

Student Misconduct Rule 2018

Division 1 - Introduction

Name of Rule

(1) This is the Charles Sturt University (Student Misconduct) Rule 2018.

Commencement

(2) This Rule commences on 4 March 2019 [CNL18/109].

Purpose and Application

(3) This Rule applies to all students of Charles Sturt University (the University) and reinforces the standards of behaviour expected of students pursuant to the [Student Charter](#).

(4) Student misconduct may take one or more of the following forms, as defined in this Rule:

- a. academic misconduct;
- b. research misconduct; or
- c. general misconduct.

Authority

(5) This Rule is made pursuant to authority granted to the Council under section 32 of the [Charles Sturt University Act 1989 No 76](#).

(6) This Rule supersedes and revokes any previous rules, policies or procedures of the University relating to student misconduct.

(7) Nothing in this Rule has the effect of invalidating any past act validly performed under any previous rule, policy or procedure of the University relating to student misconduct.

General Power to Direct

(8) This Rule does not restrict the power of University staff to give students reasonable orders and directions:

- a. to ensure the safety of the student or of any other person;
- b. to prevent damage to, or destruction of, University property or facilities;
- c. for the proper performance of the staff member's duties regarding the custody, maintenance or use of University property or facilities;
- d. to ensure the orderly conduct of any teaching or learning group, examination, ceremony of the University or any meeting of Council, a board, committee or other body constituted by or pursuant to the [Charles Sturt University Act 1989 No 76](#), its rules, policies or procedures or appointed by any such body which has been so constituted; and
- e. for the maintenance of good order.

Glossary and Delegations of Authority

(9) For the purpose of this Rule, the following applies, unless the context otherwise requires:

- a. Academic integrity – is the foundation of good academic practice being the production of genuine and original academic work by a student, completed only as permitted by the relevant assessment guidelines including appropriate acknowledgement when the words, ideas, scholarship or intellectual property of others are used in the work.
- b. Academic misconduct – is where a student seeks to gain for themselves or another person an unfair academic advantage, in breach of the principle of academic integrity, including:
 - i. in relation to an assessment, where the student:
 - cheats;
 - engages in plagiarism;
 - colludes with another person;
 - acts, or assists another person to act, dishonestly or unfairly in an examination;
 - fails to comply with examination or assessment rules or directions, including possessing material in an examination venue contrary to the instructions to candidates for that examination, or a direct instruction from any invigilator of that examination;
 - engages in other conduct with a view to gaining unfair or unjustified advantage; or
 - submits work that is not original according to the intent of the assessment.
 - ii. in relation to research, where the student commits Research Misconduct.
- c. Appeals Committee – means a committee convened under Division 6 – Committee Constitution and Procedures.
- d. Appointed Officer – means the member of staff of the University who is specified by the Vice-Chancellor as the Appointed Officer for the class of misconduct, in a Schedule which may be varied from time to time, as published on the University website.
- e. Bully in relation to a person – means to engage in repeated unreasonable behaviour including behaviour that intimidates, demeans or humiliates a person, whether physical, oral or written, and creates or may create a risk to the health, safety or welfare of that person.
- f. Campus – means a facility or location where the University conducts its activities and includes regional and other study centres and sites (refer to the [Referencing Policy - Campuses, Facilities, Third Parties and Position Titles](#)).
- g. Category 1, 2 or 3 Sanctions – means a Sanction specified in Division 5 – Sanctions for Misconduct.
- h. Chair – means a person appointed to chair a Committee.
- i. Collusion – means unauthorised collaboration with another person on assessable work.
- j. Committee – means a Student Misconduct Committee or an Appeals Committee.
- k. Conduct of a sexual nature – includes the making of a statement of a sexual nature to, or in the presence of, a person, whether the statement is made orally or in writing.
- l. Course – means a program of study (whether by course work or research, or a combination of both) leading to any award conferred by the University.
- m. Executive Dean – means the Executive Dean of a Faculty of the University.
- n. Decision maker – means the responsible Appointed Officer or Committee that makes a decision under this Rule.
- o. Exclude – means to terminate the enrolment or prohibit a student from enrolling in a unit or a course for a defined period of time or permanently.
- p. General misconduct – means conduct that:
 - i. is prejudicial to the good order and government of the University;
 - ii. unreasonably hinders other persons in the pursuit of their studies in the University or in participation in the life of the University;

- iii. brings the University into disrepute;
 - iv. fails to meet the standards expected of student behaviour as articulated by the [Student Charter](#) including that which is expected of a student by a professional accreditation body; or
 - v. is otherwise reprehensible conduct for a member of the University to engage in.
- q. Without limiting clause 9 (q), general misconduct includes conduct by which a student:
- i. causes, or threatens to cause, personal injury or harm of any kind to another person; or
 - ii. sexually assaults or sexually harasses another member of the University community; or
 - iii. engages, or threatens to engage, in any other non-consensual conduct of a sexual nature in relation to another member of the University community if a reasonable member of the University community would, in all the circumstances, consider the conduct to be an invasion of privacy, or indecent; or otherwise unacceptable conduct for a student to engage in in relation to another member of the University community; or
 - iv. attacks, harasses, intimidates, stalks or bullies another person or threatens to attack, harass, intimidate, stalk or bully another person; or
 - v. causes, or threatens to cause, or behaves in a manner likely to cause, damage to, loss of, interference with or obstruction of the use of, property of the University or another person; or
 - vi. breaches a law of a country in which the student is located for the purposes of a University activity which brings the University into disrepute; or
 - vii. fails to comply with a University rule, policy or procedure; or
 - viii. breaches terms of use for any University provided service or resource; or
 - ix. disrupts the orderly conduct of a University activity; or
 - x. in the course of any dealing with the University, or with a member of staff of the University or its representative, knowingly makes a dishonest, fraudulent or false statement or representation or engages in a dishonest or fraudulent activity (including but not limited to withholding personal information); or
 - xi. fails to comply with a reasonable direction of a member of staff or other person authorised by the University including to produce identification, leave a University precinct or not to enter, access or otherwise be present on or in a University precinct or a work placement facility; or
 - xii. enters any place in the University that a student is not authorised to enter.
- r. Harassment – includes behaviour, comments or images that are unwelcome, offensive, humiliating or intimidating to a person, and that, in the circumstances, a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated, and also includes sexual harassment.
- s. Misconduct – means academic misconduct, research misconduct or general misconduct.
- t. Plagiarism – means using another person’s ideas or manner of expressing them and passing them off as one’s own.
- u. Procedures – means Procedures issued under clauses 18 and 19.
- v. Research Misconduct – means conduct by a student in connection with research that seriously deviates from accepted standards for the proposal, conduct or reporting of research, including a breach of any University regulation, code or policy or other applicable law relating to research, such as the Australian Code for the Responsible Conduct of Research.
- w. Respondent Student – means a student against whom an allegation of misconduct is made.
- x. Sanction – means a Category 1 Sanction, Category 2 Sanction or Category 3 Sanction.
- y. Sexual Harassment - includes:
- i. the making of an unwelcome sexual advance, or an unwelcome request for sexual favours, to another person; or
 - ii. engaging in any other unwelcome conduct of a sexual nature in circumstances in which a reasonable

