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BOEL of July 15, 2022

Regulations of the Carlos III University of Madrid for the Partial Implementation of Law 3/2022, of February 24, on University Coexistence, approved by the Governing Council at its session of July 14, 2022.

PREAMBLE

The approval of Law 3/2022, of February 24, on University Coexistence, and the consequent repeal of the Decree of September 8, 1954, which approved the Academic Discipline Regulations of Official Centers of Higher Education and Technical Education dependent on the Ministry of National Education—which was still applicable in the exercise of academic discipline over the student body of Universities—have laid the foundations of the new regulatory framework so that members of the university community may exercise the rights and freedoms that are most intensely developed within the University, such as ideological freedom, freedom of expression, freedom of teaching, academic freedom, the right to education, etc.

In particular, Title II of the aforementioned Law on University Coexistence regulates the disciplinary regime applicable to the student body of Universities. Although the articles included in said title develop practically all the proceedings of the sanctioning procedure, the Law allows a certain regulatory margin to the Universities, which may introduce specifications or graduations to the offenses and sanctions set forth—thus contributing to a more accurate identification of conduct—as well as include, where appropriate, alternative measures to sanctions that promote and stimulate active coexistence.

Likewise, the inclusion of a mediation phase, which the parties to the procedure may opt for and which must be carried out before the Coexistence Commission, delegates to the Universities the task of, on the one hand, creating said Commission and, on the other, developing the normative framework for said mediation procedure, all in application of the provisions of the Second Final Provision of the Law, which empowers them to dictate the necessary provisions for its implementation and application.

TITLE I

OF THE COEXISTENCE COMMISSION

Article 1. Creation and composition.

1. The Coexistence Commission of the Carlos III University of Madrid is hereby created, consisting of six members: two representatives of the teaching and research staff—at least one of whom must have a permanent affiliation with the University—two representatives of the administration and services staff, and two representatives of the student body.
2. Said composition shall comply with the provisions of Law 3/2007, on effective equality between men and women, adjusting to the principle of balanced presence of women and men so that, in the group as a whole, persons of each sex do not exceed sixty percent nor constitute less than forty percent.
3. The members of the Coexistence Commission shall be elected by the Governing Council, upon proposal by the Rector, for a period of four years. However, if, before the expiration of the term, any of the members ceases to be part of the University or the collective they represent, a new member shall be appointed, who will serve for the remainder of the maximum term established in this section.
4. The composition of the Coexistence Commission shall be renewed by halves every two years, maintaining parity and representation of all sectors.
5. The Coexistence Commission shall be chaired by one of the members representing the teaching and research staff with a permanent affiliation to the University.

Article 2. Functions.

1. The Coexistence Commission shall carry out the mediation procedure within the disciplinary proceedings of students referred to in Articles 19 c) and 22 of the Law on University Coexistence. The University Ombudsman

(*Defensor Universitario*) may perform mediation, conciliation, or other forms of settlement functions in conflicts outside the disciplinary proceedings referred to in the preceding paragraph.

2. For the exercise of this function, the Commission, by unanimous decision, may delegate the mediation function to one of its members or to a subcommittee established for this purpose from among its members. It may also request the assistance or collaboration of other organs or services of the University.

3. The Coexistence Commission may perform other functions attributed, delegated, or entrusted to it by the governing bodies of the University.

Article 3. Operating rules.

1. The members of the Coexistence Commission may not be holders of single-person governing bodies of the University nor be appointed as investigating officers (*instructores*) for the disciplinary proceedings referred to in this provision. Likewise, the regime of abstention and recusal established in Law 40/2015, of October 1, on the Legal Regime of the Public Sector, shall apply to them.

2. The University Management may allocate per diems to its personnel for attending Commission meetings and shall provide it with the necessary resources for the performance of its duties. The participation of students in the body may be academically recognized with one credit.

3. The members of the Coexistence Commission must observe the duty of confidentiality regarding any of the actions provided for in these Regulations. This duty shall subsist even after the expiration of their mandate and regardless of their statutory or employment situation.

TITLE II

OF THE DISCIPLINARY REGIME FOR THE STUDENT BODY

Article 4. Scope of application.

1. This disciplinary regime shall apply to the conduct of the student body of the Carlos III University of Madrid, including those in a situation of mobility, that disrupts coexistence or impedes the normal development of the functions of teaching, research, and knowledge transfer. In any case, it is understood to include the activity carried out by students in the university's facilities, systems, and spaces, within the framework of activities organized by the university, or in which they participate on its behalf or publicly use its name or corporate identity.
2. Teaching and research staff and administration and services staff are excluded; their disciplinary regime shall be governed by the provisions of their specific regulations.

