

4.4. MISCONDUCT, DISCIPLINARY PROCEDURE, PENALTY AND APPEAL RULES

4.4.1 Interpretation

“Misconduct” shall mean an act of omission or commission, express or implied, custom or urge, whether specified herein or otherwise, either singly or in collaboration with others, whether amounting to a substantive act, abetment or connivance committed within the premises of University, if related to the maintenance of discipline or pertaining to the interest of the management or other employees or officers of the management. However, any act of omission / commission / indiscipline which affects the reputation or prestige of the management shall amount to misconduct whether committed within or outside the premises of University

4.4.2 Acts of Misconduct

The Followings acts of omission and commission and any other action which may be construed as indiscipline shall be treated as misconduct and these acts of misconducts are illustrative and not exhaustive:

1. Wilful insubordination or disobedience of any lawful and reasonable order of the superior.
2. Commission of any acts subversive of discipline or good behaviour or damaging the reputation of the University.
3. Participation in any strike / demonstration, gherao and or any other kinds of agitation or abetting and inciting such agitation activities.
4. Theft, fraud, dishonesty, embezzlement, corruption, misappropriation in connection with work / finances/property of University.
5. Wilful damage to property or loss or damage to property owing to negligence or subversive or unethical practices.
6. Demanding or accepting or giving bribes or any illegal gratification whatsoever.
7. Absence or overstaying of leave without sanction/authorization for more than 03 consecutive days.
8. Absence for more than 30 days without any intimation/sanction.
9. Habitual late attendance or habitually leaving work before time or absence from place of work during working hours.
10. Negligence or neglect of work.

11. Accepting service for any consideration inside or outside the University / Establishment without the approval of the management.
12. Drunkenness, fighting, riotous, disorderly or indecent behaviour in University premises and/or public places, affecting the reputation of University.
13. Giving false evidence or statement in any domestic enquiry held by University or in a case conducted in a Court of Law in which University is a party.
14. Traveling or carrying unauthorized passengers, materials in any of University's vehicles without valid authority.
15. Collection or canvassing for collection of any money for any purpose within University premises without prior permission.
16. Smoking in the office or in any other places where smoking is specifically prohibited.
17. Sleeping while on duty.
18. Distributing or exhibiting inside University premises hand- bills, pamphlets or posters without prior written permission of the management.
19. Attending or holding any unauthorized meeting within University premises.
20. Giving interview to the press, radio, television without the taking permission from the management
21. Unauthorized disclosure of information about the business or affairs of University.
22. Gambling or canvassing for sale of any commodities, chit funds, lottery tickets or coupons etc., within University premises.
23. Conviction in any Court of Law for any criminal offence under Indian Penal Code.
24. Making false statements on matters germane to his employment in University or wilful suppression of facts at the time of employment or during the course of service in University.
25. Threatening, intimidation, coercion, assaulting, quarrelling with any person in the premises of University.
26. Use of foul or abusive language or misbehaviour with any officer, employee, student, parties or visitors within University premises.
27. Refusal to accept memorandum or charge sheet or any other communication issued by the superior or Disciplinary Authority.

28. Refusal to give evidence in any enquiry against any other employee charged with misconduct.
29. Refusal to submit for search to the security staff or any other employee official
30. Participation in any movement prejudicial to the interests of University.
31. Using University facilities unauthorized for personal gains & unauthorized possession of any goods, equipment's, implements, articles, materials, etc. which are in use in University or kept in stock in University
32. Not allowing University employees / officers / superiors either to enter or come out of the premises or causing hindrance to ingress or egress of the personnel, material or machines of University.
33. Punching of attendance card/machine of another employee or forging the signature of another employee in the attendance register.
34. Tampering with any of the records of University.
35. Slowdown in performance of work or instigating to slow down or adopting work to rule practices.
36. Acts of immorality or involving moral turpitude within the premises of University or outside.
37. Unauthorized occupation / illegal or immoral use of university premises.
38. Not wearing specified uniform while on duty as prescribed by the management during working hours or wearing the uniform improperly while on duty.
39. Refusal to work beyond the stipulated period of work or work on holidays when specifically instructed to do so by management.
40. Possession of un-licensed weapons, dangerous or illicit drugs.
41. Arrest/detention in connection with taking service or accept any employment including setting of a Private Professional Practice or consultancy etc., while on leave, which involves the receipt of a fee or honorarium without the specific sanction of the competent authority.
42. Non-adherence to code of professional ethics.
43. Use his position or influence directly or indirectly to secure employment for any person in any concern with which he has or had official dealings in connection with the business of University

