

26 August 2008

Professor Nithaya Chetty
School of Physics (PMB)
Science Block 5
Pietermaritzburg Campus



BY HAND

Dear Professor Chetty

RE: NOTICE OF DISCIPLINARY HEARING

You are hereby given notice of a disciplinary hearing to be convened as follows:

Time: 09:00

Date: 4 September 2008

Venue: Labour Relations Board Room, Vice-Chancellor's House, Westville Campus

The purpose of the hearing is to conduct a disciplinary enquiry into the following allegations of misconduct against you.

It is alleged that:-

1. in your capacity as associate professor and lecturer in the Department of Physics at the University of KwaZulu-Natal and as a member of the University Senate and Council until April 2008; and

PAUL FINDEN
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Founding Campuses: ■ Edgewood

■ Howard College

■ Medical School

■ Pietermaritzburg

■ Westville

2. despite the CONDITIONS OF SERVICE of the University of KwaZulu-Natal, which are applicable to all permanent staff members both academic and support, and which conditions of service were made applicable from 18 February 2006; and
3. despite the disciplinary code of the University providing for misconduct as a ground for termination of service and dismissal; and
4. despite the disciplinary code defining misconduct to include:-
 - 4.1 the failure to follow standing orders or procedures; and
 - 4.2 disclosure of confidential information; and
 - 4.3 dishonesty and/or gross negligence.
5. you have committed serious acts of misconduct in terms of *Annexure A* of the University's Disciplinary Code, in that you have:
6. **failed to follow standing orders or procedures**, by:-

not exercising due care in communicating with the media and, in so doing, have brought the University into disrepute with the publication of the following media articles despite the standing order laid down by the Senate at the Senate meeting of 2 August 2006 wherein it was resolved that members of Senate shall exercise due care when communicating with the media so as not to bring the University into disrepute:-

Daily News – 6 March 2008

"It is hugely ironic for me that the very issues around the threats to academic freedom at UKZN that have been discussed exhaustively in the

faculty of science and agriculture document such as the propensity here to racialise and personalise debates as a means of suppressing dissent were principally responsible for sidelining the discussion at senate, Chetty commented yesterday.”

Mail & Guardian online – 15 April 2008

“Nithaya Chetty has meanwhile resigned from senate over this issue. ‘I am not sure why senate needs an investigation to figure out its own decisions. This is a deflection away from the central issues at hand.’”

7. **disclosed confidential information**, by:-

- 7.1 making public statements to the press which included confidential content and deliberations of Senate meetings and which statements were then published in certain media articles of which extracts are detailed below:-

Daily News – 6 March 2008

“It is hugely ironic for me that the very issues around the threats to academic freedom at UKZN that have been discussed exhaustively in the faculty of science and agriculture document such as the propensity here to racialise and personalise debates as a means of suppressing dissent were principally responsible for sidelining the discussion at senate, Chetty commented yesterday.”

Mail & Guardian online – 15 April 2008

"Nithaya Chetty has meanwhile resigned from senate over this issue. 'I am not sure why senate needs an investigation to figure out its own decisions. This is a deflection away from the central issues at hand."

- 7.2 posting written statements on an internet website, titled "Change@UKZN", which includes confidential content and deliberations of Senate meetings as the following extracts from two postings demonstrate:-

Ongoing-issues Nithaya Chetty March 20, 2008

"I just received an invitation from Professor Sibusiso Bengu... to discuss the ongoing debacle at senate regarding the academic freedom issue. Professor Bengu is leading a one person investigation into this matter as decided upon by senate. I politely declined the invitation."

"I resigned from senate because I lost confidence in the processes and procedures of senate."

"It was I who had originally proposed that the Academic Steering Committee receive the faculty submissions, deliberate on these and develop a broad-based policy framework to protect academic freedom at UKZN... my intention, however, was always that the faculty submissions be routed through senate."

"At this meeting senate adopted clear proposals in this regard: That academic freedom was to be a standing item on the senate agenda.... The legal standing of the October senate resolutions are sound."

8. acted dishonestly and/or grossly negligently by alleging that the Vice-Chancellor was not entitled to keep the item "academic freedom" off the Senate agenda in circumstances where he was entitled to do so having regard to the quorate resolution of the Senate meeting of 1st August 2007 in terms of which it had been resolved that all faculty submissions on "academic freedom" would first serve before the Academic Steering Committee before serving at Senate. Your dishonest and/or gross negligence is evident from the quotations cited under charges 6 and 7 above when considered against the fact that:-

You knew that the only quorate decision of Senate which was binding on the Vice-Chancellor was that of 1st August 2007 in terms of which faculty submissions were to serve before the Academic Steering Committee.

You ought alternatively to have been so aware when by the exercise of reasonable diligence and care a reasonable person of your position and standing at the University would have made the necessary enquiries to establish the correctness thereof.

Please note that these allegations against you are serious and may result in your dismissal if proved.

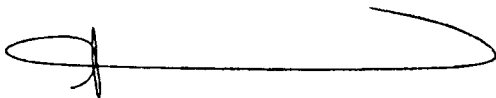
At the hearing you will be given an opportunity to state your case in response to the allegations. You are also entitled to the assistance of a fellow employee (which includes a

Union Representative) at the hearing or to be legally represented. This will be a closed hearing, not open to members of the University or the public at large.

We have appointed and authorised an independent person to chair the hearing, namely, Advocate Dumisa Ntsebeza SC. Advocate Omar Moosa SC has been appointed to prosecute the matter.

If you do not attend the hearing it may proceed in your absence.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line that ends in a small upward curve.

PAUL FINDEN