

# Misconduct - Student General Misconduct Rule

## Section 1 - Preamble

(1) This Rule applies to misconduct by students of Charles Sturt University (the University) while they are on any of the campuses of the University, and/or involved in any University activity where such conduct is not covered by the University's Academic Misconduct Rule.

(2) This Rule takes precedence over any other rule or regulation dealing with general misconduct by students made in pursuance of the [Charles Sturt University Act, 1989](#) (NSW).

(3) Nothing in this Rule abrogates a person's right or Charles Sturt University's right to refer at any stage alleged misconduct to authorities external to Charles Sturt University.

## Section 2 - Glossary

(4) For the purpose of this Rule:

- a. Regional Consultative Committee - means either the Albury-Wodonga Campus, Bathurst Campus, Dubbo Campus or Wagga Wagga Regional Consultative Committee.
- b. Council - means the University Council of Charles Sturt University.
- c. Campus - means any property on which Charles Sturt University conducts its activities.
- d. Facility - includes any real or personal property under the control or management of the University.
- e. Misconduct - means misconduct whilst on a University campus or facility or whilst involved in a University activity and such misconduct shall be defined as:
  - i. conduct which unreasonably impairs the rights of other persons to pursue their work, studies or researches, or to participate in the life of the University or its residences, or which unreasonably interferes with the due processes of the University or which causes damage to property;
  - ii. behaviour which injures other persons or which by its nature unreasonably endangers the safety of other persons; or
  - iii. wilfully or negligently destroying, damaging, losing or removing or otherwise interfering with either any property of the University or any property on a facility of the University;
  - iv. breaching the copyright or moral rights of a third party, including use of University facilities, services or amenities;
  - v. entering any place in the University where a student is not authorised to enter where proper notification was in place to inform the student of the same;
  - vi. failing to comply with any lawful order or direction of an employee of the University or of a person acting under the authority of the University;
  - vii. failing to comply with any rule, order or direction made in pursuance of the [Charles Sturt University Act, 1989](#) or any by-laws, rules and regulations made under it;
  - viii. failing to comply with a notice duly served to give evidence to a General Misconduct Panel or a General Misconduct Appeals Committee constituted as per this Rule; or
  - ix. conduct upon a facility of the University, or while taking part in an official activity of the University, which

is prejudicial to the good order and government of the University.

- f. Head of Campus - means a person appointed as a Head of Campus within Charles Sturt University or a person acting in that office.
- g. Secretary - means University Secretary to the University Council of Charles Sturt University.
- h. Student - means:
  - i. a person enrolled in a course leading to an award of the University;
  - ii. a person enrolled in a course not leading to an award of the University but comprised of subjects which are drawn from a course or courses leading to an award or awards of the University; or
  - iii. a person enrolled in the Associate Student Program.
- i. University - means Charles Sturt University.
- j. University activity - means any activity which students participate in under the name of the University regardless of whether or not the activity takes place on a University campus.

## **Section 3 - Suspension of Students**

### **Suspension from a Facility**

(5) Where the person in charge of a facility is of the opinion that:

- a. the behaviour of a student in that facility amounts to misconduct; or
- b. there is an imminent threat of misconduct by a student in that facility;

the person in charge of that facility may, for the purpose of halting or preventing the misconduct, suspend the student from the use of or entry to that facility or part of that facility for a period of up to two weeks.

(6) The person in charge of a facility who has imposed a period of suspension under clause 5 shall do the following:

- a. by written complaint, report the suspension and circumstances of the suspension to a Head of Campus normally not later than seven days after the incident that led to the suspension. The Head of Campus has the discretion to accept a written complaint submitted later than seven days after the incident which led to the suspension; and
- b. as soon as the suspension is imposed, inform the student in writing of the suspension and circumstances of the suspension and that a written complaint has been referred or will be referred, as the case may be, to the Head of Campus.

(7) The Head of Campus shall arrange for the written complaint to be investigated pursuant to Section 4.

### **Suspension from a Lecture, Tutorial, Laboratory Session or Other Type of Class**

(8) Where a person in charge of a lecture, tutorial, laboratory session or other type of class is of the opinion that:

- a. the behaviour of a student in the person's class or during other work supervised by the person amounts to misconduct; or
- b. there is an imminent threat of misconduct by a student the person's class or during other work supervised by the person;

the person may, for the purpose of halting or preventing misconduct, suspend the student from attending the person's classes or other supervised work for a period of up to two weeks.

