

REV 1



COPE™
CONGRESS OF THE PEOPLE

CODE OF CONDUCT AND DISCIPLINARY
PROCEDURE

IN TERMS OF THE POLICIES AND
CONSTITUTION OF THE CONGRESS OF THE
PEOPLE

AS AMENDED BY THE FIRST NATIONAL
CONGRESS, JANUARY 2014.

REVISED AND ADOPTED BY THE CNC AND
EFFECTIVE FROM 30TH JULY 2014

President

General Secretary

CODE OF CONDUCT



CODE OF CONDUCT AND DISCIPLINARY PROCEDURE IN TERMS OF COPE'S POLICIES AND CONSTITUTION AS AMENDED IN JANUARY 2014.

The purpose of this Policy is to bring uniformity to the internal disciplinary procedures against any COPE member. This Policy should be viewed as a measure to cultivate a COPE tradition that demands the best behaviour of its members.

This Code comprises the Disciplinary Procedures as well as the Declaration of Members which is attached herewith and must be read together as it is these two documents that make up the CODE OF CONDUCT for members of the Congress of the People.

1. Definitions

- “Accused Member”** Is defined as the COPE member against whom a complaint was lodged.
- “Complainant”** Is defined as the COPE member or COPE constitutional structure that lodged a complaint of misconduct against another COPE member.
- “CNC”** Is defined as the Congress National Committee.
- “CPC”** Is defined as Congress Provincial Committee.
- “Disciplinary Committee”** (1) Is defined as either a Provincial Disciplinary Committee (“PDC”) where appropriate;
(2) or Is defined as a National Disciplinary Committee (“NDC”) where appropriate;
(3) or Is defined as an Appeals Committee (“AC”) where appropriate.
- “Independent”** Is defined as a disciplinary committee that consists of non-biased members of COPE that were not members of the CPC or CNC at the time that the CNC or CPC made any decision regarding the disciplinary matter of an accused member.
- “Legally qualified”** Is defined as a person with proven qualifications of any law degree and or law qualification”
- “Misconduct occurred at National level”** Is defined as all complaints lodged against a CNC member (whether ex – officio or otherwise) and a COPE public representative in Parliament.
- “Misconduct at a Provincial level”** Is defined as all complaints lodged against:
(1) a councillor of a municipality within the relevant province; or
(2) a member of the provincial legislature within the relevant province; or
(3) any member of COPE in the relevant province except for the CNC members and COPE public representatives in Parliament.
- “Non-biased Members of COPE”** Paid up members of COPE who did not raise an opinion, be it in writing or orally, about the disciplinary matter.
- “NOB”** Is defined as the National Office Bearers.
- “POB”** Is defined as the Provincial Office Bearers.

APPLICATION OF THIS POLICY

1. This Policy is applicable to all COPE members. The four Chapters of COPE which are the Congress Women's Movement; Congress Youth Movement; Congress Students Movement and Congress Business and Professional Forum may adopt additional measures specific to their sectors but which shall be consistent with this Policy in all material aspects.

SOURCE OF THIS POLICY

2. This Policy derives its mandate from the COPE Constitution (2014); the "Declaration of COPE Members"; the "Declarations of Availability to serve"; as well as all decisions and policies of COPE.

A. Establishment of Independent Disciplinary and Appeals Committees

3. The CNC shall appoint a chairperson and four (4) other persons to constitute the National Disciplinary Committee ('NDC'). At least one member of the NDC must be legally qualified. None of the members of the NDC may simultaneously be members of the CNC.
4. The CNC shall appoint three (3) persons, of whom one (1) must be legally qualified, to constitute the Appeals Committee ('AC'). None of the members of the NDC may simultaneously be members of the CNC.
5. The CNC may substitute the chairperson and members of the NDC and AC at its discretion.
6. Each CPC shall appoint a chairperson, and either two (2) or four (4) other persons, to constitute the Provincial Disciplinary Committee ('PDC') and inform the Office of the General Secretary. At least one (1) of the members of the PDC must be legally qualified. None of the members of the PDC may simultaneously be members of the CPC, CNC, NDC or AC.
7. The CPC may substitute the chairperson and other members of the PDC at its discretion and inform the Office of the General Secretary.
8. The Chairperson of the Disciplinary Committee must ensure that the disciplinary hearing is at all times heard by an uneven number of committee members.
9. Any financial costs as incurred by a Disciplinary Committee shall be paid by the structure that appointed that Disciplinary Committee.