CHAPTER I

OFFENSES AND SANCTIONS

Article 5. Very serious offenses.

The following are considered very serious offenses:

a) Carrying out hazing or any other physically or psychologically degrading conduct or actions that constitute a severe impairment to the dignity of persons, such as serious offenses, by word or deed, slander or libel, carried out by any means. When the degradation does not constitute a severe impairment to the dignity of persons, it shall be classified as a serious offense among those listed in Article 6.

b) Harassing or exercising severe violence against any member of the university community. The exercise of less severe violence may be considered a serious offense among those listed in Article 6.

c) Engaging in sexual harassment or harassment based on sex. These behaviors shall be interpreted in accordance with Article 7 of Organic Law 3/2007, of March 22, for the effective equality of women and men.

d) Discriminating on the basis of sex, sexual orientation, gender identity, national origin, membership in an ethnic group, age, social class, disability, health status, religion or beliefs, or any other personal or social reason.

e) Altering, falsifying, stealing, or destroying, by any means, academic documents, including transcripts or any evaluation test; using false documents before the university; or committing falsehood in responsible declarations or other declarations or testimonies before it.

f) Irreparably destroying, deteriorating, or stealing cataloged works from the historical and cultural heritage of the university.

g) Plagiarizing all or part of a work, or committing academic fraud in the preparation of a Bachelor's Thesis, Master's Thesis, or Doctoral Thesis. Academic fraud shall be understood as any premeditated behavior, carried out through any means, aimed at falsifying the results of an examination or assignment, one's own or someone else's, completed as a requirement to pass a subject or accredit academic performance.

h) Breaching the public health rules established for university centers, their facilities, and services, putting the university community at risk.

i) Impersonating a member of the university community in their own duties or giving consent to be impersonated, in relation to university activities.

j) Impeding the normal development of the university's electoral processes.

k) Having been convicted, by final judgment, for the commission of an intentional crime affecting a different legal good, committed in university centers, their facilities, and services, or related to the academic activity of the university.

l) Recidivism in the commission of a serious offense.

Article 6. Serious offenses.

The following are considered serious offenses:

a) Improperly seizing the content of evaluation tests, examinations, or knowledge controls.

b) Severely deteriorating cataloged assets of the university's historical and cultural heritage.

c) Impeding the normal holding of university teaching, research, or knowledge transfer activities, without prejudice to the respect for freedom of expression.

d) Committing academic fraud other than that provided for in Article 5 g), but defined in the same terms. The following conduct, among others, shall be understood to be included:

- Copying from another student's evaluation test with or without the latter's consent.
- Copying through the use of unauthorized material during evaluation tests (cheat sheets, textbooks, exam sheets with a different code from the session, notes in books, etc.).
- Facilitating copying in exams for another student.
- Plagiarizing in an assignment submitted for evaluation.
- Making use of electronic devices to complete evaluation tests, unless expressly authorized by the professor in charge of the classroom. e) Improperly using contents or means of reproduction and recording of university activities subject to intellectual property rights. f) Breaching the health and safety rules established by the University in its facilities and services. In particular, the repeated breach of the prohibition to smoke throughout the university premises, both inside buildings and in the open-air spaces of the University campuses, including immediate access points to buildings and surrounding sidewalks within the campuses. g) Accessing the university's computer systems without due authorization. h) Recidivism in the commission of a minor offense.

Article 7. Minor offenses.

1. The following are considered minor offenses:

   a) Accessing university facilities to which access is not authorized.

b) Using university services in breach of the established requirements of general knowledge.

c) Performing acts that deteriorate the university's heritage assets.

2. When the behaviors referred to in the preceding section produce severe damage or risk to the safety of persons, they shall be classified as a serious offense, in accordance with the provisions of letter f) of the preceding article.

Article 8. Sanctions and other measures.

1. The following sanctions are applicable for the commission of very serious offenses:

   a) Expulsion of two months up to three years from the university where the offense was committed. The sanction of expulsion must be recorded in the academic transcript until its full completion.

   When the offense refers to plagiarism or academic fraud in the preparation of a doctoral thesis, the sanction shall be within the upper half of the range referred to in the preceding paragraph.

   b) Loss of partial enrolment rights, during an academic year or semester.

