

NORTHERN TERRITORY OF AUSTRALIA
DARWIN INSTITUTE OF TECHNOLOGY
(STUDENT DISCIPLINE) BY-LAWS 1986

By-law

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 1986, No. 17*

By-laws under the *Advanced Education and Darwin
Institute of Technology Act*

The Northern Territory Council of Advanced Education, in pursuance of section 42 of the *Advanced Education and Darwin Institute of Technology Act*, at a meeting held on the nineteenth day of May, 1986, made the following By-laws and, for the purposes of section 63(2)(a) of the *Interpretation Act*, authorized Nancy Giese, its Chairman, to sign them.

Dated this twenty-ninth day of May, 1986.

N. GIESE
Chairman

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1. CITATION

These By-laws may be cited as the Darwin Institute of Technology (Student Discipline) By-laws 1986.

2. COMMENCEMENT

These By-laws shall come into operation at the expiration of 14 days from the date on which the making of the By-laws is notified in the *Gazette*.

* Notified in the *Northern Territory Government Gazette* on 11 June, 1986.

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3. DEFINITIONS

In these By-laws, unless the contrary intention appears -

"Academic Registrar" means the Academic Registrar of the Institute, and includes any person for the time being acting in or performing the duties of the office of Academic Registrar, and any officer of the Institute for the time being authorized by the Director in writing to act as Academic Registrar for the purposes of these By-laws;

"Appeals Committee" means an Appeals Committee appointed under by-law 14(4);

"Director" means the Director of the Institute, and includes a person for the time being acting in or performing the duties of the office of Director;

"examination" means the sitting of a set paper under supervision, and does not include any other method of academic assessment;

"Institute" means the Darwin Institute of Technology;

"Institute premises" includes any premises for the time being used for the purposes, or under the auspices, of the Institute;

"misconduct" has the meaning given by by-law 4;

"senior officer" means the Director, a Deputy Director or Acting Deputy Director, the Academic Registrar, a Dean, a Head of a Division or Department, the Chief Librarian, a Librarian or Library Officer, any person acting as an examination supervisor, and any person for the time being designated by the Director in writing as a senior officer for the purposes of these By-laws;

"Student Discipline Board" means a Student Discipline Board constituted under by-law 11;

"teaching activity" means any lecture, tutorial, seminar, demonstration, class or similar activity, whether or not one that students are required to attend, and any musical, dramatic or other artistic performance or production.

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4. MEANING OF MISCONDUCT

(1) In these By-laws, "misconduct" means conduct on the part of a student which impairs the reasonable freedom of other persons to pursue their studies, researches, duties or lawful activities in the Institute or upon Institute premises, or to participate in the life of the Institute, or which is otherwise detrimental to the proper order or good conduct of the Institute or is adverse to its academic standing.

(2) Without prejudice to the generality of clause (1), a student is guilty of misconduct if he -

- (a) wilfully disrupts or obstructs any teaching activity, examination, official meeting or other proceeding of the Institute;
- (b) wilfully obstructs, or attempts to obstruct, any member of the staff of the Institute in the performance of his duties;
- (c) enters any part of the Institute premises which he is to his knowledge prohibited from entering or, in the case of any part which he may to his knowledge enter only with authority, enters it without authority or remains on it after his authority to be there has ceased to exist;
- (d) unlawfully assaults, or attempts to assault, any person on Institute premises;
- (e) wilfully damages or wrongly deals with any property of the Institute, or the property within Institute premises of any person;
- (f) cheats, or acts dishonestly in any other way, or assists any other student to cheat or so to act, or attempts to do any of those things, at or in connection with any examination, test, assignment or other means of academic assessment conducted by or on behalf of the Institute;
- (g) without lawful authority, obtains access to or alters, or attempts to gain access to or to alter, any document or record kept by the Institute;
- (h) without lawful authority, discloses to any person any information relating to the Institute or its affairs which is of a confidential nature and which he knows, or ought reasonably to know, to be of such a nature;
- (j) contravenes, or fails to comply with, any provision of any by-law or rule relating to the Institute;

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- (k) fails to pay any fee or debt to the Institute on the date on which payment falls due, or fails to pay any fine imposed under any by-law or rule relating to the Institute within the time (if any) specified by the person or body imposing it or, if no time was so specified, within 14 days of its imposition; or
- (m) fails to comply with or observe any requirement, suspension or exclusion imposed on him under these By-laws, or any penalty other than a fine imposed under any other by-law, or any rule, relating to the Institute.