B. Powers of Disciplinary and Appeals Committees

10. The PDCs conduct disciplinary proceedings at provincial level. The NDC conducts disciplinary proceedings at national level. The AC hears appeals from the NDC and PDC. Any party to the proceedings is entitled to only one internal appeal.
11. The Disciplinary Committees may conduct proceedings in a manner that they consider appropriate in order to determine a matter fairly and quickly, and must deal with the substantial merits of each matter with the minimum of legal formalities.

C. Decisions and Recommendations from Disciplinary Committees

12. The Disciplinary Committees decides on the finding of the merits of the case as well as on the sanction by majority vote. A Member of the Disciplinary Committee may not abstain from a decision.
13. The Chairperson of the Disciplinary Committee may co-opt an additional person(s) as an assessor(s) to attend, assist and advise the Disciplinary Committee. Assessors may not vote.
14. The Chairperson of the Disciplinary Committee may appoint ad-hoc members to replace members who are temporarily unavailable. Ad-hoc members are entitled to vote and are subject to the same restrictions as members of the Disciplinary Committee.
15. The recommendation of the Disciplinary Committee regarding the proposed sanction against the accused member may only be changed by the CPC or CNC as appropriate.

D. Procedure to follow re complaint of misconduct

16. Any member of COPE and / or duly constituted structure of COPE may lodge a written complaint of an alleged misconduct by another member or structure to the Provincial Secretary (if the alleged misconduct occurred at provincial level) or to the General Secretary (if the alleged misconduct occurred at national level). In the event that the complaint is lodged against either the Provincial Secretary and / or General Secretary then the POB and / or NOB must decide which office bearer should attend to the complaint. This complaint must be submitted within two (2) calendar months after the complainant became aware of the alleged misconduct, however the Executive Committee may recommend that the CNC approves a disciplinary process that addresses historical cases that are more than two months old on a case by case basis on its own accord or as recommended by a structure of the Party. See “**Annexure 1**”
17. The relevant Secretary shall confirm in writing receipt of the complaint within three (3) working days to both the complainant and Accused member.
18. The relevant Secretary must conduct a preliminary investigation in order to determine whether to charge the accused member with misconduct. The Secretary may adopt an approach to the investigation which he or she considers appropriate given the nature of the allegation.
19. After the completion of the Secretary’s preliminary investigation he / or she must in writing report to the NOB and / or POB regarding the preliminary investigation and recommend to the NOB and /or POB to either:
 - 19.1 Proceed with the investigation and disciplinary hearing (with or without a suspension of the Accused person) (See “**Annexure 2**”); or
 - 19.2 Discontinue the investigation.
20. In the event that the NOB and / or POB accepts the recommendation of the Secretary to discontinue the investigation against the Accused person then this decision of the NOB and / or POB shall be communicated to the Accused member and the Complainant.
21. In the event that the NOB and / or POB accepts the recommendation of the Secretary to continue with the investigation against the Accused member then the NOB and / or POB must further decide whether the circumstances warrant a suspension.

22. In the event that the NOB and / or POB accepts the recommendation of the Secretary to continue with the investigation against the Accused member then a Prosecutor must be appointed by the Secretary.