person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

- z. Student – means a person who is or was enrolled in, or seeking enrolment in, a program or course offered by the University, or who is given permission by the University to audit a course offered by the University.
- aa. Student Charter – means the [Student Charter](#) of the University.
- ab. Student Misconduct Committee – means a Committee convened under Division 6 – Committee Constitution and Procedures to hear and decide allegations of misconduct under Division 3 – Misconduct Procedures.
- ac. Student Misconduct Panel – means a panel established under Procedures from which academic and professional staff members or students can be selected to serve on a Student Misconduct Committee or an Appeals Committee.
- ad. Suspension Order – means an order made under Division 8 - Suspension Orders.
- ae. Temporary Restriction Order – means an order made under Division 7 – Temporary Restriction Orders.
- af. Teaching session – means a period of time during which a unit of study is taught and assessed.
- ag. Unit of Study – means a component of a course, including a subject and/or any field work or placement with an external person or body.
- ah. University – means Charles Sturt University.

Note: For sub-paragraphs (s) and (z), the circumstances to be taken into account include, but are not limited to, the following:

- a. the sex, age, sexual orientation, gender identity, intersex status, marital or relationship status, religious belief, race, colour, or national or ethnic origin, of the person harassed;
- b. the relationship between the person harassed and the person who made the advance or request or who engaged in the conduct;
- c. any disability of the person harassed; and
- d. any other relevant circumstance.

Interpretation

(10) In this Rule, unless the context requires otherwise:

- a. the singular includes the plural and vice versa;
- b. other grammatical forms of defined words and expressions have corresponding meanings;
- c. a reference to a clause or a Division, means a clause or Division in this Rule;
- d. a reference to any law, by-law, regulation or other statutory instrument includes any amendment, re-enactment or replacement of it;
- e. a reference to a position within the University (such as Executive Dean) means the person employed in or appointed to that role, and includes any person acting in that role temporarily;
- f. a reference to “includes”, “including”, “for example” or other similar expressions does not limit what else is included;
- g. a reference to a business day means Mondays to Fridays inclusive, except:
 - i. public holidays declared in New South Wales, or the relevant State or Territory if the hearing and determination of a misconduct allegation is at a University campus outside New South Wales; or
 - ii. days when the University is closed for business as published on its website from time to time.

Poor academic practice not misconduct

(11) For the purposes of this Rule it is not academic misconduct to fail to conform to academic integrity, where that failure is due to unintended, careless, inadvertent or uninformed behaviour which is excusable due to the level of

experience of the student.

(12) Clause 11 does not apply where there is a gross or repeated breach of academic integrity.

(13) Notwithstanding the provisions of clause 11, a student is responsible for ensuring that they are fully informed about the requirements of academic integrity for any assessable work that the student submits.

Authority and delegations

(14) The Appointed Officers or Committees have the authority to deal with the matters as published on the University website.

(15) An Appointed Officer or a Committee:

- a. has the authority to summon a staff member or student to give evidence at any hearing of misconduct;
- b. may obtain advice or assistance from another person, including authorising that person to investigate the allegation, but will remain responsible for performing the delegated function; and
- c. may exercise a function that is preliminary or ancillary to the exercise of any delegated function.

(16) Any authority provided under this Rule applies to the occupant of the position to whom it is made, including any person acting in that position.

(17) The Vice-Chancellor may designate another person in writing to perform another Appointed Officer's function under this Rule in circumstances where:

- a. the position of that Appointed Officer no longer exists; or
- b. that Appointed Officer is for any reason unable or unavailable to exercise that function

Procedures

(18) The University may make procedures consistent with this Rule about any of following matters:

- a. establishment of the Student Misconduct Panels, including selection and membership;
- b. alternative methods for managing behaviours that warrant educative or remedial interventions rather than these being dealt with as misconduct under this Rule; and
- c. to ensure consistency in the way misconduct is managed and sanctions are imposed under this Rule.

(19) Procedures may be made by the:

- a. Vice-Chancellor in relation to academic, research and/or general misconduct;
- b. Provost and Deputy Vice-Chancellor (Academic) in relation to academic misconduct, with the endorsement of the Vice-Chancellor;
- c. Deputy Vice-Chancellor (Research and Engagement) in relation to research misconduct, with the endorsement of the Vice-Chancellor; and
- d. Deputy Vice-Chancellor (Students) in relation to general misconduct, with the endorsement of the Vice-Chancellor.

Division 2 - Reports and Preliminary Action

Reporting misconduct

(20) Any person who reasonably suspects a student has committed misconduct may report it to any one or more of the following:

- a. any member of staff, who if not an Appointed Officer, must then refer it promptly to the appropriate Appointed Officer; or
- b. directly to the appropriate Appointed Officer.