5. SUMMARY POWERS RELATING TO MISCONDUCT

(1) Any senior officer to whom it appears that a student is guilty of misconduct may exclude the student from the Institute premises or any part or parts thereof for a period not exceeding 24 hours.

(2) Any of the following persons to whom it appears that a student is guilty of misconduct -

- (a) a senior officer;
- (b) a member of the teaching staff of the Institute;
- (c) any other person undertaking any teaching activity on behalf of the Institute; and
- (d) an employee of the Institute having the management or control of any library, laboratory, computer room or other facility,

may exclude the student from any teaching activity for the duration of that activity.

(3) A student shall not be excluded under clause (1) from any examination unless the officer concerned considers his exclusion to be necessary in the interests of the other candidates.

(4) Before excluding any student under this by-law, the officer or other person concerned shall give him an opportunity of being heard.

(5) The fact of a student's exclusion under this by-law shall not, save so far as it is an exclusion from an examination, be entered on any formal record kept by the Institute with respect to the student.

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6. CHARGES OF MISCONDUCT

(1) A senior officer may charge a student with misconduct, acting either on his own initiative or on the complaint of a third person made to him in writing, but he shall not be obliged to prefer a charge in the latter case, and shall in every case first give the student an opportunity of making any representations he may wish.

(2) A charge shall be -

(a) in writing, specifying the time and place of the alleged misconduct, and giving particulars of it;

(b) signed by the officer preferring it, and dated; and

(c) if made by an officer other than the Academic Registrar, lodged with the Academic Registrar.

(3) The Academic Registrar shall decide as respects any charge whether -

(a) to deal with it himself, in which case he shall, unless the charge is admitted, hold an inquiry into it in accordance with by-law 7; or

(b) to refer it to the Director for hearing by a Student Discipline Board,

and shall give the student a copy of the charge together with written notice of his decision under this clause.

(4) Where the Academic Registrar decides to deal with the charge himself, his notice under clause (3) shall -

(a) invite the student to state in writing whether he admits or denies the charge; and

(b) inform the student that, unless the student has by then admitted the charge, he will hold an inquiry into it on a date specified in the notice, being a date not less than 6 clear days after that on which the notice is given, and at a time and a place also so specified.

(5) Where the Academic Registrar considers it desirable to do so in the circumstances of a particular case, he may by his notice under clause (3) -

(a) suspend the student from attending all, or any specified, teaching activities or (additionally or alternatively) from using all, or any specified, Institute facilities; or

(b) exclude the student from the Institute premises or any specified part or parts thereof.

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(6) A suspension or exclusion imposed by virtue of clause (5) shall be for such period as is specified in the notice, being -

- (a) in a case where he proposes to deal with the charge himself - a period not exceeding 7 days beginning with the date of the notice; and
- (b) in a case where he proposes to refer the charge for hearing by a Student Discipline Board - a period of 28 days beginning with that date.

7. INQUIRIES BY ACADEMIC REGISTRAR

(1) Where the Academic Registrar holds an inquiry into a charge of misconduct pursuant to by-law 6(3)(a), he shall inform himself about the facts of the matter in such manner as he thinks fit, not being bound by the rules of evidence, and himself determining the procedure to be followed.

(2) Notwithstanding clause (1), the student charged is entitled to be heard at the inquiry and, if he so wishes, to be represented at it by any other person except a legal practitioner.

(3) Where a student fails to appear at an inquiry, the Academic Registrar may at his discretion either proceed with the inquiry in the student's absence or adjourn it.