2. The following sanctions are applicable for the commission of serious offenses:

   a) Expulsion of up to one month from the university where the offense was committed. This sanction may not be applied during the final evaluation and enrolment periods as defined by each university.

   b) Loss of the right to the ordinary examination sitting in the academic semester in which the offense is committed and with respect to the subject in which it was committed, unless said right has already been exercised by taking the corresponding exam or final test, in which case only the sanction of the preceding letter may be imposed.

   The loss of enrolment rights may not affect the rights relating to scholarships under the terms provided in their implementing regulations.

3. A private reprimand is the sanction applicable for the commission of minor offenses.

4. When false documents are used or falsehood is committed in responsible declarations before the University, in addition to the sanction, an ex officio review or extinction of the effects of the University's actions based on said documents may be initiated.

5. In academic frauds and other offenses that prevent the evaluation of the test or exam that is the object thereof, in addition to the sanction, disqualification in that subject and sitting with "fail, 0" shall apply; therefore, the decision regarding its grading shall be suspended until the resolution of the disciplinary procedure.

6. Students who have committed a serious offense and, due to being close to completing their studies, for whom imposing the corresponding sanction would be disproportionately burdensome, may be subject to any of the alternative measures referred to in Article 20 of the Law on University Coexistence, for a time sufficient to fulfill its educational and restorative function and proportionate to the offense committed, never exceeding three months.

7. When the investigation of a disciplinary procedure reveals that the facts could constitute a crime, its processing shall be suspended, and the Public Prosecutor's Office shall be notified.

Article 9. Graduation of sanctions.

The competent sanctioning body shall specify the sanction within its severity, adapting it to the specific case, always in a motivated manner, according to the principle of proportionality and weighing it in accordance with the following criteria:

a) Intent, premeditation, or reiteration.

b) The nature of the damages caused and their consequences for the University or for members of the university community.

c) The profit motive.

d) The acknowledgment of responsibility, by communicating the infringing act to the university authorities prior to the initiation of the disciplinary procedure or preliminary proceedings, or to the reporting of the facts, as the case may be.

e) The reparation of the damage prior to the initiation of the disciplinary procedure or preliminary proceedings, or to the reporting of the facts, as the case may be.

f) The personal, economic, health, family, or social circumstances of the offending person.

g) The degree of participation in the facts.

h) Carrying out the actions for any of the causes of violence, discrimination, or harassment referred to in Article 3.2.c) of the Law.

CHAPTER II

DISCIPLINARY PROCEDURE

Article 10. Legal regime of the disciplinary procedure. The disciplinary procedure for the University's student body shall be governed by the provisions of Law 3/2022, of February 24, on University Coexistence, by the provisions of these regulations, as well as, subsidiarily, by the provisions of Law 39/2015 of October 1, on the Common Administrative Procedure of Public Administrations.

Article 11. Principles of the procedure and disciplinary power.

1. Disciplinary power shall be exercised in accordance with the following principles:

   a) Principle of legality and typicity of offenses and sanctions.

   b) Principle of non-retroactivity of unfavorable sanctioning provisions and retroactivity of those favorable to the alleged offender.

   c) Principle of responsibility.

   d) Principle of proportionality, referring both to the classification of offenses and sanctions and to their application.

   e) Principle of the statute of limitations for offenses and sanctions.

   f) Principle of procedural guarantee.

2. The disciplinary procedure shall be governed by the following principles:

   a) Under no circumstances may a sanction be imposed without the necessary procedure having been processed.

   b) The procedure must establish the due separation between the investigative and sanctioning phases, entrusting them to different bodies.

c) It shall conform to the principles of efficiency, promptness, and procedural economy, with full respect for the rights and defense guarantees of the allegedly responsible person.

d) Throughout the entire procedure, the allegedly responsible person(s) may be assisted by a person of their choice, whom the investigating officer must keep informed of the development of the procedure.

3. Facts that have already been penalized criminally or administratively may not be sanctioned, in cases where there is an identity of subject, fact, and foundation.

Article 12. Means of proof.

Facts relevant to the decision of the procedure may be proven by any means of proof admissible in Law.

Article 13. Simplified procedure.

1. In cases where the investigating officer considers that the facts may constitute a minor offense, the processing may be carried out through a simplified procedure, with reduced deadlines, which shall consist of the following steps:

   a) Initiation of the procedure.

   b) Allegations formulated upon the initiation of the procedure within a period of five days.

   c) Hearing procedure, only when the resolution is going to be unfavorable for the interested party. d) Resolution.

