

CERTIFIED TRANSLATION FROM THE POLISH TO THE ENGLISH LANGUAGE

[The document submitted for translation consists of one page. The translator's remarks have been put in square brackets and italics]

Detailed procedure of investigation and disciplinary proceedings in student cases, as well as the manner of executing disciplinary penalties and expungement.

Journal of Laws of 2018, no. 1882 of 2018/10/03

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Entry into force:

4 October 2018

**REGULATION
OF THE MINISTER OF SCIENCE AND HIGHER EDUCATION ¹**

of 28 September 2018.

**on the detailed procedure of investigation and disciplinary proceedings in student cases,
as well as the manner of executing disciplinary penalties and expungement**

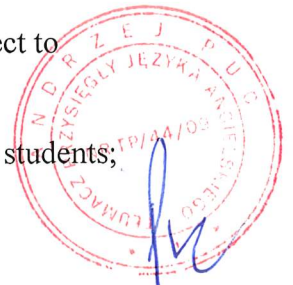
Pursuant to Article 321 of the Act of 20 July 2018 - Law on Higher Education and Science
(Journal of Laws item 1668) it is ordered as follows:

Chapter 1

General Provisions

§ 1. Whenever the regulation refers to:

- 1) disciplinary committee - it shall mean the disciplinary committee and the appeals disciplinary committee referred to in Article 310 paragraph 1 of the Act of 20 July 2018 - Law on Higher Education and Science;
- 2) rector - shall mean the rector of the university in which a student subject to disciplinary responsibility is educated;
- 3) disciplinary ombudsman - shall mean the disciplinary ombudsman for students;



4) Act - shall mean the Act of 20 July 2018 - Law on Higher Education and Science.

§ 2. The summons for the purpose of taking evidence in investigation proceedings and in disciplinary proceedings includes:

- 1) designation of the summoning party;
- 2) indication of the case, in what capacity, place and time the summoned party is to appear;
- 3) information whether the appearance is obligatory;
- 4) instruction about the consequences of failure to appear.

§ 3.

1. In investigation proceedings and in disciplinary proceedings, summons, notices, decisions, judgments and other letters are delivered with acknowledgment of receipt.

2. Summons, notifications, decisions, rulings and other letters, from which the delivery dates run, are served by an authorized university employee or postal operator within the meaning of Article 3 paragraph 12 of the Act of 23 November 2012 - Postal Law (Journal of Laws of 2017, item 1481 and of 2018, items 106, 138, 650, 1118 and 1629).

3. Summons and notifications may also be made by phone, leaving in the case files an annotation containing the date and content of the summons or notification submitted, together with the signature of the person who performed the action.

4. Letters other than summons, notifications, decisions and judgments may also be delivered by fax or email, leaving in the case files a printout of the delivered letter and confirmation of data transmission.

5. The provisions of paragraphs 3 and 4 shall apply if it is justified by the need to improve the conducted investigation proceedings or disciplinary proceedings and it does not lead to infringement of the rights of their participants.

6. The provisions of paragraphs 3 and 4 shall not apply to the service of summons, notifications, orders, judgments and other letters:

- 1) from which service dates the time limits run;
- 2) directed to a student to whose act the investigation proceedings are related;
- 3) directed to the defendant.

Chapter 2

Investigation proceedings

§ 4.

1. The Rector, after receiving the information that the student has committed an offense,



orders the disciplinary ombudsman to initiate investigation proceedings.

2. The investigation should last no longer than 6 weeks. In justified cases, the disciplinary ombudsman, with the rector's consent, may extend the duration of the investigation proceedings, for no longer than up to 12 weeks.

§ 5.

1. The disciplinary ombudsman issues a decision to initiate the investigation proceedings and serves it to the student whose act is subject to the investigation proceedings, and notifies about the initiation of investigation proceedings:

- 1) rector;
- 2) aggrieved party;
- 3) party who notified about the commission of an offense.