8. PENALTIES AVAILABLE TO ACADEMIC REGISTRAR

(1) Where a student has admitted a charge of misconduct, or the Academic Registrar finds a charge proved at an inquiry held pursuant to by-law 6(3)(a), the Academic Registrar may -

- (a) require the student to undergo counselling of a specified nature and extent; or
- (b) suspend the student from attending all, or any specified, teaching activities or (additionally or, alternatively) from using all, or any specified, Institute facilities; or
- (c) exclude the student from the Institute premises or any specified part or parts thereof; or
- (d) recommend to the Director that the student be fined a specified amount not exceeding \$50,

or may, if he considers it appropriate, impose or recommend more than one such penalty.

(2) Subject to clause (3), a suspension or exclusion imposed by the Academic Registrar under this by-law shall begin on the date on which he imposes it, and shall be for

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a period not exceeding, or together with any suspension or exclusion imposed by him under by-law 6(5) not exceeding, 14 days.

(3) Where a charge found proved by the Academic Registrar relates to a student's failure to pay a sum of money -

- (a) the Academic Registrar may defer the taking effect of any suspension or exclusion he imposes on such terms and conditions (including undertakings as to payment) as he thinks fit;
- (b) a suspension or exclusion that has taken effect shall continue in force until the sum is paid; and
- (c) the Academic Registrar may, in addition to any penalty he may impose or recommend under clause (1), direct that any examination results of the student be withheld until the sum is paid.

9. RECORDING AND NOTIFICATION OF PENALTIES, &c.

(1) The Academic Registrar shall keep a written record of all charges of misconduct dealt with by him, showing in relation to each whether it was admitted by the student or was the subject of an inquiry held pursuant to by-law 6(3)(a).

(2) In the case of a charge which was admitted, the record shall state what (if any) penalty or penalties the Academic Registrar imposed or recommended.

(3) In the case of a charge which was the subject of an inquiry, the record shall state both the Registrar's findings at the inquiry and any penalty or penalties that he imposed or recommended, and shall also include a brief note (made at the time of the inquiry either by him or by a member of the administrative staff of the Institute appointed by him for the purpose) of any evidence given at the inquiry.

(4) The Academic Registrar shall give written notice to the student concerned of his findings at any inquiry into a charge of misconduct, and of any penalty or penalties imposed or recommended by him in respect of any such charge (whether or not it was the subject of an inquiry).

10. REVIEWS BY DIRECTOR AND IMPOSITION OF FINES

(1) A student aggrieved by any finding of the Academic Registrar at an inquiry held pursuant to by-law 6(3)(a), or by any penalty or penalties imposed or recommended by the Academic Registrar in respect of a charge of misconduct (including a charge admitted by the student), may within a period of 14 days beginning with

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the date on which the notice required by by-law 9(4) is given to him apply to the Director for a review, on grounds stated in the application, of the finding, of the penalty or penalties, or of both.

(2) The powers of the Director on an application under clause (1) are (as may be appropriate to the nature of the review sought, and subject to clause (3)) -

- (a) to confirm or set aside the finding;
- (b) in the case of any penalty other than a fine, to confirm it or set it aside, to vary it (but not so as to make it one than the Academic Registrar could not himself have imposed) or to substitute for it any other penalty that the Academic Registrar could have imposed, or a fine not exceeding \$50; and
- (c) in the case of a fine, to accept or reject the Academic Registrar's recommendation, to vary it in amount (but not so as to exceed \$50) or to substitute for it any penalty that the Academic Registrar could himself have imposed.

(3) Where a student has applied under clause (1) for a review of a finding by the Academic Registrar, the Director may, instead of reviewing the finding and either confirming it or setting it aside under clause (2)(a), decide that the charge shall be heard afresh by a Student Discipline Board.

(4) The Director shall give the student written notice of his decision on an application under clause (1), and -

- (a) where the decision is to accept a recommendation that the student be fined a specified amount, to vary the amount of a recommended fine, or to substitute a fine for any other penalty, he shall by his notice impose a fine accordingly; and
- (b) where the decision is to refer the charge to a Student Discipline Board, he may by his notice impose on the student any such suspension or exclusion as is mentioned in by-law 6(5) for a specified period not exceeding 28 days beginning with the date of the notice.

(5) Where a student in respect of whom the Academic Registrar has recommended a fine has not applied for a review within the time specified in clause (1), the Director shall by notice in writing to the student impose on him a fine of the amount recommended or any other amount not exceeding \$50.