2. Unless less time remains for its ordinary processing, administrative procedures processed in a simplified manner must be resolved within thirty days, counting from the day following the notification to the interested party of the agreement for the simplified processing of the procedure.

3. In the event that a procedure requires the completion of a step not provided for in the preceding paragraph, it must be processed in an ordinary manner.

Article 14. Maximum resolution period and expiration.

1. The maximum period to resolve and notify the resolution in the disciplinary procedure is six months counting from the date of the initiation agreement, except in the simplified procedure, which shall be two months.
2. The expiration of the maximum resolution period without an express resolution having been issued and notified shall produce the expiration (*caducidad*) of the procedure. In this case, the resolution declaring the expiration shall order the archiving of the proceedings.
3. Expiration shall not by itself produce the statute of limitations of the offense(s), but the expired procedure shall not interrupt the statute of limitations period.

Article 15. Registration of the sanction in the student's transcript.

1. Sanctions imposed for the commission of serious and very serious offenses shall be recorded in the student's academic transcript. Likewise, alternative measures adopted for the commission of serious offenses shall be recorded.
2. The cancellation of the registration in the student's academic transcript shall be carried out ex officio or at the request of the interested party when the sanction or measure is completed or becomes time-barred.

CHAPTER III

MEDIATION PROCEDURE

Article 16. Initiation of the mediation procedure.

1. In those procedures in which, in addition to the offender(s), other interested parties appear in the capacity of victims or those harmed by the infraction, the parties may, within a period of ten days, express their desire to opt for the mediation procedure, by means of a communication addressed to the investigating officer of the disciplinary procedure.
2. When the parties agree to it, the investigating officer must forward the file to the Coexistence Commission within a maximum period of ten days.

3. The Coexistence Commission, within fifteen days, and after carrying out the appropriate verifications, shall adopt one of the following decisions:

   a) The appropriateness of processing the mediation procedure.

   b) The return of the file to the investigating officer for the continuation of the disciplinary procedure.

4. The resolution declaring the appropriateness of processing the mediation procedure shall be notified to the parties and shall suspend the processing of the disciplinary procedure, with the suspension of the computation of the periods of expiration and statute of limitations thereof while the mediation lasts.

Article 17. Actions in the mediation procedure.

In the mediation procedure, the actions that are necessary in each case to facilitate mediation or achieve the intended objective shall be carried out.

Article 18. Termination of the mediation procedure.

1. If the involved parties reach an agreement, it shall be formalized in writing and signed by both parties, each retaining a copy thereof, with the approval of the mediator.

2. Said agreement shall be registered by the Coexistence Commission and communicated to the investigating officer so that the disciplinary file may be archived.

3. The agreement reached by the parties shall be of a confidential nature.

4. The mediation agreement may include the fulfillment of an alternative measure to a potential sanction, such as participation or collaboration in training, cultural, public health, sports, university extension, or institutional relations activities. In such cases, said measure shall be notified by the mediator to the competent bodies to carry it out.

5. If the involved parties fail to reach a total agreement or if only a partial agreement is reached, this shall be communicated to the investigating officer, with the return of the file, so that the disciplinary procedure may continue its processing, for its total or partial object, lifting the agreed suspension.

First Additional Provision.

Upon its constitution, the Coexistence Commission shall carry out, within three months and with the assistance of the Legal Service, an assessment of the adaptation of the coexistence rules in force at the University, which shall be submitted to the Rector for consideration.

Second Additional Provision.

In university residence halls, their own disciplinary regime shall apply, for which the one established in these regulations shall be subsidiary.

Sole Transitional Provision. First renewal of the members of the Coexistence Commission.

The first renewal of the members of the Coexistence Commission referred to in section 4 of Article 1 shall be carried out by drawing lots, maintaining parity and representation of all sectors.

Sole Repealing Provision.

The following are repealed:

a) The Instruction of the Vice-Rectors for Studies and for Students, Social Responsibility, and Equality on the Legal Regime and Disciplinary Procedure applicable to students of the Carlos III University of Madrid in academic evaluation processes, published in the Electronic Official Bulletin of the Carlos III University of Madrid on July 21, 2017.

b) The agreement of the Management Board, of September 25, 2002, on the handling of fraud situations.

c) Any other rule or provision that conflicts with the provisions of these regulations.

Sole Final Provision. Entry into force.

These regulations shall enter into force on the day following their publication in the Electronic Official Bulletin of the Carlos III University of Madrid.