2. In the decision referred to in paragraph 1, an instruction on the rights of the student whose act is subject to the investigation proceedings, specified in the *mutatis mutandis* applicable Article 286 paragraph 2 of the Law is included.

§ 6.

1. In the course of the investigation proceedings, the disciplinary ombudsman may interrogate witnesses, consult experts, and take, secure and record other evidence.

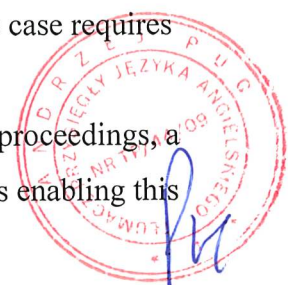
2. The interrogated person should be allowed to express themselves freely within the limits defined by the purpose of a given action, and then questions may be asked to supplement, explain or control the statement. Questions must not suggest the answer.

3. Before initiating the interrogation of the witness, he or she should be informed about criminal liability for testifying untruthfulness or concealing the truth. The witness signs a declaration that he or she was instructed of this responsibility and that he or she understood that instruction.

4. The witness should be informed about the content of the properly applied Article 182 of the Act of 6 June 1997 - Code of Criminal Procedure (Journal of Laws of 2017, item 1904, as amended) and on the content of properly applied Article 183 and Article 185 of the Act of 6 June 1997 - Code of Criminal Procedure, if the circumstances covered by those provisions are revealed.

5. If the determination of the circumstances relevant to the resolution of the case requires special information, the disciplinary ombudsman may consult an expert.

6. The interrogation of the student whose act is subject to the investigation proceedings, a witness or an expert may occur in person or with the use of technical devices enabling this



activity to be performed remotely, with the simultaneous direct transmission of image and sound.

§ 7.

1. If the evidence collected in the course of the investigation proceeding gives grounds therefor, the disciplinary ombudsman summons the student whose act is subject to the investigation proceedings in order to present the charges and for the purposes of provision of explanations, including taking a position on the charges and evidence collected.
2. The student's refusal to provide explanations, or his or her unjustified failure to appear, shall not constitute an obstacle to the completion of the proceedings in the manner specified in § 11 paragraph 1, if the other collected evidence provides a basis therefor.
3. When summoning the student whose act is subject to the investigation proceedings, in order to present the charges and to obtain his or her explanations, the disciplinary ombudsman informs him or her about the consequences of failure to appear and about the provisions of paragraph 2.

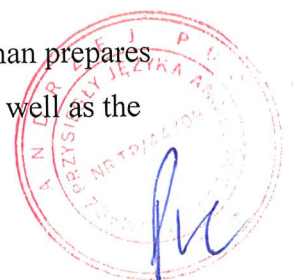
§ 8. The disciplinary ombudsman, before receiving explanations from the student whose act is subject to the investigation proceedings, instructs him or her about his or her rights and obligations. The student whose act is subject to the investigation proceedings signs a declaration that he or she was instructed about his or her rights and obligations and that he or she understood the instruction.

§ 9.

1. In the course of the investigation proceedings, the student whose act is subject to the investigation proceedings, and his or her defense counsel, if appointed, have the right to submit to the disciplinary ombudsman requests to interrogate the indicated persons as witnesses, call experts and take other evidence.
2. After the conclusion of the evidence proceedings, the disciplinary ombudsman notifies the student whose act is subject to the investigation proceedings, and his or her defense counsel, if appointed, about the conclusion of the evidence proceedings and the right to review the collected evidence, as well as the right to submit an application for supplementing the evidence proceedings, within 3 days from the date of service of the notification.

§ 10.

1. For each activity in the investigation proceedings, the disciplinary ombudsman prepares minutes specifying the type of activity, duration and place of its performance as well as the course and participants of this activity.



2. The minutes of activities are signed by the disciplinary ombudsman and all its participants.

§ 11.

1. After conducting the investigation proceedings, the disciplinary ombudsman, based on the collected evidence:

- 1) issues a decision to discontinue investigation proceedings and submits it to the rector for approval, or
- 2) submits a request for punishment to the disciplinary committee, or
- 3) submits to the rector a request for imposing the penalty of admonition.

