Student Misconduct Rule 2020

Note: From 1 January 2026, the Gender-based Violence Prevention and Response Policy and Policy addendum - Gender-based violence provisions may affect some provisions under this Rule.

Division 1 – Introduction

Name of Rule

(1) This is the Charles Sturt University (Student Misconduct) Rule 2020.

Effective date

(2) This Rule takes effect on 1 January 2020, except for the savings and transitional provisions stated at clauses (160)-(164).

Authority

(3) This Rule is made with authority granted to the Vice-Chancellor in section 109 of the Charles Sturt University By-law 2005.

(4) This Rule supersedes and revokes the Charles Sturt University (Student Misconduct) Rule 2018.

(5) Nothing in this Rule, however, invalidates any past act validly performed under that previous version of the Rule.

Purpose

(6) This Rule enforces the standards of behaviour expected of students under the University's Student Charter, Academic Integrity Policy and Research Policy by:

a. stating the University's definitions of:
    i. academic misconduct and types of academic misconduct
    ii. general misconduct and types of general misconduct
    iii. research misconduct and types of research misconduct, and
b. stating procedurally fair processes for:
    i. investigating allegations of student misconduct
    ii. deciding whether misconduct has occurred and, if so, what penalties will be applied, and
    iii. under certain circumstances, temporarily restricting or suspending a student from attending activities, being on premises or contacting persons until a misconduct allegation can be resolved.

Scope

(7) This Rule applies to all students and staff of the University, including:

a. students in courses of the University delivered by another institution or organisation
b. staff of a partner institution or organisation that delivers a course of the University, and

c. staff of host organisations that host our students as part of their study requirements.

(8) A partner institution or organisation that delivers a course of the University may, however, apply its own general misconduct rules to students in the course who are alleged to have committed general misconduct, provided the university is satisfied those policies are appropriate.

(9) The Rule applies to students, in that it defines processes for finding whether student misconduct has occurred and penalising it, and for temporary restriction orders and suspension orders against students.

(10) The Rule applies to staff, in that it defines processes that staff must follow in reporting student misconduct, finding whether this has occurred and penalising it, and applying temporary restriction orders and suspension orders against students.

(11) Division 10 – Alleged misconduct by a student who is a staff member, explains the process to be followed where a staff member who is also a student commits misconduct in their role as a student.

Detection of academic integrity breaches and data retention

(12) CSU undertakes to detect and deter breaches of academic integrity through strategies including but not limited to:

a. manual detection by academic and teaching staff
b. using content matching or authenticity software
c. monitoring websites that enable academic integrity breaches to take place, and
d. the management and blocking of websites that breach academic integrity such as assessment file sharing, or illegal websites that offer contract cheating services.

(13) Academic integrity breach data is confidentially and securely maintained made available for the purposes of managing potential breaches of academic integrity managed and analysed for quality assurance, learning and teaching and process improvement, procedural fairness, and transparency.

General power to direct

(14) This Rule does not restrict university staff from giving students reasonable instructions:

a. to ensure the student's safety or the safety of another person or an animal
b. to prevent damage to property or facilities
c. as part of performing the staff member's duties regarding property or facilities
d. to ensure the orderly conduct of a teaching or learning group, exam, university ceremony or meeting of the Council, a board or committee of the University, or
e. to maintain good order.

Glossary

(15) For the purposes of this Rule, the following terms have the definitions stated, unless the context requires that they are defined as in the Macquarie Dictionary.

a. Academic integrity – means, in relation to students:
    i. acting with honesty, fairness and responsibility in teaching, learning and research
    ii. honesty in acknowledging others' ideas, text and data presented in one's own work, or one's own previous work when re-used, and
    iii. fairness and honesty in dealings with staff and other students.