E. Suspension of the Accused Member

23. The suspension of membership of the Accused member may only be implemented after the CNC has decided so by means of a majority vote.
24. The Secretary must notify the Accused member on a working day of his / or her intention to suspend the Accused member. The Secretary must also inform the Accused member of his or her right to make written submissions on the matter within three (3) working days after receipt of the notice of proposed suspension (See “**Annexure 3**”). The Secretary must consider any written submission received from the Accused member before making a recommendation regarding the suspension to the CNC.
25. The Secretary must suspend the Accused member if the CNC recommended suspension. Suspension of an Accused member can only be justified on the basis that the Accused member’s continued membership will hamper the investigation (by, for example, interfering with witnesses or the gathering of evidence) or the Accused member’s continued membership will expose COPE to potential harm or put the name of the Party into disrepute.
26. The Accused member must be informed of the terms of his or her suspension in writing as soon as possible after the CNC have recommended this.
27. Suspension entails the suspension of all membership privileges. In the case of an Accused member who is also a COPE public representative suspension will be on full salary.
28. Suspension of a COPE public representative will not affect his / or her duties to vote, in accordance with COPE policies, within the relevant Legislature, Municipal Council and or Parliament unless so decided by the CNC or CPC.
29. Suspension of an Accused member is lifted when:
 - 29.1 The CNC accepts the Prosecutor’s recommendation in this regard. The Secretary must inform the Accused member of this decision.
 - 29.2 The CNC accepts the recommendation of the Disciplinary Committee in this regard. The Secretary must inform the Accused member of this decision.
 - 29.3 Thirty (30) working days have passed from the date of suspension but the Disciplinary Committee has not yet convened a disciplinary enquiry and the CPC or CNC has not accepted a request for extension of the period for a hearing from any of the parties and informed all concerned accordingly.

F. Appointment of a Prosecutor and the formulation of charges

30. The relevant Secretary shall appoint a Prosecutor within three (3) working days after the NOB and / or POB made such a recommendation. The Prosecutor may be a member, or a non-member of COPE who has the relevant skills depending on the nature of the allegation and the disqualifications that apply to members of the DC and the AC shall apply.
31. The Prosecutor must formulate the charges against the Accused member and conduct an investigation as well as the disciplinary hearing against the Accused member. The Prosecutor may adopt an approach to the investigation which he or she considers appropriate given the nature of the allegation.

32. Upon finalisation of the Prosecutor's investigation he / or she may recommend to the NOB and / or POB to lift the suspension of the Accused member and to discontinue any investigations against the Accused member. This recommendation of the Prosecutor must be made within ten (10) working days after obtaining instructions from the Secretary to prosecute.
33. Upon finalisation of the Prosecutor's investigation he or she must formulate the charges against the Accused person and issue it to both the Chairperson of the Disciplinary Committee and to the Accused person.

G. Disciplinary Enquiry

34. As soon as reasonably possible after receiving a referral from the Prosecutor, the Chairperson of the Disciplinary Committee must allocate a date(s) for a disciplinary enquiry and inform the Prosecutor and the Accused member thereof.
35. The disciplinary enquiry date(s) must be not less than ten (10) working days but also not more than thirty (30) working days from the date on which the Prosecutor has referred the matter to the Chairperson of the Disciplinary Committee.
36. Within two (2) working days after receiving the date(s) for the disciplinary enquiry from the Chairperson, the Prosecutor must issue a written notice to the Accused member informing him or her of:
 - 36.1 the charges of misconduct;
 - 36.2 the date, time and venue of the disciplinary enquiry; and
 - 36.3 his or her rights, including the right to representation at his or her own cost, the right to call witnesses and to present evidence, and the right to question COPE's evidence and witnesses.
37. The Disciplinary Committee must conduct the disciplinary enquiry in the manner as set out in "Annexure 4" below. The Disciplinary Committee must make recommendations in the manner set out in clause 13 above.
38. The proceedings must be minuted and / or recorded. The proceedings are only open to the relevant people. No disciplinary enquiry may proceed in the absence of the complainant, unless he / or she has already testified and is no longer needed at the enquiry. Disciplinary enquiries may proceed in the absence of the Accused member if there is sufficient evidence that he / or she has been timeously informed about the date of the hearing.
39. The Disciplinary Committee must decide whether the Accused member is guilty of misconduct and, if so, must consider representations from the Accused member and the Prosecutor as to the appropriate sanction.
40. The possible sanctions that the Disciplinary Committee may impose include, but are not limited to, suspension for a specified period, the imposition of a fine, community service, a written apology, or expulsion.
41. The sanction to terminate the Accused member's membership (expulsion) may only be implemented by the CNC, after an appeal process was followed, if any, and by a simple majority of CNC members voting in favour of this expulsion.
42. When deciding on an appropriate sanction the Disciplinary Committee must take into account the seriousness of the misconduct, the effect thereof on COPE and on its relationship with the accused member, COPE's purpose, mission and standards of conduct, mitigating and aggravating circumstances, the need for deterrence, and any other relevant factor.