2. The disciplinary ombudsman issues the decision referred to in paragraph 1 point 1, if the investigation proceedings did not provide grounds for referring to the disciplinary committee a request for punishment and for submitting to the rector a request for imposing the penalty of admonition or there were premises specified in the *mutatis mutandis* applied Article 17 § 1 of the Act of 6 June 1997 - Code of Criminal Procedure.

3. The decision to discontinue the investigation proceedings, approved by the rector, along with the grounds for that decision, is served to:

- 1) the student whose act was subject to the investigation proceedings and his or her defense counsel, if appointed;
- 2) the aggrieved party;
- 3) a person who notified about the commission of the offense.

§ 12.

1. The request for punishment includes:

- 1) first and last name, father's name and address of residence of the student whose act was subject to the investigation proceedings, as well as information about his or her field of study and year of study;
- 2) precise specification of the alleged act, indicating the time, place, method and circumstances of its commission;
- 3) specification of the proposed disciplinary penalty;
- 4) grounds for the decision.

2. The files of the investigation proceedings shall be attached to the request for punishment.

3. The disciplinary ombudsman immediately informs the rector, the student whose act was subject to the investigation proceedings, and his or her defense counsel, if appointed, about the referral to the disciplinary committee of a request for punishment.



Chapter 3

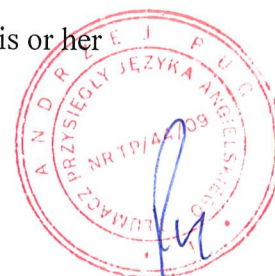
Disciplinary proceedings

§ 13.

1. The chairperson of the disciplinary committee examines whether the request for punishment contains the elements referred to in § 12 paragraph 1, and whether the files of the investigation have been attached thereto.
2. If the request for punishment does not contain the elements referred to in § 12 paragraph 1, or the files of the investigation proceedings have not been attached thereto, the chairperson of the disciplinary committee shall return the request and call the disciplinary ombudsman to supplement the identified deficiencies within 7 days from the date of receipt of the request.
3. If the request for punishment contains all the elements referred to in § 12 paragraph 1, and the files of the investigation proceedings have been attached thereto, the chairperson of the disciplinary committee shall appoint the adjudication panel, including the chairperson, and the date of the closed session, which should be held within 21 days from the date of the adjudication panel appointment.
4. At a closed session, the adjudicating panel issues a decision on:
 - 1) instituting disciplinary proceedings and referring the case to be examined at a hearing, or
 - 2) refusing to institute disciplinary proceedings, or
 - 3) returning the request for punishment to the disciplinary ombudsman in order to supplement the investigation proceedings, indicating to what extent the proceedings are to be supplemented, and setting a date for the supplementation, not longer than 30 days from the date of service of the decision.
5. The decision referred to in paragraph 4 point 2, is issued in the event of the circumstances referred to in the *mutatis mutandis* applied Article 17 § 1 of the Act of 6 June 1997 - Code of Criminal Procedure.

§ 14.

1. The decision referred to in § 13 paragraph 4 point 1 shall be served on the disciplinary ombudsman, the defendant and his or her defense counsel, if appointed, and on the rector.
2. The provisions referred to in § 13 paragraph 4 points 2 and 3 shall be served on:
 - 1) the disciplinary ombudsman;
 - 2) the student whose act was subject to the investigation proceedings and his or her defense counsel, if appointed;
 - 3) the aggrieved party;



- 4) a person who notified about the commission of the offense.
 - 5) the rector.
3. The person referred to in paragraph 2 points 1-4, may appeal to the appellate disciplinary committee against the decision referred to in § 13 paragraph 4 point 2.

The appeal shall be lodged within 7 days from the date of service of the decision.

§ 15.