44. Bring or attempt to bring any outside influence to bear upon the management to further his personal interests in University
45. Misuse the amenities provided for the by University to discharge his official duties
46. Accept any gifts, presents, gratis, payments or other favours from students, suppliers, contractors, dealers or anyone who could directly or indirectly influence / damage / harm the business interests / goodwill or reputation of University
47. Disclose / divulge or use any confidential information gained in the course of employment in University for personal gains / profit or advantage for himself/herself or any other person
48. Engage directly or indirectly in any trade or business or a vocation or undertake any other employment
49. Any act or moral turpitude or any other offence under any law of the land
50. Sexual harassment of co-employees, students, external parties and or any other persons who would be involved with University including such unwelcome sexually determined behaviour (whether directly or by implication) such as
 - i) Unwelcome sexual advances, requests or demand for sexual favours, either explicitly or implicitly, in return for employment, promotion, examination or evaluation of a person towards any activity;
 - ii) Unwelcome sexual advances involving verbal, non-verbal, or physical conduct such as sexually coloured remarks, jokes, letters, phone calls, text messages, emails, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, sounds, display of pictures, signs, verbal or non-verbal communication which offends the individual's sensibilities and affect her/his performance;
 - iii) Eve teasing, taunts, physical confinement against one's will and likely to intrude upon one's privacy;
 - iv) Uploading obscene pictures of the complainant in the social networking sites;
 - v) Such act or conduct of the person is likely to create a hostile or intimidating environment to the employee / student belonging to the other sex;

- vi) Conduct of such an act at work place /study area or outside in relation to an employee or student of Manipal University Jaipur and
- vii) Any unwelcome gesture by an employee or student towards a fellow employee or student, having sexual overtones.

(Note: *This misconduct will be dealt as per the terms of Prevention, Prohibition and Redressal of Sexual Harassment of Women at workplace Policy of Manipal University Jaipur*)

4.4.3 Disciplinary Procedure

1. An Employee reported/found to have committed any act of misconducts as enumerated as above or otherwise shall be issued with a charge sheet by the disciplinary authority seeking an explanation in writing within stipulated time
2. If the explanation submitted by the employee is satisfactory, the disciplinary authority may drop further proceedings
3. If the explanation submitted by the employee is not satisfactory or if the employee fails to submit any explanation within the stipulated time including extension of time if any, the management may proceed and order for domestic enquiry.
4. The management may appoint any one from within the university or outsider as an enquiry officer.
5. The enquiry shall be held in accordance with the principle of natural justice and the employee shall be given all reasonable & fair opportunity to defend himself/herself including producing documents, witnesses, cross examining the witness of management as the case may be.
6. During the course of enquiry, the employee may take the assistance of a co-employee to defend himself. However, the employee shall not be entitled to take the assistance of an outsider/legal professional.
7. If the employee fails to present himself & participate in the enquiry, the enquiry may be held and concluded keeping the employee ex parte.
8. If an employee is found guilty of misconduct as a result of the enquiry and punishments awarded to him, the employees shall not be entitled to any salary / wages during the period of his suspension other than the subsistence allowance already paid to him.
9. If, as a result of the enquiry, an employee is found not guilty of misconduct and the disciplinary authority exonerates the employee, he

shall be entitled to receive the difference of the subsistence allowance paid, if any and the emoluments he would have received had he not been suspended for the period of this suspension pending enquiry.

10. An employee found guilty of misconduct after an enquiry duly conducted may be punished by imposition of one or more minor or major penalties. A show cause notice shall be issued along with the copy of the findings of enquiry to the employee before imposing penalty.
11. While awarding punishment under these Service Rules, the management may take into account the gravity of the misconduct, the previous record of the employee, and any other extenuating or aggravating circumstances that may exist. A copy of such order of punishment passed by the management shall be served on the employee concerned in writing.
12. Notwithstanding anything contained in the above rules, the management shall have the right to dismiss an employee without enquiry on grave charges or if the employee has been convicted by the Court of Law for an offence involving moral turpitude or committed sexual harassment.