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11. STUDENT DISCIPLINE BOARDS: CONSTITUTION

(1) Where the Academic Registrar has under by-law 6(3)(b) referred a charge of misconduct to the Director for hearing by a Student Discipline Board, or the Director has under by-law 10(3) decided that a charge be so heard, the Director shall, subject to clause (2) -

(a) constitute a Student Discipline Board in accordance with the following provisions of this by-law; and

(b) lodge the charge with the Chairman of the Board.

(2) If it appears to the Director appropriate that a charge be heard by a Student Discipline Board constituted under this by-law for the hearing of some other charge, he may, instead of complying with clause (1), lodge the charge with the Chairman of that Board.

(3) A Student Discipline Board shall consist of -

(a) a Chairman appointed by the Director, being a legal practitioner appearing to the Director to have experience of litigation;

(b) a member selected by the Director at random from a panel of 5 full-time members of the teaching staff of the Institute nominated for the purpose by the Chairman of the Academic Board; and

(c) a member selected by the Director at random from a list of 5 students submitted to him for the purpose by the Chairman of the Students' Association.

(4) Where a person selected by the Director under clause (3)(b) or (c) is unable or unwilling to act as a member of the Board, or, in the opinion of the Chairman of the Board, ought not to sit as a member by reason of his involvement in any matter, the Director shall select at random a substitute for that person from the appropriate panel or list.

(5) The Academic Registrar or a member of the administrative staff of the Institute appointed by him, shall act as Secretary to a Student Discipline Board.

12. STUDENT DISCIPLINE BOARDS: HEARINGS

(1) A Student Discipline Board shall begin hearing a charge against a student not later than 28 days after the date on which notice with respect to the hearing of the charge by such a Board is given to the student under by-law 6(3) or 10(4).

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(2) The Secretary to the Board shall give the student not less than 14 clear days' notice in writing of the date, time and place of the hearing, and the notice shall in addition inform the student fully of the provisions of by-law 16 with respect to both his and the Institute's rights of representation at the hearing.

(3) A Board may not deal with more than one charge at the same hearing, whether a charge against the same student or against another or others, except in the case of charges which -

(a) arise out of the same matter; or

(b) relate to conduct which -

(i) constitutes one instance of a series of the same or a similar character; or

(ii) was committed in the furtherance of a common objective; or

(iii) occurred in the course of some group activity.

(4) The decisions of a Board shall be by a majority vote, the Chairman having a primary vote only.

(5) Where after the hearing of a charge has begun any member of a Board becomes unable to be present throughout the rest of the hearing, the Chairman of the Board or its Secretary shall inform the Director, who shall constitute another Board in accordance with the provisions of by-law 11 and transfer the hearing of the charge to the new Board.

(6) Where clause (5) applies, the new Board shall begin to hear the charge as soon as may be, and clause (1) shall not apply.

(7) The evidence given before a Board shall be recorded, and the records retained by the Academic Registrar for transcription in the event of the lodging of an appeal against any decision of the Board, failing which the Academic Registrar may cause them to be erased.

13. STUDENT DISCIPLINE BOARDS: PENALTIES

(1) Where a Student Discipline Board finds a charge against a student proved, it may -

(a) caution or reprimand the student;

(b) suspend the student for a specified period from attending all, or any specified, teaching activities or (additionally or alternatively) from using all, or any specified, Institute facilities;

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- (c) suspend the student from attending any specified examination or examinations;
- (d) exclude the student for a specified period from the Institute premises or any specified part or parts thereof;
- (e) recommend to the Director that the student be fined a specified amount not exceeding \$1,000; or
- (f) expel the student from the Institute,

or may where that seems appropriate impose or recommend any 2 or more of those penalties.

(2) Where a charge found proved by a Student Discipline Board relates to a student's failure to pay a sum of money, the Board may, in addition to any penalty it may impose or recommend under clause (1), direct that any examination results of the student be withheld until the sum is paid, and where a Board finds proved a charge involving dishonesty or unfair conduct by a student in connection with any examination or other academic work, it may, in addition to any other penalty, direct the cancellation or deprivation of credit for the examination or work.

(3) Subject to clauses (4) to (6), a penalty imposed by a Student Discipline Board shall take effect on the date on which it is imposed.