(21) For the purposes of clause 20, an Appointed Officer may also commence an assessment in accordance with clause 22 if they discover or become aware of, whether directly or indirectly, information about conduct that may constitute misconduct, even if a report has not been referred or submitted to them by another person.

Appointed Officer Assessment

(22) Following a discovery or report of alleged misconduct, the Appointed Officer must as soon as possible (but generally within 10 business days) consider if the alleged misconduct falls within the ambit of this Rule and then:

- a. formulate formal allegations of misconduct and follow the Misconduct Procedures under Division 3 for a hearing process by the Appointed Officer or Panel regarding sanctions; or
- b. dismiss the allegation if it is trivial or misconceived and does not warrant any further action; or
- c. suspend a work placement activity or research activity (as appropriate) for up to two weeks while an allegation of misconduct is investigated; or
- d. deal with the allegation as poor academic practice in accordance with clause 23.

(23) In relation to allegations of academic misconduct, if an Appointed Officer finds that a student's conduct is not academic misconduct but is poor academic practice, the Appointed Officer may take any one or more of the following educative actions:

- a. direct the student to resubmit one or more assessment items;
- b. counsel the student;
- c. request that the student make an undertaking to attend academic or other counselling;
- d. direct the student to undertake remedial work in academic integrity (such as completion of the Academic Integrity Online module);
- e. caution the student (taking into account the student's level of experience, e.g. first year undergraduate students);
- f. direct that the student's mark be reduced for the assessment by not more than 20%.

(24) If there is a recommended mark reduction for an assessment that affects the student's grade, this must be directed to the Grade Review Committee for consideration prior to the mark reduction being confirmed by the Appointed Officer.

(25) If there is a recommended mark reduction that exceeds 20% for the relevant piece of assessment, the matter must be dealt with as misconduct.

(26) In relation to allegations of research misconduct, if an Appointed Officer finds that a student's conduct is not research misconduct but is poor research practice, the Appointed Officer may take any one or more of the following educative actions, in consultation with the student's supervisory team:

- a. direct the student to review the relevant component of the research project or thesis;
- b. recommend that the student be counselled (e.g. by supervisory team or principal supervisor);
- c. caution the student (taking into account the student's level of research experience).

Division 3 - Misconduct Procedures

Who hears and decides misconduct or appeals

(27) Appointed Officers have the authority to hear and decide allegations of misconduct that if substantiated warrant a Category 1 Sanction.

(28) Student Misconduct Committees have the authority to hear and decide allegations of misconduct that if substantiated warrant a Category 2 Sanction.

(29) Appeals Committees have authority to hear and decide all appeals.

(30) Unless they consider it unreasonable or impractical, an Appointed Officer or a Student Misconduct Committee has the authority to hear and decide:

- a. multiple allegations against the same respondent student (including if the allegations traverse more than one category of misconduct); or
- b. allegations involving more than one respondent student in relation to one incident or the same set of circumstances.

(31) When considering allegations against a student, an Appointed Officer may decide that the allegations are more appropriately dealt with by a Student Misconduct Committee, or recommended to the University Council (in relation to Category 3), as the case may be depending on the severity of the allegations. The Appointed Officer may then seek the approval of the Deputy Vice-Chancellor (Students) or nominee to transfer further consideration of the allegations to a Student Misconduct Committee or the University Council.

Fresh allegations

(32) If a fresh allegation is made about the same conduct or incident before a finding is made, then that fresh allegation may be heard and decided with the original allegation. However, the respondent student must first be given:

- a. another notice of hearing including that fresh allegation; and
- b. an opportunity to be heard in relation to that fresh allegation according to the procedure prescribed in this Division.

Where respondent student admits misconduct

(33) A respondent student may admit an allegation of misconduct at any stage of this process and, if so, must be given a reasonable opportunity before the determination of a Sanction, to make a statement about the level of any Sanction to be imposed.

(34) If a student admits misconduct:

- a. before the date of a hearing; and
- b. the misconduct is serious enough to warrant a Category 2 Sanction,

the Sanction shall be decided by a person authorised under clause 74 rather than being heard by a Student Misconduct Committee.

(35) The respondent student must be notified of any Sanction applied, and the notice must include:

- a. the misconduct admitted by the respondent student;
- b. details of any Sanction imposed;
- c. a short statement of reasons for imposing that Sanction;

- d. a statement that the respondent student has a right to appeal that Sanction under Division 4 - Appeals; and
- e. a copy of this Rule or the electronic web address of the Rule on the University's website.

Notice of Allegation

(36) Before considering an allegation of misconduct, the Appointed Officer or Student Misconduct Committee must send the respondent student a notice that:

- a. gives sufficient particulars of any allegation to enable the respondent student to respond to it;
- b. states the date, time and place for the hearing (which is to be no less than 10 business days from the date on which the notice is sent), if deemed necessary in consideration of the severity of the allegation and whether this may be mediated in direct consultation with the student by the Appointed Officer;
- c. includes statements to the following effect:
 - i. that if the respondent student admits the allegation, then the respondent student before the determination of a Sanction, may make a statement about the level of any Sanction to be imposed, either by attending the hearing or providing a written statement on or before the hearing date;
 - ii. if the respondent student attends the hearing, he or she may bring along a support person or an advocate, subject to the requirements of clauses 120 and 121; and
 - iii. if the respondent student does not attend the hearing without reasonable excuse, then the allegation will be heard and decided in his or her absence; and
- d. encloses a copy of this Rule or the electronic web address of the Rule on the University's website.

(37) A notice of hearing may (but does not have to) include copies of any evidence about the allegation then available. Evidence may be excluded or redacted if disclosure at that time could unreasonably:

- a. compromise the integrity of the investigation of the alleged misconduct; or
- b. place the health, safety or welfare of a person, including any witness, at risk.

(38) Where any evidence is excluded or redacted pursuant to clause 36, the respondent student must be given details of the substance of the evidence so excluded or redacted such that the respondent student has a reasonable opportunity to prepare for the hearing and respond to the allegations as supported by that evidence.

