision-making can also be done without the notice of the parties and the defense counsel for the committee session.

#### **4. Outline before the Second Instance Appeals Commission**

##### **Article 40.**

If it is necessary to hear the repeated hearing of the parties or any of the witnesses or experts as well as other persons who have witnessed the proceedings before the first instance body or the need to call the witnesses or, if it is necessary to issue any other evidence, the Second Instance Appeals Commission shall hold the hearing session only under the circumstances sanctioned by the provision of Article 49 paragraph 1 item d) of this Regulation.

#### **5. Analog application of the provisions from the first instance session**

##### **Article 41.**

The provisions of this Regulation shall apply to the Hearing before the second instance Appeals Commission.

#### **6. Decision on the Appeal**

##### **Article 42.**

The Appeal Commission of the second instance decides in one of the following ways:

- a) The appeal is dismissed if it is not exercised within the deadline (after the deadline), or the complaint was filed by an unauthorized person or by persons who have waived the filing of the complaint or if the complaint according to the law is not allowed,**
- b) Refuses the appeal as ungrounded and the first instance verdict is verified if it is established that there are no reasons and reasons for which the first instance decision is affected,**

**c) approves the appeal and the decision of the first instance changes, if it is found that the decisive facts in the first instance decision are correctly assessed and that in establishing the factual situation and the correct application of the law or other acts, another decision should be issued,**

**d) approves the appeal, annul the decision of the first instance body if it is established that the first instance body has become the essential violation of the rules and procedural norms or has not been fully and correctly verified by the factual situation, and thus sets the hearing and merit decide with a RI ruling,**

**e) Approve the appeal, annul the decision of the first instance body and the interrupted procedure for sanctioned reasons, if the first instance body has not issued such a decision.**

## **7. Place of the second instance body**

### **Article 43.**

The Appellate Commission of the second instance shall decide on the appeal in the form of a ruling and submit it to the parties and the Dean of the academic unit within the UBT.

The decision of the second instance Appeals Commission is final and the same is published in the UBT Announcement Tablet.

The final decision of the Second Instance Appeals Commission is executed by the Dean of the academic unit within UBT.

## **VII. FINAL AND TRANSITIONAL PROVISIONS**

### **1. Amendments to the Regulations**

#### **Article 44.**

Amendments to the present Regulation shall be in an analogous manner and procedure as to be accomplished.

Incentives to initiate the amendment procedure of the amendments to this Regulation may be initiated by:

- **Rector,**
- **The Steering Council,**
- **Academic Council.**

## **2. Interpretation of the Regulation**

### **Article 45.**

For the interpretation of legal provisions of this Regulation, the UBT Governing Board is competent.

## **3. Entry into force of the Regulation**

### **Article 46.**

This Regulation shall enter into force eight (8) days from the day of its publication in the "UBT" TABLE OF ANNOUNCEMENT.

**PRISHTINA,**

**Date, May 15, 2019**

**HEPP UBT College**

**President**

**Prof. Dr. Edmond HAJRIZI**