

**SOUTH AFRICAN MEDICAL
ASSOCIATION TRADE UNION**



**DISCIPLINARY PROCEDURES FOR MEMBERS, OFFICE BEARERS,
AND OFFICIALS**

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1. Introduction

1.1 SAMATU shall have a Code of Conduct applicable to all members.

1.2 Any complaint against a member for a breach of the Code of Conduct occurring at any level of the Trade Union shall be dealt with by the Disciplinary Committee established by the NEC.

1.3 The NEC may, at its own discretion, resolve that either the disciplinary process or the mediation process be utilized in order to resolve the complaint.

1.4 All Disciplinary cases shall be directed to the Disciplinary Committee to conduct the investigation.

1.5 The Disciplinary Committee shall submit a report to the NEC upon completion of the investigation.

1.6 The composition, function, procedures, and powers of the Disciplinary Committee shall be as set out in this Rule, with its members comprising:

1.1.1 The 2nd Deputy President acting as Chairperson;

1.1.2 General Secretary;

1.1.3 Three other Full Members of SAMATU nominated by the NEC; and/or

1.7 Upon receipt of the complaint/allegation of misconduct, the Committee shall immediately and in writing, inform the member concerned of the complaint/allegation under investigation and invite

that member to make written representations in response to the complaint/allegation.

1.8 The member concerned should submit the written representations within 14 days of receipt of the Disciplinary Committee notice.

1.9 The Committee may request further information from both the complainant and the member

concerned if required.

1.10 The Committee shall then consider the complaint/allegation and response received from the member concerned as well as any other information obtained.

1.11 The Committee must conclude their investigation and submit their report to the NEC within 30

(thirty) days of receiving all required documentation and information.

1.12 Should the Committee, on the conclusion of their investigation, find that there is no substantive merit

to the complaint/allegation, they will submit a report to that effect to the NEC. The NEC will in

turn advise both the complainant and the member concerned of the outcome of the investigation.

1.13 Should the Committee find that there is substantive merit to the complaint/allegation they will

report to NEC accordingly. The NEC, through the Disciplinary Committee, may then initiate a formal disciplinary process. The NEC

has sole discretion to initiate a formal disciplinary process and cannot be obliged to do so by any

party, but must exercise this discretion within 30 (thirty) days of the receipt of the Committee's

report.

1.14 Upon receipt and consideration of the Committee report, the NEC shall determine whether to:

1.14.1 Proceed with formal disciplinary in respect of the alleged misconduct; or

1.14.2 consider the matter closed; or

1.14.3 initiate a process of mediation.

2. Disciplinary Process

2.1 The Disciplinary Committee shall comply with the requirements as set out in this Disciplinary Procedure.

2.2 The composition, function, procedures, and powers of the Disciplinary Committee shall include,

notwithstanding any additional requirements set by the NEC, the power to recommend one of

the following sanctions to be imposed by the NEC in the event that the member is found guilty by

the Disciplinary Committee:

2.2.1 Caution and reprimand;

2.2.2 Formal admonishment;

2.2.3 Suspension of membership in SAMATU; or

2.2.4 Expulsion of the member.

2.3 Once the NEC has decided to make use of a Disciplinary Committee, it must provide written

notification to the member of the charge against him/her and that a hearing will be convened

before the Disciplinary Committee to decide the matter. The member must receive no less than 21 days' notice of the hearing. The notification must further contain the various rights accruing to the accused member arising from the disciplinary process. These shall include his/her rights to:

2.3.1 obtain assistance and, in serious or complex cases, legal representation;

2.3.2 present and dispute information and submit arguments;

2.3.3 appear in person and be heard.

2.4 The Disciplinary Committee shall hear argument from a representative of the Committee, as pro forma complainant, and from the member or his/her representative.

The Disciplinary Committee shall consider all arguments presented and information made available to it by both parties.

2.5 The Disciplinary Committee shall render its decision and recommendations, in writing, to the member concerned and to the NEC within 15 (fifteen) days of the date of the hearing.

2.6 The NEC shall within 15 (fifteen) days of receipt of the decision and recommendations of the

Disciplinary Committee informs the member, in writing, of its decision.