(39) A hearing may be conducted by the use of telecommunications technology at the discretion of the Appointed Officer or Student Misconduct Committee which may be withdrawn during the course of any hearing. Without limiting that discretion, in any hearing conducted using such technologies all parties present must be able to clearly hear and respond to the other parties involved in the hearing.

Requirements at hearing

(40) The Appointed Officer or Student Misconduct Committee must:

- a. ensure that the respondent student has been given notice of the hearing under clause 36;
- b. confirm whether the respondent student admits or denies any allegation;
- c. consider all available evidence about any allegation and make findings of fact based on any relevant evidence;
- d. give the respondent student a reasonable opportunity to respond to the allegation and any evidence, and to present their evidence or give any statements;
- e. decide whether or not an allegation is substantiated.

(41) At a hearing, a respondent student is entitled to a reasonable opportunity to:

- a. call witnesses to give evidence on his or her behalf;
- b. respond to any evidence;
- c. present any evidence or give oral or written statements;
- d. subject to clause 43, question witnesses; and
- e. if any allegations are proven make submissions before any Sanction is imposed.

(42) An Appointed Officer or a Committee may make a recording of the proceedings where there is a hearing or ensure that minutes are taken for any hearing or a decision on the papers. Where a recording is made notice will be given to all present that a recording is being made.

Questioning witnesses

(43) A respondent student or, if applicable, his or her advocate may only question witnesses:

- a. directly, with the permission of the Appointed Officer or Chair of the Student Misconduct Committee; or
- b. through the Appointed Officer or the Chair of the Student Misconduct Committee.

(44) Witnesses may be questioned in person or using some form of telecommunications (such as teleconference or video conferencing) with or without the respondent student being present. However, if the respondent student is not present, then he or she must be given details of the substance of any evidence given and a reasonable opportunity to respond to that evidence before any finding is made.

Failure of student to attend hearing or respond to notice

(45) A misconduct hearing must proceed to its conclusion if the respondent student does not attend the hearing without reasonable excuse. The Appointed Officer or Chair of the Student Misconduct Committee has the discretion to adjourn a hearing or extend a deadline for a short period of time, if he or she considers it is reasonable to do so in the circumstances.

Decision and report

(46) Following a hearing, the Appointed Officer or Student Misconduct Committee must:

- a. dismiss the allegation if satisfied that the allegation is:
 - i. not substantiated on the balance of probabilities; or
 - ii. so trivial as not to warrant imposing a Sanction; or
- b. make a finding that the allegation is substantiated on the balance of probabilities and, if appropriate, impose a Sanction.

(47) The Appointed Officer or the Student Misconduct Committee is to prepare and send the respondent student a report that sets out:

- a. the findings of fact;
- b. a summary of the evidence on which those findings of fact are based;
- c. any finding of misconduct;
- d. if applicable, any Sanction to be imposed; and
- e. a short statement of reasons.

(48) A decision (including any Sanction) takes effect immediately from the date on which the report is sent to the respondent student, subject to the resolution of any appeal.

Division 4 - Appeals

Grounds of appeal

(49) A respondent student may appeal to an Appeals Committee against a finding of misconduct or the imposition of a Category 1 or Category 2 Sanction.

(50) An appeal may only be made on one or more of the following grounds:

- a. a failure to accord procedural fairness in hearing and deciding the allegation or any Sanction;
- b. that there is new or fresh evidence that was not known or reasonably available to the respondent student before the finding of misconduct was made; or
- c. that the Sanction imposed is:
 - i. inconsistent with Division 5 - Sanctions for Misconduct; or
 - ii. excessive and out of proportion to the misconduct, taking into account any current and relevant Guidelines.

(51) The Deputy Vice-Chancellor (Students) or nominee may reject an appeal prior to this being submitted to the Appeals Committee if it does not accord with one or more of the grounds as specified in clause 50.

Lodging an appeal

(52) A respondent student must lodge an appeal with the nominated officer of the Deputy Vice-Chancellor (Students) no later than 15 business days following notification of a misconduct decision.

(53) A notice of appeal must be in writing and specify:

- a. the finding or Sanction under appeal;
- b. whether the student seeks a stay of a Sanction pending the outcome of the Appeal;
- c. the ground(s) of appeal under clause 50; and
- d. details and copies of any new or fresh evidence where this is a ground of appeal.

Appeals procedures

(54) The Appeals Committee:

- a. must hold a hearing for an appeal where a ground of appeal is on the basis of new or fresh evidence; or
- b. may, in its discretion, hold a hearing or decide the appeal on the papers for an appeal made on any other ground.

(55) For appeals involving a hearing, the Chair, or Committee Secretary on behalf of the Chair, must send the respondent student a notice (within 5 business days) that:

- a. specifies the date, time and place for the hearing (to be no less than 10 business days from the date on which the notice is sent);
- b. includes statements to the effect that:
 - i. if the respondent student attends the hearing, they may bring along a support person or an advocate, but subject to the requirements of clauses 120 and 121; and
 - ii. if the respondent student does not attend the hearing without reasonable excuse, then the allegation will be heard and decided in his or her absence; and
 - iii. encloses a copy of this Rule or the electronic web address of the Rule on the University's website.

(56) For appeals on the papers, the Chair must inform the respondent student that the appeal will be decided on the papers, and send a notice that includes copies of:

- a. this Rule or the electronic web address of the Rule on the University's website; and
- b. any submissions of the University concerning the appeal.

(57) Where a student seeks a stay of a Sanction pending the outcome of the Appeal, the student must provide to the Chair a statement setting out the reasons why the student seeks a stay. The Chair may decide to stay the operation of the Sanction in whole or in part, pending the outcome of the appeal.

(58) An appeal must proceed to its conclusion notwithstanding that a respondent student does not:

- a. attend the hearing without reasonable excuse; or
- b. respond to a notice provided under clauses 55 or 56 within the specified deadline.