43. The Disciplinary Committee must complete the disciplinary enquiry within four (4) calendar weeks after its commencement, subject to the Chairperson's discretion to extend this period in exceptional circumstances, if it would be unfair not to do so.
44. The Disciplinary Committee must make a written recommendation to the NOB and / or POB within ten (10) working days after completing the disciplinary enquiry. This recommendation must be in accordance with "**Annexure 5**".
45. Based on the report of the Disciplinary Committee the NOB and / or POB must report its recommendation to the CNC and / or CPC at the earliest convenient time that must decide on the matter.
46. The General or Provincial Secretary must accordingly communicate the decision of the CNC or CPC to the Accused member and inform him / or her of his / or her right to appeal to the next higher disciplinary committee within fourteen (14) working days of receiving the decision from the CNC and / or CPC.

H. Appeal

47. A member is entitled to only one level of appeal. A member who was disciplined by the CPC may appeal to the AC. A member who was disciplined by the CNC may appeal to the AC.
48. The appeal committee must consider the written submissions of the Accused member and the response thereto of the CNC and / or CPC and may call for a hearing in person, if it deems it necessary (See "**Annexure 6**").
49. The appeal body must communicate its written recommendation to the CNC and / or CPC within fourteen (14) working days after deciding on the merits of the appeal.
50. The CNC and / or CPC must communicate its decision regarding the outcome of the appeal to the Accused member. The matter will then be regarded as final and internally exhausted.



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ANNEXURE 1

FORMAT OF WRITTEN COMPLAINT

Proof of COPE membership or duly constituted meeting of the structure must be attached

I, THE UNDERSIGNED WITH

Full Name and Surname : _____

Identity Number : _____

Residential Address : _____

Voting District Number : _____

Contact Number : _____

E-Mail Address and / or Fax : _____

OR

I, THE UNDERSIGNED WITH

Full Name and Surname : _____

In My Capacity As : _____

With Authorisation From : _____

(STATE THE NAME OF THE STRUCTURE)

As Duly Constituted On : _____

With Attached Minutes of the
Meeting and Attendance Register : _____

E-Mail Address and / or Fax : _____

WRITTEN REPORT OF THE PROVINCIAL / NATIONAL SECRETARY REGARDING THE PRELIMINARY INVESTIGATION AGAINST MEMBER: _____

This written report must amongst others indicate the following:

- a) Whether the complainant's proof of membership was verified
- b) Whether the complainant, if a constitutional structure, provided minutes of the meeting indicating that the decision was taken by the structure to lay a complaint.
- c) Whether the complainant, if a constitutional structure, has provided the attendance register (with signatures) of the duly constituted meeting.
- d) Whether the Accused member was informed in writing about the complaint
- e) The allegations against the Accused member
- f) Any correspondence received from the Accused member
- g) Whether, if necessary, a "notice of intention to suspend" was issued to the Accused member
- h) Whether, if necessary, the Accused member responded in writing to the "notice of intention to suspend"
- i) Recommendation to the CNC regarding suspension if necessary.
- j) Recommendation to POB / or NOB regarding the need to proceed with the investigation and to appoint a Prosecutor, if necessary.
- k) Any other recommendation to the POB / or NOB



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**ANNEXURE 3:
NOTICE OF INTENTION TO SUSPEND**

DATE:

FROM:

TO:

Dear Sir / Madam

RE: Notice of Intention to Suspend

The complaint as attached has reference.

Based on the allegations as levelled against you, kindly note my intention to recommend to the NOB your suspension as a Member of COPE should you not make any written submissions on the matter within three (3) working days (specify the exact date) after receipt of this notice. Your submission will thus have a bearing on my recommendation to the NOB / or POB.