1. In the event of issuing the decision referred to in § 13 paragraph 4 point 1, the chairperson of the adjudicating panel shall:

- 1) set the date of the hearing, which should be held within 30 days from the date of issuing the decision referred to in § 13 paragraph 4 point 1;
 - 2) appoint the defendant a in the case referred to in Article 315 paragraph 2 of the Law;
 - 3) notify the rector and the disciplinary ombudsman about the date of the hearing;
 - 4) summon the defendant for the hearing and notify the defendant's defense counsel, if appointed;
 - 5) summon witnesses and experts to be heard, if they have been appointed.
2. The defendant shall be served the following together with the summons to the hearing:
- 1) request for punishment of the disciplinary ombudsman;
 - 2) information about the rights and obligations of the defendant, as well as about the consequences of failing to appear at the hearing.
3. The date of the hearing should be set in such a way that at least 7 days elapse between the service of the summons on the defendant and the date of the hearing.
4. In the event of failure to comply with the deadline referred to in paragraph 3, the hearing shall be postponed at the request of the defendant or his or her defense counsel, if appointed.

§ 16.

1. Unjustified failure to appear at the hearing by the defendant or his or her defense counsel, if appointed, shall not constitute an obstacle to the hearing of the case.
2. If the defendant's failure to appear at the hearing is considered justified, the adjudicating panel shall adjourn the hearing and set a new date therefor.

§ 17.

1. The chairperson of the adjudicating panel may interrupt the hearing for important reasons, for no longer than for 21 days.
2. The adjudicating panel may issue a decision to suspend the disciplinary proceedings, if criminal proceedings or petty offense proceedings have been initiated for the same act.
3. The parties may appeal against the decision referred to in paragraph 2, to the appellate



disciplinary committee within 7 days from the date of service of the decision.

4. The disciplinary committee shall resume the suspended disciplinary proceedings not later than within 30 days from the date of becoming aware of the final conclusion of the criminal proceedings or petty offense proceedings.

5. The rector shall be notified about the suspension of disciplinary proceedings and about resuming the suspended disciplinary proceedings.

§ 18.

1. The chairing judge of the adjudicating panel shall chair the hearing and ensure its proper course.

2. The hearing begins with checking the presence of the parties and other persons summoned to the hearing, after which the chairperson of the adjudicating panel orders the witnesses to leave the room, and the disciplinary ombudsman shall read the request for punishment together with the grounds therefor. Then the chairperson of the adjudicating panel asks the defendant whether he or she admits to committing the alleged offense and whether and what he or she intends to provide any explanations.

3. After hearing the defendant, the adjudicating panel conducts evidence proceedings, in which witnesses are heard, presents expert opinions and takes other evidence.

4. The chairperson of the adjudicating panel instructs the parties and the defendant's defense counsel, if appointed, about their right to ask questions to witnesses and experts and to comment on each evidence taken.

5. During the hearing, the adjudicating panel, at the request of the parties or *ex officio*, admits evidence from witnesses' testimonies and expert opinions as well as other evidence, if it deems that their taking is essential for the case.

6. The defendant, his or her defense attorney, if appointed, and the disciplinary ombudsman have the right to ask questions to witnesses and experts and to comment on any evidence taken.

7. If the explanations of the defendant who pleaded guilty at the hearing do not raise any doubts, the panel may, with the consent of the parties, not conduct or limit the evidence proceedings.

8. After the conclusion of the evidence proceedings, the chairperson of the adjudicating panel gives the floor to the disciplinary ombudsman, the defense counsel of the defendant, if appointed, and the defendant.

§ 19. Minutes are drawn up of the hearing, which are signed by all members of the adjudication panel and the recording clerk.



§20.

1. After hearing the persons referred to in § 18 paragraph 8, the chairperson of the adjudicating panel closes the hearing, and the adjudicating panel deliberates over the judgment.
2. The deliberation and voting are secret. During the deliberation and voting, apart from members of the adjudicating panel, only the recording clerk may be present.
3. The deliberation and the voting on guilt and punishment occur separately. The chairperson of the panel lasts.

§21.