(59) If a respondent student withdraws an appeal before the Appeals Committee decides it, then:

- a. the appeal shall be deemed to be dismissed; and
- b. the original decision (including any Sanction) shall stand.

Appeal decision

(60) The Appeals Committee must limit its inquiry to the grounds of appeal specified in the notice of appeal and in accordance with clause 64.

(61) For appeals involving a ground of new or fresh evidence, the Appeals Committee is to:

- a. decide whether that ground is established; and
- b. if so, consider and decide the allegation afresh, taking into account that new or fresh evidence, and make a finding on the balance of probabilities; or
- c. if that ground is not made out, dismiss the appeal.

(62) For appeals on any other ground, the Appeals Committee must:

- a. dismiss the appeal if the ground is not made out; or
- b. uphold the appeal (in whole or in part) if:
 - i. a ground of appeal is made out; and
 - ii. the original finding of misconduct should be varied or set aside; or
 - iii. the original Sanction should be reduced.

(63) If the Appeals Committee allows an appeal, it must either:

- a. substitute its own finding and, if applicable, set aside or vary any Sanction; or

if it decides that the original finding or Sanction should not be set aside or varied, despite allowing the appeal, confirm that finding or Sanction.

(64) Any appeal must limit its inquiry to:

- a. the material and evidence that was before the Appointed Officer or Student Misconduct Committee; and
- b. where a ground of appeal, any fresh or new evidence submitted by the respondent student; and take into account:

- c. any submissions of the respondent student or of the University concerning the appeal; and
- d. any applicable laws, rules, policies and procedures.

Notification of outcome of appeal

(65) The Appeals Committee is to prepare and send to the respondent student a report that sets out:

- a. its findings and decision (including any sanctions) on the appeal;
- b. a summary of the evidence or submissions on which its decision is based;
- c. a short statement of reasons; and
- d. if the respondent student is an overseas student, any avenues of external review or appeal available to the respondent student in accordance with the National Code 2007 enacted under the [Education Services for Overseas Students Act 2000](#) (as amended).

(66) The decision of the Appeals Committee takes effect immediately from the date on which it sends its report to the respondent student.

(67) The decision of the Appeals Committee is final and there is no further avenue of internal review or appeal following completion of an appeal under this Division.

Division 5 - Sanctions for Misconduct

Categories

(68) There are three categories of Sanctions that may be imposed for misconduct:

- a. Category 1 Sanctions, which may be imposed by:
 - i. an Appointed Officer or a Student Misconduct Committee if a finding of misconduct is made; or
 - ii. an Appeals Committee in relation to an appeal under Division 4 - Appeals;
- b. Category 2 Sanctions, which may only be imposed by:
 - i. a Student Misconduct Committee if it makes a finding of misconduct;
 - ii. an Appointed Officer specified in clause 74 if a student admits to misconduct that warrants a Category 2 Sanction before a notice of hearing is issued; or
 - iii. an Appeals Committee in relation to an appeal under Division 4 - Appeals; and
- c. Category 3 Sanctions, which may only be imposed by the University Council on the recommendation of:
 - i. a Student Misconduct Committee; or
 - ii. an Appointed Officer.

Category 1 Sanctions

(69) A Category 1 Sanction is any one or more of the following:

- a. a reprimand;
- b. reduction of a mark, including to "fail" an assessment task, examination, or final grade (following consultation with the Grade Review Committee), or a resubmission of an assessment task;
- c. reduction of a mark, including to "fail" an assessment task, examination, or final grade as appropriate to the stage of candidature of a Higher Degree Research student;
- d. a direction to pay for repair or replacement of damaged or lost property up to \$2,000;
- e. a direction to give an apology;
- f. a direction not to approach, contact or attempt to contact a staff member or another student, but only to the

extent that this does not unreasonably interfere with the respondent student's ability to attend classes or undertake his or her studies;

- g. a direction that the respondent student give a written undertaking to not repeat or continue the behaviour or activity that is the subject of the finding of misconduct;
- h. restricted or conditional access to or use of any University campus (including buildings), residential facilities or services (including Information and Communication Technologies) for a period of up to one full teaching session.

Category 2 Sanctions

(70) A Category 2 Sanction is any one or more of the following:

- a. temporary exclusion from:
 - i. a specified unit of study;
 - ii. a course or research degree; or
 - iii. undertaking a specified activity (including research or field work, or workplace learning in connection with a course or research degree);
- b. permanent exclusion from a specified course;
- c. permanent exclusion from the respondent student's research degree or award (including any research activity in which the respondent student is involved);
- d. a direction to pay a specified amount for repair or replacement of damaged or lost property from a value of \$2,001 to a maximum of \$4,000;
- e. suspension from the University or from undertaking a specified activity connected with the respondent student's course (including field work and workplace learning), for a period of up to two consecutive full teaching sessions;
- f. a determination that the respondent student should not be granted the relevant award for the course or courses in which he or she was enrolled at the time the alleged misconduct occurred; or
- g. expulsion from the University.

Category 3 Sanctions

(71) A Category 3 Sanction is revocation of an award conferred on the respondent student.

(72) A Category 3 Sanction may only be imposed by the University Council.

(73) There is no internal avenue of review or appeal against a decision by, or a recommendation to, the Council to impose a Category 3 Sanction.

Sanctions for admitted misconduct

(74) For the purposes of clauses 35 and 68(b)(ii), the Appointed Officers as designated in Schedule 1 may impose a Category 2 Sanction.

(75) The Vice-Chancellor may recommend to the University Council that a Category 3 Sanction be imposed where a respondent student admits to misconduct before a notice of hearing is provided.

Restrictions or conditions following temporary exclusion or removal

(76) Any readmission to the University or a course following temporary exclusion or suspension is subject to any:

- a. applicable criteria for admission or entry to the University or that course at the time of readmission; and

- b. if applicable, conditions or restrictions specified by an Appointed Officer or Committee.