2.7 The NEC shall have the authority to impose a sanction on the basis of the recommendation of the Disciplinary Committee, or it may impose a less or more severe sanction to that which was recommended.

2.8 In the event that a member has been found guilty by the Disciplinary Committee, and a sanction has been imposed by the NEC, the said member will have the right to appeal to the National Congress.

2.9 In the event that an appeal is lodged, the National Congress shall constitute an Appeal Panel in order to hear the appeal. The member must lodge his/her intention to appeal with the Chairperson of the National Congress within 21 (twenty-one) days of being informed of the decision of the NEC,

whereupon the Appeal Panel shall be constituted by National Congress to hear the appeal.

2.10 The function, procedures and powers of the Appeal Panel shall be as set out in these Rules, and the composition of the Appeal Panel will be as follows:

2.10.1 The National Congress will constitute a 5 member Appeal Panel amongst the delegates attending Congress.

2.10.2 The Appeal Panel shall convene an appeal hearing and provide the member concerned 21 (twenty) days notice of such hearing.

2.10.3 The Appeal Panel shall hear argument from the member or his/her representative and counter argument from the pro forma complainant on the date of the appeal hearing.

2.10.4 The Appeal Panel shall, within 15 (fifteen) days of the Appeal Hearing, render its decision in writing to the National Congress, the member, and the pro forma complainant.

2.10.5 The decision of the Appeal Panel shall be final and binding on the parties. The National Congress -shall adopt the decision of the Appeal Panel as a formal ruling of Congress.

2.10.6 The entire Disciplinary Process set out in these Rules may only be utilized in instances where the member concerned is alleged to have committed misconduct against SAMATU. It may not be utilized for allegations of professional misconduct.

3. Mediation Process

3.1 In the event that the mediation process is elected, the parties to the mediation shall enter into the SAMATU Mediation Agreement. The mediation process as described in terms thereof and the Mediation Rules available at Head Office in terms thereof shall be followed.

3.2 In the event that the mediation process is unsuccessful, the parties shall refer the dispute to

arbitration which shall be conducted according to the provisions of the Arbitration Act (Act 42 of

1965), as amended.

4. Arbitration Process

4.1 The party wishing to refer the matter to arbitration shall, in writing, inform the other party that the dispute must be submitted to arbitration.

4.2 The arbitrator elected in terms of the Arbitration Act shall be a suitably qualified person agreed

upon by the parties. Failing such agreement, and within 2 (two) weeks after the date on which

arbitration is demanded, an arbitrator shall be appointed

4.3 The arbitration shall be held in Pretoria in accordance with the formalities and/or procedures to be settled by the arbitrator, and may be held in an informal and summary manner, on the basis that it shall not be necessary to observe or carry out the usual formalities of procedure, pleadings and/or

discovery, or the strict rules of evidence, subject always to the rules of natural justice.

4.4 The arbitrator shall be entitled:

4.4.1 to investigate or cause to be investigated any matter, fact or thing which he considers

necessary or desirable in connection with the dispute;

4.4.2 interview and question under oath any of the parties or their officials, employees and

representatives;

4.4.3 to decide the dispute according to what he considers just and equitable in the circumstances;

4.4.4 to make such award, including for specific performance, and interdict, damages or a

penalty, the right to cancel or otherwise as he, in his discretion, may deem fit and appropriate.

4.5. The arbitration shall be held as quickly as possible after it is deemed, with a view to it being

completed within 30 (thirty) days after the arbitrator has been appointed.

4.6. Immediately after the arbitrator has been agreed upon or nominated, either of the parties shall be entitled to call upon the arbitrator to fix a date and place when and where the

arbitration proceedings shall be held and to settle the procedure and manner in which the arbitration proceedings will be held.

4.7. Any award made by the arbitrator shall be final and binding upon the parties, shall be carried into effect, and may be made an order of any court to whose jurisdiction the parties are subject.

CONTROLLED BY: COMPLIANCE OFFICER SIGNATURE:  DATE: <u>2024/02/27</u>	APPROVED BY: GENERAL SECRETARY SIGNATURE:  DATE: <u>27-02-2024</u>
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