

Disciplinary Liability in Higher Education

Introduction

Academic teachers, doctoral students, and students, according to the principles defined in the Law on Higher Education and Science (hereinafter: PSWiN), are subject to disciplinary liability. Understanding these procedures is often challenging, and the complexity of the procedures may necessitate seeking professional legal assistance.

This article provides basic information on the foundations of disciplinary liability as well as possible disciplinary penalties.

Disciplinary Liability of Academic Teachers

First, it is necessary to address the disciplinary liability of academic teachers. Pursuant to Article 275(1) PSWiN, an academic teacher is subject to disciplinary liability for a disciplinary offense consisting of an act that breaches the duties of an academic teacher or the dignity of the academic profession. Two types of acts constitute a disciplinary offense under this provision: 1) an act that breaches the duties of an academic teacher, or 2) an act that breaches the dignity of the academic profession. It is rightly noted that “a disciplinary offense (act) may consist of both action and omission in fulfilling duties imposed by law¹.”

The basic duties of an academic teacher are defined in Article 115 PSWiN. For academic teachers employed in teaching positions, these duties include educating and mentoring students or participating in the training of doctoral students. For those employed in research positions, the duties include conducting scientific research or participating in the education of doctoral students. Academic teachers employed in combined research-teaching positions are required to conduct research, educate and mentor students, or participate in doctoral training. Moreover, an academic teacher is obliged to participate in organizational work for the university and to continuously improve professional competencies. Other duties arise from additional provisions of PSWiN, internal regulations of the institution, and generally applicable law other than PSWiN.

Regarding acts that breach the dignity of the academic profession, there is no closed catalog of behaviors that meet this criterion. However, Article 287(2) PSWiN specifies that an explanatory procedure is initiated ex officio in cases of acts such as: 1)

¹ J. Kosowski, in: A. Jakubowski (ed.), Law on Higher Education and Science. Commentary, 1st edition, 2023, commentary on art. 275, Legalis.

appropriating authorship or misleading regarding the authorship of all or part of another's work or artistic performance, 2) disseminating another's work without naming the author or pseudonym, in its original form or as a derivative, 3) disseminating another's artistic work or public distortion thereof without naming the author or pseudonym, 4) infringement of copyright or related rights in any other manner, 5) falsifying scientific research or its results or committing other scientific fraud, 6) accepting, demanding, or promising material or personal benefits in connection with performing a function or holding a position at the university, 7) claiming influence within a university, state institution, local government, or public institution or creating the impression of such influence to mediate a matter in exchange for a material or personal benefit or its promise, and 8) providing or promising material or personal benefits in exchange for mediating a matter at a university by influencing the decision, action, or inaction of a person holding a function or position.

Doctrine notes that "most commonly, the catalog of behaviors for academic teachers includes acts related to exploiting hierarchical dependency to coerce behavior, accepting material benefits in exchange for passing a course, conditioning exam success on book purchases, falsifying documents, unethical behavior, low personal culture, arrogant conduct towards university authorities, false statements, plagiarism, publishing vulgar or offensive comments on social media (as public statements), failing to conduct classes, or not following instructions regarding evaluation surveys²."

According to amendments introduced in 2021, expressing religious, philosophical, or ideological beliefs does not constitute a disciplinary offense. It is also important to note that termination of employment does not exempt one from disciplinary liability for offenses committed during employment.

Possible disciplinary penalties include: 1) reprimand, 2) censure, 3) censure with a reduction of base salary by 10%-25% for a period of one month to two years, 4) deprivation of the right to perform duties as a supervisor, reviewer, or member of committees in proceedings concerning the awarding of a Ph.D., habilitation, or professorship for a period of one to five years, 5) deprivation of the right to hold managerial positions at universities for a period of six months to five years, 6) dismissal from university employment, 7) dismissal with a ban on employment at universities for a period of six months to five years, and 8) deprivation of the right to perform the profession of an academic teacher for ten years.

Students and doctoral candidates are also subject to disciplinary liability. A student is liable for violating the regulations in force at the university and for acts that breach the dignity of a student. For the same act, a student cannot be punished simultaneously by

² E. Ura, in: Commentary on Selected Provisions of the Law – Law on Higher Education and Science [in:] Academic Employment Law. Commentary, ed. K. W. Baran, Warsaw 2020, art. 275, LEX.

both the rector and the disciplinary committee. P. Wojciechowski provides an extensive list of offenses that may constitute acts violating the dignity of a student. These include: 1) damaging the property of other students and using abusive language towards them, 2) entering a classroom where classes are taking place and threatening a student, 3) possession of psychotropic substances, 4) committing an assault on a student, or appropriating a book belonging to the library, 5) defaming an academic teacher by posting offensive remarks about them in a public place, thereby publicly showing disrespect and undermining the authority of a supervisor by making public comments that expressed disregard and questioned the performance of their duties as a lecturer, and 6) behavior that violates the dignity of patients during student internships³. It is worth noting that “not all acts prohibited by criminal law, misdemeanors, or penal-tax offenses are equivalent to breaching the dignity of a student. This particularly applies to acts that, while constituting an offense or crime, have a general character, making it unreasonable to treat them simultaneously as a disciplinary offense⁴.” This observation also applies to academic teachers and doctoral candidates.

Disciplinary penalties for students include: 1) reprimand, 2) censure, 3) censure with a warning, 4) suspension of certain student rights for up to one year, and 5) expulsion from the university.

Doctoral candidates, in turn, are subject to disciplinary liability for violating regulations applicable to the institution running the doctoral school and for acts that breach the dignity of a doctoral candidate. The penalties may be the same as those for students. Doctrine emphasizes the special position of doctoral candidates, their perception by students as academic teachers, and their involvement in conducting scientific research, which necessitates applying behavioral standards appropriate for academic teachers.⁵

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³ P. Wojciechowski, in: Law on Higher Education and Science. Commentary, ed. J. Woźnicki, Warsaw 2019, art. 307, LEX.

⁴ P. Olszewski, J. Szataniak-Kulińska, in: W. Kiełbasiński, B. Pietrzyk-Tobiasz, M. W. Kuliński (eds.), Law on Higher Education and Science. Commentary [in:] Law on Higher Education and Science for Students and Doctoral Candidates – Practical Commentary, 1st edition, 2024, commentary on art. 307, Legalis.

⁵ P. Wojciechowski, in: Law on Higher Education and Science. Commentary, ed. J. Woźnicki, Warsaw 2019, art. 322, LEX.