Suspended Sanctions

(77) A Sanction may be suspended with or without conditions unless:

- a. the Sanction is a Category 2 Sanction for temporary or permanent exclusion, suspension or expulsion;
- b. the Sanction is a Category 3 Sanction; or
- c. the respondent student has previously been given a suspended Category 1 or Category 2 Sanction for the same or similar misconduct.

(78) A respondent student may be required to comply with any one or more of the following as a condition of suspending a Sanction:

- a. to undertake to do or not to do something to minimise risk of further misconduct or to the health, safety and welfare of any person;
- b. to undertake counselling, training or other remedial action, including but not limited to community service; completing an educative subject; meeting with representatives from the University's external communities;
- c. to apologise either verbally or in writing to any person aggrieved by the respondent student's misconduct;
- d. to contact or report to a specified person, such as a Course Director or Sub Dean Graduate Studies, at specified intervals; or
- e. any other reasonable condition imposed with the acceptance of the respondent student.

(79) If the respondent student fails to comply with a condition imposed under clause 78, then the full Sanction will apply immediately upon the University providing the respondent student with notice to that effect.

Effective date

(80) The effective date of a Sanction may be adjusted, backdated or delayed to take account of:

- a. the start or finish of a teaching session; or
- b. the length of any previous summary temporary restriction or suspension order made in relation to the respondent student for the misconduct.

Matters to be taken into account

(81) A Sanction must be proportionate to the type and circumstances of the misconduct, and take into account the following:

- a. the nature, severity and impact of the misconduct;
- b. any previous finding of misconduct against the respondent student;
- c. the personal circumstances or level of experience of the respondent student;
- d. the objective of deterring future occurrences of misconduct;
- e. the objective of protecting the University community and the good governance and reputation of the University;
- f. any University policies, conventions or guidelines relating to standards of behaviour (including academic honesty and integrity) expected of students.

(82) Any Sanction imposed under this Rule in relation to conduct that occurred within a student residence does not affect or preclude any other action concerning the respondent student's continued occupancy of or access to that student residence.

Division 6 - Committee Constitution and Procedures

Convening and constitution

(83) All Committees shall be convened by the nominated officer of the Deputy Vice-Chancellor (Students) and will seek to achieve appropriate diversity, in consideration of procedural fairness to the student.

(84) Except for external members, Committee members must be selected from the members of the relevant Student Misconduct Panel.

(85) Each Committee is to comprise at least three members:

- a. at least one of whom must be an academic staff member from the Panel where the allegation relates to academic misconduct;
- b. one of whom may be a student from the Panel;
- c. one of whom may be a professional staff member from the Panel where the allegation relates to general misconduct; and
- d. one of whom may be an external person appointed under clause 86.

External members

(86) If the alleged misconduct may also be charged as a criminal offence punishable by 12 months' imprisonment or more and would, if proven, warrant expulsion, the nominated officer of the Deputy Vice-Chancellor (Students) may appoint an external member with the following qualifications to a Committee:

- a. a senior academic from another university, who is from the same or similar discipline as the respondent student, and who is not involved in supervising or examining the respondent student;
- b. a person who has been admitted as a legal practitioner anywhere in Australia for a minimum of seven years; or
- c. a person who holds or has previously held office as a judicial tribunal member, magistrate or judge anywhere in Australia.

Quorum

(87) The quorum for any Committee is two members, one of whom must be:

- a. the Chair; or
- b. if the Chair is an external person appointed under clause 86;
 - i. that Chair; and;
 - ii. one academic or general/professional staff member.

Disqualification and casual vacancies

(88) A person is disqualified from appointment to a Committee if that person:

- a. is a witness in any proceedings or appeal before that Committee;
- b. if the person is the Appointed Officer or another officer who has previously been involved and provided advice to the allegation; or
- c. has been involved in reporting, investigating, deciding or giving advice or recommendations about the allegation or appeal before that Committee.

(89) A person ceases to be a member, or is disqualified from membership of a Committee if:

- a. appointed as a staff member, that person ceases to be a staff member of the University for any reason;
- b. appointed as a student, that person ceases to be enrolled as a student for any reason;
- c. that person's appointment is revoked by the nominated officer of the Deputy Vice-Chancellor (Students) for any reason;
- d. that person resigns from the Committee; or
- e. that person is incapacitated or dies.

(90) A person appointed to a Committee from a Panel may continue as a member of the Committee if, following appointment, he or she ceases to be a member of the relevant Panel.

(91) If a vacancy on a Committee occurs after that Committee begins to hear or consider a matter, but before it makes a decision, then the nominated officer of the Deputy Vice-Chancellor (Students) in consultation with the remaining Committee members, shall decide as follows, taking into account what is convenient and fair in the circumstances:

- a. to direct the remaining members to hear and decide the allegation or appeal, as long as there remains a quorum;
- b. to appoint a replacement member; or
- c. to dissolve that Committee and convene a new Committee.

Chair

(92) The Chair of a Committee is to be:

- a. a member of the University's academic or general/professional staff member designated by the nominated officer of the Deputy Vice-Chancellor (Students); or
- b. an external member, appointed under clause 86.

(93) The Chair:

- a. in relation to procedural matters has the authority to make any decision or give a direction, including to adjourn a hearing or extend a deadline;
- b. in relation to any other decision, has a casting vote if there is an equality of votes.

Division 7 - Temporary Restriction Orders

Who may impose

(94) The Appointed Officers designated in Schedule 2 have the authority to summarily impose Temporary Restriction Orders as specified in Schedule 2 which may have the same scope as that provided in clause 106.

Purpose

(95) An Appointed Officer may summarily impose a Temporary Restriction Order on a student:

- a. where the circumstances warrant immediate or urgent action; and
- b. where that student's conduct is unreasonably:
 - i. antisocial; or
 - ii. disruptive or a threat to others or to the academic or business activities or systems of the University; or
- c. in respect of any conduct by that student for which a Suspension Order may be made under Division 8 - Suspension Orders.