(4) A Student Discipline Board may suspend any penalty that it imposes on such terms and conditions (including undertakings by the student) as it thinks fit.

(5) Where a Student Discipline Board recommends to the Director that a student be fined, the Director shall impose the fine (notifying the student in writing that he has done so) if, but only if, the student fails to appeal to an Appeals Committee under by-law 14 or the recommendation is confirmed on appeal.

(6) Where a Student Discipline Board expels a student from the Institute, the expulsion shall take effect only if the student fails to appeal to an Appeals Committee or the expulsion is confirmed on appeal, but until the expulsion takes effect or is set aside on appeal, all of the rights and privileges of the student as such shall be suspended.

(7) The findings of a Student Discipline Board on a charge, and any penalty or penalties it imposes or recommends, shall be stated in writing signed by the Chairman of the Board, and the Secretary to the Board shall give a copy of the statement to the Director and the student.

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14. RIGHTS OF APPEAL TO APPEALS COMMITTEES

(1) Where a charge of misconduct has been heard by a Student Discipline Board, the student or the Director acting on behalf of the Institute may, within 7 days after the date on which he is given under by-law 13(7) a copy of the Board's findings and any penalty or penalties imposed or recommended by the Board, give to the Academic Registrar written notice of appeal against any finding or penalty, or against any finding and any penalty.

(2) On receiving a notice of appeal under clause (1), the Academic Registrar shall notify the other party to the hearing that an appeal has been lodged, and shall furnish to both parties transcripts of the evidence before the Board.

(3) An appellant shall, within 7 days after the date on which he is given the transcripts of evidence, give notice in writing to the Academic Registrar and the respondent of the grounds of his appeal.

(4) On receiving the notice required by clause (3), the Academic Registrar shall report the matter to the Chairman of the Council, who shall appoint an Appeals Committee in accordance with the following provisions of this by-law, and the appeal shall stand referred to that Committee.

(5) An Appeals Committee shall consist of -

(a) a Chairman, who shall be the person for the time being holding the office of President of the Law Society of the Northern Territory or a person nominated in writing by him; and

(b) 2 members of the Council appointed by the Chairman of the Council, one of them being (unless there is no such person able and willing to act) a student.

(6) The Chairman shall not appoint to an Appeals Committee any person who was a member of the Student Discipline Board, or any other person who, in his opinion, should be debarred from participating in the appeal by reason of his involvement in any matter.

(7) The Academic Registrar, or a member of the administrative staff of the Institute appointed by him, shall act as Secretary to an Appeals Committee.

15. APPEALS COMMITTEES: HEARINGS AND POWERS

(1) An Appeals Committee shall begin hearing an appeal not later than 28 days after the date on which the appellant gives notice of the grounds of his appeal pursuant to by-law 14(3).

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(2) The Secretary to the Appeals Committee shall give to each of the parties to the appeal not less than 7 clear days' notice of the date, time and place of the hearing, and the notice given to the student shall inform him fully of the provisions of by-law 16 with respect to the rights of the parties as respects representation at the appeal.

(3) An Appeals Committee shall rely on an appeal on the transcripts of the evidence before the Student Discipline Board, but may admit new evidence not previously available.

(4) Any point of law arising on an appeal shall be decided by the Chairman of the Appeals Committee.

(5) The decisions of an Appeals Committee shall be by a majority vote, the Chairman having a primary vote only.

(6) Where after the hearing of an appeal has begun any member of an Appeals Committee becomes unable to be present throughout the rest of the hearing, the Chairman of the Committee or its secretary shall inform the Chairman of the Council, who shall appoint another Appeals Committee in accordance with the provisions of by-law 14 and transfer the hearing of the appeal to the new Committee.

(7) Where clause (6) applies, the new Appeals Committee shall begin hearing the appeal as soon as may be, and clause (1) shall not apply.

(8) The powers of an Appeals Committee on an appeal are (as may be appropriate to the nature of the appeal) to -

- (a) confirm or set aside any finding of the Student Discipline Board; and
- (b) confirm or set aside any penalty imposed or recommended by the Board, vary any such penalty (but not so as to make it one that the Board could not have imposed or recommended) or substitute for one penalty any other penalty that the Board could have imposed or recommended.