4.4.4 Suspension Pending Enquiry

1. Any Competent authority/Disciplinary authority with such powers may place under suspension, pending enquiry, an employee of University who is alleged to have committed any act of misconduct.
2. An employee of University who is detained in police custody whether on a criminal charge or otherwise for a period exceeding forty eight hours shall be deemed to have been suspended with effect from the date of detention by an order of the Management or any other officer empowered on his behalf and shall remain under suspension until further orders of revoking or continuing the order of suspension.
3. Every employee placed under suspension pending investigation or enquiry into complaint or charges of misconduct against him shall be entitled to subsistence allowance.
 - a) At the rate of 50% of the pay which the employee will be entitled immediately from the date of such suspension, for first 90 days of suspension and
 - b) At the rate of 75% of such pay for the remaining period of suspension if the delay in the completion of disciplinary

proceedings against such employee is not directly attributable to the conduct of such employee. Provided that where such enquiry or criminal proceedings are prolonged beyond a period of 90 days for reasons attributable to employee, the subsistence allowance shall for the period exceeding ninety days be reduced to only 50% of the pay as subsistence allowance.

- c) The Payment of Subsistence allowance shall be subject to the employee concerned not taking up any employment during the period of suspension. Provided that the management can order any suspended employee to record his attendance in a register once in a day and such a register shall be maintained in the designated office area.
- d) Suspended workmen will not leave his/her station without the written permission of the competent authority and will also intimate any change in his/her residential address for official communication to the competent authority failing which all the communications sent to him /her at his/her last known address available on record will be deemed to have been properly and legally serviced upon him/her.
- e) A suspended employee will immediately handover complete charge of tools, equipment, records, materials, goods and property of the institution ,uniform and his/her identity card to his/her departmental head or any other officer/employee of the institution and produce a clearance slip failing which his/her subsistence allowance will not be released.

4. If on enquiry the employee is found guilty of the charges and it is considered that an order of discharge or dismissal will meet the ends of justice, the Management shall pass orders accordingly. When such orders are passed, the employee shall be deemed to have been absent from duty during the period of suspension and shall not be entitled to any remuneration for such period. However, the subsistence allowance already paid to him shall not be recovered.

4.4.5 Penalties

Any of the following penalties may be imposed for good and sufficient reasons on an employee of the university by the management.

4.4.5.1 Minor Penalties:

- a) Written warning or caution

- b) Censure
- c) Withholding /stoppage of increments with or without non-cumulative effect
- d) Withholding promotion
- e) Recovery from pay of the employee in whole or part of any pecuniary loss to the university/institution, caused through negligence or breach of orders by the employee.
- f) Fines, not exceeding an amount equivalent to 07 days salary

4.4.5.2 Major Penalties:

- a) Suspension without salary and allowance for period of 30days
- b) Demotion to a lower grade or post or to a lower stage in a time scale of pay for a specified period at the discretion of the management or permanent reduction in rank.
- c) Discharge/ Removal/Dismissal from service.

4.4.6 The Following shall not Amount to a Penalty within the Meaning of these Rules

1. Withholding of increments of employees for failure to pass an examination in accordance with the rules and conditions governing the service or post or terms of appointment.
2. Non-promotion whether in a substantive or officiating capacity of the employees after consideration of their case to a grade or post for promotion to which they are eligible.
3. Reversion to lower service, grade or post of an employee officiating in higher service, grade or post on administrative grounds such as return of the permanent incumbent from leave or deputation, availability of more suitable officer etc., or on the ground that they are considered after trial to be unsuitable for such higher service, grade or post or on matters connected with their conduct.
4. Reversion to their permanent service, grade or, post of an employee appointed on probation to other service, grade or post during or at the end of the period of probation in accordance with the terms of appointment or the rules and orders governing probation.
5. Compulsory retirement of the employees in accordance with the provision relating to their superannuation or retirement.
6. **Termination of service:**
 - a) of employees appointed for three months or less;

- b) of part time employees appointed for a period less than a year;
- c) of persons employed under an agreement in accordance with the terms of such agreement;
- d) of employees appointed on probation at the end of the period of probation in accordance with the terms of their appointment or the rules and orders governing such probation.

7: **Appeal in case of Dismissal /Discharge/Removal:**

An employee aggrieved by the order of Discharge / Dismissal / Removal by the competent authority / Disciplinary authority may prefer an appeal to the appellate authority within 30 days from the receipt of the order. The decision of the Appellate authority shall be final & binding.