Procedure

(96) A Temporary Restriction Order:

- a. may be given verbally or in writing;
- b. takes effect immediately from when it is given;
- c. may be imposed for a length of time not exceeding ten clear business days from the date it is made.

(97) An Appointed Officer may inform themselves as to any matter before imposing a Temporary Restriction Order, but does not have to give the respondent student an opportunity to be heard before making that order.

(98) A Temporary Restriction Order:

- a. must be proportionate to the circumstances;
- b. should if reasonably practicable try to minimise any unreasonable academic disadvantage to the respondent student; but
- c. is to take account of, as the paramount consideration, any risk to the:
 - i. health, safety and welfare of the respondent student or of others;
 - ii. security or integrity of any University land, buildings, business or systems (including any academic activity).

Notification

(99) An Appointed Officer must within one business day of making a Temporary Restriction Order:

- a. if given verbally, confirm its nature, scope and length in writing to the respondent student;
- b. notify the person specified in Schedule 2 to whom it must be notified, and provide the following details:
 - i. the name and student identification number of the respondent student;
 - ii. when and where the alleged incident occurred;
 - iii. a brief description of the alleged incident;
 - iv. the nature, scope, length and dates of the Temporary Restriction Order; and a recommendation as to whether the incident warrants further investigation or proceedings for misconduct.

(100) Following notification, the person to whom the Temporary Restriction Order is notified must decide whether the incident warrants further investigation or action for misconduct.

Compliance

(101) A respondent student who is given a Temporary Restriction Order must comply with it.

No appeal

(102) There is no internal avenue of review or appeal against a decision to summarily impose a Temporary Restriction Order.

Division 8 - Suspension Orders

Who may impose

(103) The following Officers of the University have the authority to impose Suspension Orders:

- a. the Vice-Chancellor;
- b. a Deputy Vice-Chancellor or equivalent;

- c. an Executive Dean or Deputy Dean;
- d. Sub Dean (Graduate Studies);
- e. the Chief Financial Officer;
- f. the University Secretary;
- g. the Executive Director, Facilities Management;
- h. the Director, Government and Community Relations; or
- i. the Director, Residence Life.

Purpose

(104) A Suspension Order may be made for the purpose of preventing or minimising any of the following risks:

- a. risk to the health, welfare or safety of the respondent student or to others;
- b. risk to reputation or compliance requirements of the University;
- c. risk to the security or integrity of any land, buildings (including student residential accommodation), business or systems of the University (including any research activity);
- d. risk to the integrity of any evidence or investigation into suspected or alleged misconduct;
- e. risk that misconduct will occur or continue.

(105) A Suspension Order for an allegation of misconduct that could also be charged as a criminal offence against the person and potentially punishable by 12 months' imprisonment or more (and regardless of whether the respondent student is charged with that offence), shall apply automatically, unless the University Officer is reasonably satisfied:

- a. that the respondent student is unlikely to pose any risk specified in clause 104; or
- b. the risk can be managed without the need for a Suspension Order, and on the condition that the respondent student complies with any reasonable management strategies specified by the University Officer.

Nature and scope

(106) A Suspension Order may withdraw, restrict or limit any right, entitlement or privilege applicable to a student of the University, including:

- a. attendance at lectures, placements, field work, research or other activities related to the respondent student's study or enrolment;
- b. entry onto any lands or into buildings (including student residential accommodation) controlled by the University;
- c. access to or use of any facilities, services or other resources of the University (including libraries, laboratories, equipment or computers);
- d. directing the respondent student not to contact or approach another student or any member of staff of the University while on University lands or through use of any University facilities, services (including Information and Communication Technologies) or other resources.

(107) A Suspension Order:

- a. subject to clause 106, must be proportionate to the circumstances;
- b. may be made at any time before or during an investigation or hearing for misconduct under this Rule;
- c. takes effect immediately from the date on which Suspension Order is notified to the respondent student or a later time specified in that notice;
- d. may be imposed for a specified period of time or for an indefinite period of time up until conclusion of

- proceedings under this Rule; and
- e. may be extended or renewed.

Procedure

(108) If the total length of any Suspension Order (including if it is extended or renewed) exceeds or is likely to exceed 10 business days, the respondent student must be given an opportunity to be heard by an Appointed Officer on the continuing application of the suspension by a notice that:

- a. summarises the alleged conduct to which the Suspension Order relates;
- b. specifies the type of Suspension Order and its length;
- c. invites the respondent student to provide submissions on the issue of suspension only, either by:
 - i. attending an interview at a time, date and place specified in that notice, which is to be no earlier than two business days from the date on which the notice is sent; or
 - ii. providing a written response by a date specified in that notice, which is to be no earlier than three business days from the date on which the notice is sent; and
- d. include statements to the effect that:
 - i. if the respondent student does not attend the interview on, or respond by, the specified deadline, then the Suspension Order described in that notice shall continue in effect; or
 - ii. if the respondent student attends the interview or provides a written response, then a decision will be made after considering the respondent student's response; and
 - iii. includes a copy of this Rule or the electronic web address of the Rule on the University's website.

(109) The Appointed Officer must consider any response provided by the respondent student and determine whether to continue the operation of a Suspension Order.

Notification

(110) A Suspension Order must be in writing and must:

- a. specify the alleged conduct to which the suspension relates;
- b. specify the nature and length of the Suspension Order and from when it takes effect;
- c. include a short statement of reasons for imposing the Suspension Order; and
- d. include a statement that the respondent student may apply to have the Suspension Order varied or lifted at any time if the respondent student can demonstrate, to the University's reasonable satisfaction, that circumstances have changed to an extent that warrant variation or lifting of the Suspension Order.

Variation, lifting and expiry

(111) An Appointed Officer may vary or lift a Suspension Order at any time to take account of changes in circumstances, including the continued likelihood of any risks.

(112) If no proceedings for misconduct under this Rule are commenced by an Appointed Officer within 10 business days of the suspension order being made it is automatically revoked.