1. Decisions and judgments issued in disciplinary proceedings are passed by a simple majority of votes.
2. A member of the adjudicating panel has the right to submit a separate dissenting opinion together with the grounds for it in writing.

§22.

1. The disciplinary committee decides on:
 - 1) punishment, when it finds the defendant guilty of committing the alleged act and imposes a penalty, or
 - 2) acquitting the defendant, or
 - 3) discontinuation of the proceedings.
2. The disciplinary committee shall decide on the acquittal of the defendant in the event of establishing the circumstances referred to in the *mutatis mutandis* applied Article 17 § 1 point 1 or 2 of the Act of 6 June 1997 - Code of Criminal Procedure.
3. The disciplinary committee shall decide on discontinuation of the proceedings in the event of stating the circumstances referred to in Article 17 § 1 points 3-11 of the Act of 6 June 1997 - Code of Criminal Procedure.

§23.

1. The decision includes:
 - 1) name of the disciplinary committee, date and place of hearing the case and issuing the decision;
 - 2) names and surnames of the members of the adjudicating panel, disciplinary ombudsman, recording clerk and defendant's defense counsel, if appointed;
 - 3) names and surnames, name of the defendant's father and information about the field of study and year of studies;
 - 4) description of the alleged act, specifying the place and date of its commission;



- 5) decision of the disciplinary committee;
- 6) grounds for the decision explaining the legal and factual basis of the decision;
- 7) instructions for the parties on the right to appeal as well as on the procedure and time limit for its filing.

2. The decision together with the grounds for it is signed by all members of the adjudicating panel. **§ 24.**

1. The judgment is announced immediately after the deliberation.
2. In justified cases, in particular due to the complexity of the case, the announcement of the decision may be postponed, by no longer than by 7 days from the date of closing the hearing. The date of the announcement of the decision is given at the hearing.
3. After the announcement of the decision, the chairperson of the adjudicating panel gives orally the grounds for the decision and informs the defendant about the procedure and the date of appeal.
4. The judgment together with the grounds therefore, made in writing, shall be served on the parties, the defendant's defense counsel, if appointed, and the rector within 14 days from the date of its announcement.

§ 25.

1. The parties have the right to appeal against the decision of the disciplinary committee to the appellate disciplinary committee. Lodging an appeal by the disciplinary ombudsman in favour of the defendant requires the defendant's consent.
2. The appeal against the decision of the disciplinary committee shall be submitted through the disciplinary committee which issued the decision, within the time limit specified in Article 317 paragraph 2 of the Law.
3. The appeal may be withdrawn until the appeal hearing has commenced.
4. An appeal brought by the disciplinary ombudsman in favor of the defendant cannot be withdrawn without the defendant's consent.
5. The decision of the disciplinary committee, against which an appeal has not been lodged within the prescribed period or the appeal has been effectively withdrawn, becomes final and enforceable. The validity of the decision is confirmed by the chairperson of the disciplinary committee.

§26. The chairperson of the appellate disciplinary committee, by decision, refuses to accept the appeal lodged after the expiry of the time limit referred to in Article 317 paragraph 2 of the Law, or by an unauthorized person.



§ 27.

1. The chairperson of the disciplinary appeal committee, after finding that the appeal was brought by an authorized person and within the time limit referred to in Article 317 paragraph 2 of the Law, appoints the adjudicating panel, including the chairperson and rapporteur, and the date of the appeal hearing, and also orders service of the appeal on the opposing party.
2. The appeal hearing should be held within 30 days from the date of receipt of the appeal with the appellate disciplinary committee.

§ 28.

1. The appellate hearing begins with a report in which the rapporteur presents the course of the disciplinary proceedings to date, the content of the decision under appeal, the allegations cited in the appeal and the facts of the case.
2. Before the end of the appeal hearing, the chairperson of the adjudicating panel gives the floor to the disciplinary ombudsman, the defense counsel of the defendant, if appointed, and the defendant, with the party who lodged the appeal having the first vote.

§ 29.