(9) The person in charge of a lecture, tutorial, laboratory session or other type of class who has imposed a period of suspension under clause 8 shall do the following:

- a. by written complaint, report the suspension and circumstances of the suspension to a Head of Campus normally not later than seven days after the incident that led to the suspension. The Head of Campus has the discretion to accept a written complaint submitted later than seven days after the incident which led to the suspension; and
- b. as soon as the suspension is imposed, inform the student in writing of the suspension and the circumstances of the suspension that a written complaint has been referred or will be referred, as the case may be, to the Head of Campus.

(10) The Head of Campus shall arrange for the written complaint to be investigated pursuant to Section 4.

### **Suspension from a Campus**

(11) Where a Head of Campus or a Campus Services Manager, Division of Facilities Management ('the manager') is of the opinion that:

- a. the behaviour of a student on a campus amounts to misconduct; or
- b. there is an imminent threat of misconduct by a student on a campus;

the Head of Campus or the manager may, for the purpose of halting or preventing misconduct, suspend the student from entering the relevant campus or any part of the campus for a period of up to two weeks.

(12) A manager who has imposed a period of suspension under clause 11 shall do the following:

- a. by written complaint, report the suspension and circumstances of the suspension to a Head of Campus normally not later than seven days after the incident that led to the suspension. The Head of Campus has the discretion to accept a written complaint submitted later than seven days after the incident which led to the suspension; and
- b. as soon as the suspension is imposed, inform the student in writing of the suspension and the circumstances of the suspension and that a written complaint has been referred or will be referred, as the case may be, to the Head of Campus.

(13) The Head of Campus shall arrange for the written complaint to be investigated pursuant to Section 4.

(14) A Head of Campus who has imposed a period of suspension under clause 11 on a student shall, as soon as the suspension is imposed, inform the student in writing of the suspension and the circumstances of the suspension.

### **Imposition of Suspension Not to Prevent any Further Investigation**

(15) A suspension imposed under clause 5, 8 or 11 in respect of conduct alleged to be misconduct shall not prevent any subsequent action against the student in respect of the conduct.

### **Extension of Period of Suspension**

(16) A suspension imposed pursuant to clause 5, 8 or 11 may be extended only by the Vice-Chancellor only if it is reasonably necessary to do so.

# Section 4 - Complaints and Preliminary Enquiries

## Any Member of University Staff or Student Entitled to Report Misconduct

(17) Any member of the University staff or student may, by written complaint, inform a Head of Campus of any conduct by a student which the member or student considers to be misconduct.

## Responsibility for Conducting Investigation

(18) A Head of Campus receiving a written complaint shall consider clause 19 and 20 and refer the allegation as appropriate, where necessary. That fact that a Head of Campus is required to refer a written complaint to another Head of Campus does not in any manner invalidate the written complaint.

(19) Where the Head of Campus has a conflict of interest in conducting an investigation, the Vice-Chancellor shall appoint a senior member of staff who shall investigate the written complaint and shall be vested with the relevant powers of the Head of Campus under this Rule.

(20) The Head of Campus of the campus at which the student is enrolled or deemed to be enrolled shall investigate any written complaint lodged under clause 5, 8, 11 or 17, unless the Head of Campus has a conflict of interest. For the purposes of this Rule only, a Head of Campus is responsible for the campuses as outlined in Student General Misconduct Rule - Schedule A.

(21) The appropriate Head of Campus shall, upon receipt of a written complaint, acknowledge the receipt in writing and shall determine whether the conduct, which is the subject of the written complaint, warrants an investigation.

(22) The Head of Campus shall, upon receiving the written complaint, have seven days to determine whether the conduct warrants an investigation. If the Head of Campus determines:

- a. that the conduct does not warrant an investigation the Head of Campus shall take no further action against the student and shall inform the person making the written complaint and the student of the outcome. The Head of Campus shall advise the student of, in particular, the allegation, the name of the person making the allegation, enquiries made and the outcome of the allegations; or
- b. that the conduct warrants an investigation - the Head of Campus shall conduct an investigation pursuant to Section 5.

# Section 5 - Investigation of Alleged Misconduct

## Head of Campus or General Misconduct Advisory Panel to Investigate Alleged Misconduct

(23) If the Head of Campus determines pursuant to clause 22b that the conduct warrants an investigation, the Head of Campus shall do one of the following:

- a. conduct an investigation into the allegations referred to in the written complaint. Such an investigation shall be conducted in accordance with clause 24 to clause 27; or
- b. refer the written complaint to a General Misconduct Advisory Panel within fourteen days of receipt of the written complaint, unless granted an extension of time by the Vice-Chancellor, for investigation and advice. The Panel shall conduct its investigation on behalf of the Head of Campus pursuant to clause 28 to 35.