(9) The Secretary to an Appeals Committee shall give written notice of the Committee's decision on an appeal to the parties thereto; and (without prejudice to by-law 13(5)) where an Appeals Committee has varied the amount of a fine recommended by a Student Discipline board, or recommended that a student be fined a specified amount in substitution for any other penalty, the Director shall impose a fine accordingly and notify the student in writing that he has done so.

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16. PROCEDURE OF BOARDS AND COMMITTEES

(1) The procedure of a Student Discipline Board or Appeals Committee, including the order in which evidence may be called and addresses heard, shall be at the discretion of the Board or Committee.

(2) Subject to clause (3) -

(a) a student shall be entitled to be represented before a Student Discipline Board or Appeals Committee by a legal practitioner, a member of the staff of the Institute, or another student; and

(b) the Institute shall be entitled to be represented before a Board or Committee by a legal practitioner or a member of the Institute staff.

(3) In the case of a hearing by a Student Discipline Board -

(a) the right of a student to be represented by a legal practitioner shall be exercisable only if he gives notice to the Chairman of the Board that he intends to be legally represented not less than 7 clear days before the date of the hearing; and

(b) the Institute may be represented by a legal practitioner only if the student is so represented.

(4) During a hearing by a Student Discipline Board or Appeals Committee -

(a) the student shall be entitled -

(i) subject to clause (7), to be present with his representative throughout the hearing except when the Chairman and members wish to confer privately among themselves or to consider their decision; and

(ii) either himself or by his representative to call and examine witnesses, to cross-examine witnesses other than any called by him or his representative, and to address the Board or Committee; and

(b) the Institute's representative may call and examine witnesses, cross-examine witnesses called by the student or his representative, and address the Board or Committee.

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(5) Hearings of a Student Discipline Board or Appeals Committee shall be in private unless the student elects otherwise, in which event they shall, subject to clause (6), be open to any member of the Council, or of the staff of the Institute, and any student of the Institute.

(6) Where a Board or Committee is dealing with charges against 2 or more students and any one of them elects a private hearing, the hearing shall be private; and a Board or Committee may order that an open hearing be continued in private if in its opinion order cannot be otherwise maintained.

(7) A Student Discipline Board or Appeals Committee shall have full authority to keep order at its hearings, and may order the removal therefrom for unruly conduct of any person, including a student in respect of whom the hearing is taking place or such a student's representative.

(8) Where a student fails to appear at a hearing of which notice has been duly given, a Student Discipline Board or Appeals Committee may at its discretion either proceed with the hearing in the student's absence or adjourn it.

17. WITHHOLDING OF DEGREES AND DIPLOMAS FOR MISCONDUCT

(1) Subject to clause (2), where it has been decided by the Academic Registrar under by-law 6(3)(b) or the Director under by-law 10(3) that a charge of misconduct preferred against a student is to be heard by a Student Discipline Board, no degree or diploma shall be conferred on the student by the Institute until -

- (a) the charge has been so heard;
- (b) any appeal has been disposed of, or the time for giving notice of appeal has passed without any notice having been given; and
- (c) no penalty imposed in respect of the charge remains outstanding.

(2) Notwithstanding clause (1), the Council may if it thinks fit authorize the conferring of a degree or diploma on any student who is subject only to a suspended penalty.

18. CONSEQUENCE OF EXPULSION FROM INSTITUTE

A student who has been expelled from the Institute shall not be re-enrolled as a student except with the authority of the Council.

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19. COSTS OF LEGAL REPRESENTATION

Where a student has been represented before a Student Discipline Board or an Appeals Committee by a legal practitioner, the Institute shall, if the Board or Committee in its discretion (but having regard to any legal aid or assistance received by or available to the student) so determines, pay the student such amount as is specified by the Board or Committee, towards the cost of that representation.

20. GIVING OF NOTICES, &c.

References in these By-laws to the giving of a notice or other document to any person are references to its being either given to him in person or posted to him by registered post addressed to the last address known to the Institute as his place of residence, and references to the date on which a notice is given shall be construed accordingly.