1. Appellate disciplinary committee:
 - 1) upholds the appealed decision of the disciplinary committee, or
 - 2) repeals the appealed decision of the disciplinary committee in whole or in part and issues a decision on the merits of the case, or
 - 3) repeals the appealed decision of the disciplinary committee in whole and refers the case to the disciplinary committee for re-examination.
2. If the decision of the case requires supplementing the evidence proceedings, the appellate disciplinary committee shall repeal the whole decision of the disciplinary committee and refer the case to another adjudication panel of the disciplinary committee against which the decision was appealed.

§ 30.

1. The appeal against the decision of the disciplinary committee and the chairperson of the appellate disciplinary committee are examined, in closed session, by the appellate disciplinary committee in a different adjudicating panel.
2. A appeal against the decision of the disciplinary committee or the chairperson of the appellate disciplinary committee shall be submitted within 7 days from the date of service of the decision, through the disciplinary committee or the chairperson of the appellate disciplinary committee, respectively.
3. The appeal is examined within 14 days from the date of receipt of the appeal by the



appellate disciplinary committee.

4. Issuance of the decision upholding the decision on refusal, as a result of considering the appeal:

- 1) initiation of disciplinary proceedings,
- 2) acceptance of the appeal,
- 3) reopening disciplinary proceedings

- ends the proceedings in the case.

5. Accepting the appeal, the appellate disciplinary committee shall repeal the decision under appeal and decide on the initiation or suspension of disciplinary proceedings, acceptance of the appeal or reopening of disciplinary proceedings. § 31. Provisions on proceedings before a disciplinary committee shall apply *mutatis mutandis* to proceedings before the appellate disciplinary committee in cases not regulated in this chapter.

Chapter 4

Execution and expungement

§ 32.

1. The final disciplinary decision is served on the rector and included in the student's personal file.
2. The Rector, immediately after receiving the legally valid decision of the disciplinary committee, orders the execution of the imposed disciplinary penalty.
3. As soon as the adjudicated disciplinary penalty is expunged, the rector orders the disciplinary judgment to remove it from the student's personal file and to destroy the documentation of the investigation proceedings and disciplinary proceedings.

Chapter 5

Reopening of disciplinary proceedings

§ 33.

1. The reopening of disciplinary proceedings is resolved, in closed session, by the disciplinary committee which issued the decision ending the disciplinary proceedings, in a different adjudicating panel.
2. The order on the reopening of the proceedings shall be served on the persons referred to in Article 314 paragraph 7 of the Law.
3. The decision of the disciplinary committee to refuse to reopen the disciplinary proceedings



may be appealed against through the appellate disciplinary committee. The appeal shall be lodged within 7 days from the date of service of the decision.

Chapter 6

Final provision

§ 34. The Regulation shall enter into force on the day following its publication, i.e. on 1 October 2018, pursuant to Article 169 point 3 of the Act of 3 July 2018 - Regulations implementing the - Law on Higher Education and Science (Journal of Laws, item 1669).¹²

¹ The Minister of Science and Higher Education manages the government administration department - higher education, pursuant to § 1 paragraph 2 point 2 of the Regulation of the Prime Minister of 13 December 2017 on the detailed scope of activities of the Minister of Science and Higher Education (Journal of Laws, item 2317).

² This regulation was preceded by the regulation of the Minister of Science and Higher Education of 6 December 2006 on detailed procedures for investigation and disciplinary proceedings against students (Journal of Laws, item 1707), which expired on 1 October 2018 pursuant to art. 169 sec. 3 of the Act of 3 July 2018 - Regulations implementing the - Law on Higher Education and Science (Journal of Laws, item 1669).

I hereby certify that this is a true and correct translation of the Polish document, translated by me to the best of my knowledge, belief and ability. I affix my official seal and signature in proof of this. Andrzej Puc, M.A., Sworn Translator. Ministry of Justice Sworn Translator's Registration Number: TP/44/09.

08 September 2020, Repertory No. 1361/2020