(113) A Suspension Order ends on the earliest of:

- a. 5.00pm on the expiry date specified in the notice;
- b. if and when it is revoked; or
- c. at the conclusion of proceedings under this Rule.

No appeal

(114) There is no avenue of internal review or appeal against a Suspension Order.

Division 9 - Miscellaneous

Procedural authorities

(115) An Appointed Officer or a Committee:

- a. may decide their own procedures, subject to this Rule;
- b. is not bound by the rules of evidence;
- c. may make inquiries, obtain evidence and decide any matter, consistent with the rules of procedural fairness; and
- d. may summon any student or member of staff of the University to give evidence.

Student and staff cooperation

(116) All students and members of the staff of the University must:

- a. reasonably cooperate with any process conducted under this Rule;
- b. not do or attempt to do anything (including withholding or tampering with evidence) to undermine or interfere with the integrity of a process under this Rule; and
- c. behave in an appropriate and civil manner in any hearing.

(117) A respondent student or a witness may be directed to leave a hearing if their behaviour is unreasonably disruptive.

Hearings to be conducted in private

(118) Hearings under this Rule are confidential and must be conducted in private. Save as provided for in this Rule no person may disclose the detail or substance of proceedings under this Rule, any decision made or penalty imposed, or the identity of parties or witnesses.

(119) Where the Vice-Chancellor considers it is necessary for the good order and governance of the University, they may direct that part or all of any proceedings or decision may be published to the extent determined by the Vice-Chancellor.

Support persons and advocates

(120) A respondent student may bring along a support person (including as an advocate) to assist the respondent student or to speak on their behalf at any hearing or an allegation of misconduct or an appeal, however, that person may not be a currently practising barrister or solicitor, and must be available at the date and time specified in the notice of hearing.

(121) A support person may be directed to leave a hearing if that person unreasonably disrupts or delays the hearing. If this occurs, the hearing or appeal may proceed to completion in the absence of that person.

Allowance for academic disadvantage

(122) The University must make reasonable allowance for any academic disadvantage a respondent student suffers (such as permission to re-sit an examination or an extension of time to complete an assessment task) following a Temporary Restriction Order or Suspension Order where subsequently:

- a. no further action is taken under this Rule; or
- b. the allegation of misconduct is not sustained.

Fairness and conflicts of interest

(123) Appointed Officers and Committee members must always:

- a. act fairly, reasonably, and without bias;
- b. disclose promptly any actual or potential conflict of interest and manage that conflict of interest in accordance with any policy of the University relating to conflicts of interest; and
- c. treat all matters dealt with under this Rule as strictly confidential and not discuss them with anyone, except on a strictly 'need to know' basis for the purposes of this Rule, including seeking legal or other professional advice.

(124) Appointed Officers and Committees should act as quickly and with as little formality as possible, but in accordance with this Rule.

(125) Wherever possible, a respondent student must be notified promptly of any delays in investigating or making a decision in relation to allegations of misconduct.

Other action

(126) Any action taken under this Rule does not preclude the University from doing any of the following in relation to the circumstances involving the alleged misconduct:

- a. commencing legal action against the respondent student; or
- b. reporting the matter to the police or other external organisation (such as a professional registration body or a regulatory authority) regardless of whether the University is under a legal obligation to do so.

University may designate person to present evidence for University

(127) The University may designate a person to present evidence or make submissions on behalf of the University to a Committee.

Status of prescribed deadlines

(128) Except for minimum periods of notice to be given to a respondent student, any deadlines specified in this Rule are indicative only.

(129) Non-compliance with any notice period does not render a decision or action void or capable of being set aside merely for that reason.

Meaning of no further internal review or appeal

(130) If a clause in this Rule states that a decision cannot be the subject of any further internal review or appeal under this Rule, then that decision cannot be the subject of any further review or appeal under any other internal Rule, policy or process of the University.

(131) However, this does not preclude a respondent student from exercising any available right of review of that decision by a court, tribunal or other external body with the authority to do so.

Administrative errors or omissions

(132) A decision made under this Rule may be corrected where:

- a. there is an obvious clerical or typographical error or omission in the text;
- b. a document (or a reference to it) was omitted;
- c. there is an error arising from an accidental slip or omission; or
- d. there is a defect of form.

(133) Any correction made to a decision must be notified to the respondent student promptly following discovery of that error, defect or omission.

Recording and implementing decisions

(134) Subject to any right of appeal a respondent student has under this Rule, any finding of misconduct and any Sanction(s) imposed shall be recorded on the University's electronic and other records relating to the respondent student in accordance with the [State Records Act 1998 No 17](#).

(135) All relevant University staff (including any prescribed in Schedules 1 or 2) will be notified about any decision or action taken under this Rule for the purpose of recording and implementing the decision.

(136) Where a person may have been affected by the alleged misconduct, or may be affected by the outcome of a misconduct hearing, the University may inform that person of the progress and outcome of the misconduct proceedings. That person is bound to maintain the confidentiality of the information provided in accordance with clause 118.

Concurrent legal proceedings or police investigation

(137) The Vice-Chancellor or a Deputy Vice-Chancellor may, at any stage of proceedings under this Rule, adjourn or suspend any investigation or hearing of an allegation of misconduct (including any appeal) if there is a police investigation or criminal proceedings in relation to the same conduct.

(138) A decision under clause 137 does not:

- a. affect any Temporary Restriction Order or Suspension Order already made;
- b. prevent a Temporary Restriction Order or a Suspension Order from being made at any time; or
- c. prevent reactivation of or commencement of new proceedings (including another or a further investigation) under this Rule.

Savings provisions

(139) If before this Rule commences, a person or a committee has commenced hearing an allegation of, or an appeal in relation to, misconduct under a process prescribed in another Rule or policy, but has not yet made a decision, then that matter shall continue to be dealt with under that Rule or policy, until all processes in that Rule or policy are completed or exhausted.

(140) Any act, matter or thing that immediately before this Rule commenced had effect pursuant to any by-law, Rule, policy or other instrument of the University is taken to have effect under this Rule.

Status and Details

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