## Head of Campus' Investigation

(24) In conducting the investigation pursuant to clause 23a the Head of Campus shall send a written notification to the

student including the following details:

- a. the allegation and details of the allegation;
- b. the name of the person making the allegation;
- c. the preliminary enquiries made and the outcome of the enquiries;
- d. a request that the student respond within fourteen days; and
- e. written information, if any, from the relevant Student Association regarding assistance available to the student.

(25) The student may respond to the Head of Campus in writing, by telephone or in person. The Head of Campus may grant the student an extension of time to respond.

(26) In conducting the investigation the Head of Campus shall have the authority to require any member of the University staff or any student to appear before the Head of Campus with a view to assisting the investigation, but no person appearing shall be obliged to answer any question. The Head of Campus shall adhere to the principles of natural justice.

(27) The Head of Campus shall conduct the investigation and reach a decision in accordance with clause 38, within 21 days of notifying the student under clause 24, unless granted an extension by the Vice-Chancellor. This period of time shall be automatically extended by a period equivalent to any extension of time granted to the student pursuant to clause 25.

### **General Misconduct Advisory Panel's Investigation on behalf of the Head of Campus**

(28) If required under clause 23b, the Head of Campus shall appoint a three person General Misconduct Advisory Panel to hear matters referred under clause 23b.

(29) The functions of a General Misconduct Advisory Panel are:

- a. to act on behalf of the Head of Campus by making enquiries and to determine whether or not misconduct has occurred; and
- b. to recommend to the Head of Campus on penalties to be imposed for misconduct.

(30) The members of a Panel shall include:

- a. one member of a Regional Consultative Committee;
- b. one student of the University;
- c. one staff member of the University; and
- d. shall comprise of at least one male member and one female member.

(31) No person with a conflict of interest may be appointed to a Panel.

(32) The Head of Campus shall appoint the Presiding Member of a Panel who shall have a deliberative vote.

(33) A Panel shall convene within seven days of receiving a request from the Head of Campus.

(34) The Panel shall send a written notification to the student including the following details:

- a. the allegation and details of the allegation;
- b. the name of the person making the allegation;
- c. the preliminary enquiries made and the outcome of the enquiries;
- d. a request that the student respond within 14 days; and

e. written information, if any, from the relevant Student Association regarding assistance available to the student.

(35) The student may respond to the Panel in writing, by telephone or in person. The Panel may grant the student an extension of time to respond.

(36) In conducting the investigation the Panel shall have the authority to require any member of the University staff or any student to appear before the Head of Campus with a view to assisting the investigation, but no person appearing shall be obliged to answer any question. The Panel shall adhere to the principles of natural justice.

(37) A Panel shall conclude its enquiry, reach a recommendation and report to the Head of Campus within thirty days of its original convening unless granted an extension of time by the Head of Campus. This period of time shall be automatically extended by a period equivalent to any extension of time granted to the student pursuant to clause 35. The Panel shall then present its report to the Head of Campus who shall make a decision pursuant to clause 38 within seven days of the Panel's presentation of the report.

### **Penalties Arising from Misconduct**

(38) Upon the Head of Campus' completion of an investigation pursuant to clause 24 or after the Head of Campus has received and considered the report from the General Misconduct Advisory Panel pursuant to clause 28, the Head of Campus shall make one of the following decisions:

- a. declare the student not guilty of misconduct; or
- b. declare the student guilty of misconduct and do any one of the following:
  - i. take no further action against the student; or
  - ii. caution or reprimand the student; or
  - iii. require the student to pay for damage and/or expense caused by the misconduct not exceeding the full value (less any recoverable insurance claimed) of rectifying the damage and/or compensating the expense; or
  - iv. impose a fine and the conditions of payment of the fine on the student not exceeding the maximum value of the academic misconduct fine contained in the University's Schedule of Fees. The fine will be paid into the general funds of the University; or
  - v. suspend the student from the use of any specific facility, or the right to enter any specific building or area of land of the University or any specific part thereof; or
  - vi. suspend the student from the University for a specified period not exceeding one calendar year. A suspended student has the automatic right of re-enrolment in the course from which he or she was suspended at the completion of the period of suspension. A suspended student may not be admitted to any course in the University and may not be enrolled in the Associate Student Program during the period of suspension.