Kindly forward your submission to the following address / fax number / e-mail

Regards

Secretary



ANNEXURE 4:

MINIMUM PROCEDURE CHECKLIST TO BE FOLLOWED DURING THE DISCIPLINARY HEARING

Is the recording device enabled? : _____

Date of Hearing : _____

Venue : _____

Name of Chairperson of Disciplinary Committee : _____

Names of Members of Disciplinary Committee : _____

: _____

: _____

: _____

Name of any Ad-Hoc Committee Members : _____

: _____

: _____

Name(s) of any Assessor(s) : _____

: _____

: _____

Name of Prosecutor : _____

Name of Accused member's representative : _____

Is the Accused present? : _____

Is the complainant present? : _____

Bundle of documents must include:

- Written Complaint
- Correspondence regarding suspension, if any
- Any other documentary evidence that will be used by the Prosecutor

Checklist for the chronological procedure to be followed by each Disciplinary Committee Member

NO	PROCEDURE	COMMENT
1.	Were any preliminary issues raised by the Accused? If so, were it attended to?	
2.	Did the Prosecutor record the charges against the Accused member?	
3.	Did the Chairperson explain the charges to the Accused? Or Did the Accused confirm that he / or she understand the charges against him / or her?	
4.	How did the Accused plead to each charge?	
5.	If the Accused pleaded guilty to all or some of the charges then those charges must be dealt with once the Prosecutor has closed his / or her case.	
6.	If the Accused pleads "not guilty" to charges then the Prosecutor must lead evidence on those charges.	
7.	Did the Prosecutor make an opening statement? In other words did he state how he intends to prove the case against the Accused?	
8.	Did the Accused / or his Representative get an opportunity to make an opening statement? In other words why he pleads not guilty and how he intends to prove his case?	
9.	Did the Prosecutor call a witness?	
10.	Did the Accused get an opportunity to cross-examine the witness?	
11.	Did the Prosecutor get an opportunity to re-examine the same witness?	

NO	PROCEDURE	COMMENT
12.	Did the Prosecutor submit any other documentary and / or other evidence?	
13.	Were no 9 to 11 repeated with each witness?	
14.	Did the Prosecutor close his case against the Accused?	
15.	Did the Accused call a witness?	
16.	Did the Prosecutor get an opportunity to cross-examine that witness?	
17.	Did the Accused re-examine the same witness?	
18.	Were no 15 to no 17 repeated with all the witnesses of the Accused?	
19.	Did the Accused submit any documentary and / or other evidence?	
20.	Did the Accused close his case?	
21.	Does the Prosecutor want to re-open his case based on the evidence of the Accused?	
22.	Did the Prosecutor make a closing argument? This is a last attempt to highlight aspects of importance regarding the evidence as led by the Prosecutor.	
23.	Did the Accused make a closing argument? This is a last attempt to highlight aspects of	

NO	PROCEDURE	COMMENT
	importance regarding the evidence as led by the Accused.	
24.	Did all the members of the Disciplinary hearing vote on whether the Accused was found guilty on the charges?	
25.	Was this decision of the Committee conveyed to the Accused and the Prosecutor?	
26.	If the Accused were found guilty on a charge(s) was the Prosecutor given an opportunity to lead aggravating sentence for a possible sanction?	
27.	Did the Accused get an opportunity to lead mitigating factors for a possible sanction?	
28.	Did all the members of the Disciplinary Committee vote on the proposed sanction?	
29.	Was the outcome of the hearing communicated to the Accused and the Prosecutor?	
30.	Was the follow up process explained to the Accused?	



ANNEXURE 5:

REPORT OF THE DISCIPLINARY COMMITTEE TO THE NOB / OR POB

OUTCOME OF THE DISCIPLINARY ENQUIRY AS

CONDUCTED AGAINST COPE MEMBER: _____

Date of Hearing : _____

Venue : _____

Name of Chairperson of Disciplinary Committee : _____

Names of Members of Disciplinary Committee : _____

: _____

: _____

: _____

Name of any Ad-Hoc Committee Members : _____

: _____

: _____

Name(s) of any Assessor(s) : _____

: _____

: _____

Name of Prosecutor : _____

Name of Accused member's representative : _____

Was the Accused present? : _____

Is the complainant present? : _____

The charges against the Accused : Charge 1: _____

Charge 2: _____

Charge 3: _____

Charge 4: _____

Charge 5: _____



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**ANNEXURE 6:
SUBMISSION FOR APPEAL**

The submission of appeal with regards to the Accused must consist of the following:

1. Whether appeal was lodged against the:
 - a) finding of “guilty” and the reason(s) why
 - b) sanction as imposed by the CPC and / or CNC and the reason(s) why.

2. The submission of appeal with regards to the CNC or CPC must consist of a response, if any based on the submission of the Accused.

DECLARATION OF MEMBERS OF CONGRESS OF THE PEOPLE

RELIABLE. ACCOUNTABLE. INCORRUPTIBLE

I _____ SOLEMNLY DECLARE THAT, FROM THE TIME I AM RECOGNISED AS A BONA FIDE MEMBER OF THE CONGRESS OF THE PEOPLE (COPE), AND TO THAT EFFECT, ACCEPT MY MEMBERSHIP CARD, AND FOR AS LONG AS REMAIN A MEMBER;

1. **I SHALL BE A PATRIOTIC SOUTH AFRICAN**, and accordingly discharge my responsibility to protect, and defend the Constitution of the Republic of South Africa and our hard won freedom by ensuring that I exercise my right and responsibility to vote, and mobilise other South Africans to do the same, at all times, thus contributing to building a prosperous country.
2. **I SHALL ABIDE BY, AND BE LOYAL TO, THE CONSTITUTION OF THE CONGRESS OF THE PEOPLE**, a party with its historic roots in the congress movement of our country whose vision for South Africa, the *Freedom Charter*, was adopted at the *Congress of the People* in Kliptown in 1955;
3. **I SHALL MOBILISE SOUTH AFRICANS TO JOIN, SUPPORT AND/OR VOTE FOR THE CONGRESS OF THE PEOPLE** and contribute to making it the natural political home for all South Africans committed to building a country of prosperity for all, in which all citizens are, and feel, protected to exercise their rights and responsibilities without fear or favour, as well as avail myself to serve the Party where I feel competent and ready while respecting the decision of the Party on that as final;
4. **I SHALL RESPECT THE PARTY AND SOCIETAL VALUES** seeking at all times to align, through my conduct and pronouncements, the broader societal values with those of the Party, respect and protect all the Party and national symbols as well as the oath of public office;
5. **I SHALL TREAT ALL PARTY MEETINGS, CONFERENCES AND CONGRESSES WITH UTMOST RESPECT, GUARD THEIR INTEGRITY AND UPHOLD THEIR DIGNITY**, recognising their critical role as centres of entrenching a solid culture of participatory, accountable and democratic governance in the Party and therefore society, will prepare myself to contribute effectively in the meetings to ensure their successful conclusion, and will not, unless so officially authorised, divulge the content or any aspect of what takes place in them to any third party, gathering, the media, social media or any form of electronic or other public communication means, failing which such conduct shall be a serious misconduct and be subject to the Party's disciplinary processes;
6. **I SHALL RESPECT AND ABIDE BY THE DECISIONS OF THE PARTY** and not denounce such decisions or attack the character or person of, or disrespect in any way, any leader or member of the Party, to or through any third party, gathering, the media, social media or any form of electronic or other public communication means, or act in any way that may bring confusion in the minds of the members of the Party or public or sow division or factionalism in the ranks of the Party;
7. **I SHALL CONTRIBUTE TO ENSURING FREE AND FAIR ELECTIONS IN THE PARTY** and country, respect the leadership elected, and if not satisfied and believe that the results of the elections may be, or have been, compromised in any way, I will use proper channels and procedures agreed to respect the final outcomes of such processes, procedures or structures;
8. **I SHALL ABIDE BY THE PARTY CODE OF CONDUCT, DISCIPLINARY POLICY AND PROCESSES** and shall not do anything that may bring the name of the Party or the country into disrepute or behave in a manner that is in any way divisive, factional or amounts to the abuse of power;
9. **I SHALL AT ALL TIMES CONDUCT MYSELF IN A MANNER THAT INSPIRES HOPE** as well as represents and carries the aspirations of all the people of South Africa in their diversity;
10. **I SHALL CONTRIBUTE TO ENSURING THAT OUR PARTY AND COUNTRY** play their respective roles as forces for progressive change and stability for a better Africa and humane world based on a human rights culture that respects the equality of peoples and nations in principle and in practice.