If suspension occurs during a session, the Executive Dean/s of the Teaching Faculty/ies shall determine the grades for the student for that session; or

- vii. a combination of penalties specified in clauses 38b(i-vi) above; or
  - c. declare the student guilty of misconduct and expel the student from the University for a specified period of at least two years. A student expelled from the University under this clause may not be eligible for admission to any course in the University and may not be enrolled in the Associate Student Program during the period of expulsion. Such a student who wishes to resume study at the University after the period of expulsion must apply for admission to the University. Admission is not automatically granted: each application is considered on its merit.

(39) If a penalty is imposed under clause 38b above, the Head of Campus shall:

- a. advise the Executive Dean of the Faculty in which the student is enrolled of this fact in writing;
- b. advise the person making the allegation of this fact in writing;
- c. advise the student of this fact in writing; and
- d. give the student the right to appeal within twenty-one days from the date of the written advice. The student may be given an extension of time to appeal by the Head of Campus.

(40) If, at the expiration of the period specified in clause 39d above, the student has not appealed, the Head of Campus shall arrange for any penalty to be imposed upon the student, and shall advise the student, the person making the allegation and the Executive Dean of this fact in writing. The Head of Campus shall also advise any necessary University officers for the purpose of enforcing the penalty.

## **Section 6 - Appeals**

(41) Students contesting a decision of the Head of Campus made under this Rule may appeal to the General Misconduct Appeals Committee of the Council.

(42) The appeal must be lodged in writing with the University Secretary within twenty-one days of the date of notification of the decision unless granted an extension of time by the University Secretary.

(43) A student may appeal against:

- a. a finding of misconduct; and/or
- b. a penalty imposed upon him or her; and/or
- c. the severity of the penalty imposed.

## **Section 7 - General Misconduct Appeals Committee**

(44) The University Secretary shall convene a three person General Misconduct Appeals Committee to hear appeals lodged under Section 6 above. Members of a Committee shall be appointed by the Vice-Chancellor. The Committee shall comprise three members of the Council one of whom shall be the student member and one of whom shall be an appointed member.

(45) No person with a conflict of interest may be appointed to a General Misconduct Appeals Committee.

(46) The General Misconduct Appeals Committee shall include of at least one male member and at least one female member.

(47) No person who has served on a General Misconduct Panel may serve on a General Misconduct Appeals Committee relating to the same alleged misconduct.

(48) In the event that there is no serving student member of the Council or that the student member is unavailable to serve on a General Misconduct Appeals Committee, the Vice-Chancellor shall appoint a student member of the Academic Senate or of one of the Faculty Boards of the University.

(49) The Vice-Chancellor shall appoint the Presiding Member of a General Misconduct Appeals Committee.

## **Section 8 - Appeals Procedures**

(50) The University Secretary shall convene a General Misconduct Appeals Committee within fourteen days of receiving an appeal unless granted an extension of time by the Vice-Chancellor. The University Secretary shall provide

the appellant with written information from the Student Association regarding assistance available to the student. A Committee shall conclude its enquiry and reach a decision within sixty days of its original convening unless granted an extension of time by the Vice-Chancellor. A Committee may adjourn its hearing of the appeal for a period not exceeding fourteen days.

(51) In exercising its functions a Committee shall adhere to the principles of natural justice.

(52) The appellant shall be invited to put his or her case in person to the Committee. The appellant may be assisted at the hearing by an adviser. An adviser shall not be a person called to give evidence at the appeal nor a currently practising barrister or solicitor.

(53) The University shall be invited, through a representative appointed by the Vice-Chancellor, to put its case in person to the Committee. The University representative may be assisted at the hearing by an adviser. An adviser shall not be a person called to give evidence at the appeal nor a currently practising barrister and solicitor.

(54) In all other matters of procedure the Committee shall be guided by the relevant clauses of the Rule of the Council relating to Staff Appeals Committees.

## **Section 9 - Appeals Outcomes**

(55) A General Misconduct Appeals Committee shall do one of the following:

- a. uphold the decision by the Head of Campus; or
- b. vary the penalty imposed by the Head of Campus in any way; or
- c. quash the decision of the Head of Campus.

(56) The decision of a General Misconduct Appeals Committee shall be final and shall be conveyed by the University Secretary in writing to the appellant and his or her adviser, the University's representative and his or her adviser, the person alleging misconduct, the Head of Campus and the Executive Dean of the Faculty in which the student is enrolled.

(57) The University Secretary will arrange for any penalty to be imposed upon the student.

## **Section 10 - Confidentiality**

(58) The nature of any misconduct investigated under this Rule, the penalty imposed and the outcome of any appeal may be made public but the identity of the students, staff or other persons involved in the investigation of misconduct including the identity of the person alleged to be in breach of this Rule is confidential so long as the tenets of natural justice are adhered to.



## Status and Details

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