b. Academic misconduct has the meaning stated in Division 2 – Types of misconduct.
c. Appointed officer – means a staff member who holds a position listed in Schedule 1 – Appointed officers and committees, approved by the Vice-Chancellor under clause (17).
d. Assessment task – means an assignment or examination stated in a subject outline as required for a subject or contributing to students' final mark in the subject; this may include a workplace learning placement.
e. Bully – has the meaning stated in Division 2 – Types of misconduct.
f. Campus – means a location controlled by the University, at which its courses are delivered.
g. Chair – means a person appointed to chair a committee.
h. Cheating – has the meaning stated in Division 2 – Types of misconduct.
i. Collusion – has the meaning stated in Division 2 – Types of misconduct.
j. Committee – means a student misconduct committee convened in accordance with Division 7 – Committees.
k. Contract cheating – has the meaning stated in Division 2 – Types of misconduct.
l. Convening officer – means an officer nominated by the Executive Director, Safety, Security and Wellbeing to convene student misconduct committees, under Division 7 – Committees.
m. Course – means a program of study that leads to an award conferred by the University
n. Coursework subject – means a subject on a specified topic for which students engage with texts, learning materials and/or resources, and complete assessments; not a research component.
o. Decision-maker – means the appointed officer, senior manager, committee or council that makes a decision under this Rule.
p. Exclude – depending on the context, means either:
    i. withdraw a student from a course or subject and bar them from readmission to the course or re-enrolment in the subject for a specified period or permanently
    ii. withdraw a student from all courses they are enrolled in, and bar them from admission to any course of the University or enrolment in any subject of the University, for a specified period, or
    iii. terminate a student's residence in a student residence and not permit them to resume residence there for a specified period.
q. Executive Dean – means the Executive Dean of a faculty of the University.
r. Expel – depending on the context, means either:
    i. withdraw a student from all courses they are enrolled in and bar them permanently from admission to or enrolment in all courses and subjects of the University, or
    ii. terminate a student's residence in a student resident and bar them permanently from resuming residence there.
s. External Advocate – An advocate not employed by Charles Sturt University chosen by the student to represent their interests and act on their behalf.
t. General misconduct – has the meaning stated in Division 2 – Types of misconduct.
u. Harassment – has the meaning stated in Division 2 – Types of misconduct.
v. Hazing – has the meaning stated in Division 2 – Types of Misconduct.
w. Level 1, 2 or 3 penalty – a penalty listed in Division 5 – Penalties for misconduct.
x. Misconduct – has the meaning stated in Division 2 – Types of misconduct.
y. Penalty – means a penalty applied to a student who is found to have committed misconduct.
z. Placement provider – means a business or organisation that provides a workplace learning placement to a student.
aa. Plagiarism – has the meaning stated in Division 2 – Types of misconduct.
ab. Procedural fairness – means the state of a process that gives the parties reasonable notice of the matter to be considered, an opportunity to give their side of the matter, and ensures that decisions are made without bias on the basis of the facts presented.

ac. Research component – means one or more subjects for a higher degree by research course, a master by coursework and dissertation, or a bachelor (honours) course, in which students undertake a substantial piece of research involving a thesis, dissertation, portfolio or project.

ad. Research misconduct – has the meaning stated in Division 2 – Types of misconduct.

ae. Respondent student – means a student against whom an allegation of misconduct is made, and who accordingly has the opportunity to respond to it.

af. Right to peaceful assembly – has the meaning stated in Division 2 – Types of Misconduct.

ag. Rule or this Rule – means the Charles Sturt University (Student Misconduct) Rule 2020.

ah. Secretary – means, of a student misconduct committee, the professional staff member who is assigned to take notes of hearings and handle correspondence for the committee and its chair.

ai. Session – means any session, term or other teaching period in which subjects are delivered.

aj. Sexual harassment – has the meaning stated in Division 2 – Types of misconduct.

ak. Student – means a person who is or was enrolled in, or seeking admission to, a course or subject offered by the University or a partner institution or organisation, or who is given permission to audit a course or subject offered by the University or a partner institution or organisation; it includes a candidate for a higher degree by research award. A student remains a student while on approved leave of absence.

al. Student misconduct committee – means a student misconduct committee convened under Division 7 – Committees to hear and decide allegations of misconduct.

am. Student misconduct committee panel – means a list of staff members and students who can be selected to serve on a student misconduct committee.

an. Student misconduct management system – means the University's online system for managing, keeping records of and reporting on:

    i. student misconduct allegations, decisions and penalties

    ii. decisions and penalties in relation to students' poor behaviour, poor academic practice and breaches of the University's code for the responsible conduct of research, and

    iii. temporary restriction orders and suspension orders applied to students.

ao. Subject – means a unit of study in which a student enrols and that will appear on the transcript of their grades.

ap. Subject Coordinator – means the academic staff member who leads teaching, assessment and academic management of a subject; this includes the roles titled 'Subject coordinator' and 'Subject convenor'.

aq. Supervisor – means a staff member who is appointed as a supervisor of a student's research project for a subject or course, or more generally who supervises them in undertaking an activity; or a staff member of a placement provider who supervises them in their work while on placement.

ar. Support person - A person who supports a student with misconduct matters; that support may include attending meetings and/or hearings. The person may be another student, staff member not involved in the misconduct allegation or decision, friend, relative, cultural or spiritual support person, or other support person as requested by the student.

as. Suspend – means:

    i. of a student, to forbid them to attend or participate in (an activity) or to attend classes in (a subject or course), without cancelling their enrolment in the relevant subject or course, or

    ii. of a penalty, to apply it but not put it into effect, provided the respondent student meets any conditions of the suspension.

at. Suspension order – means an order made under Division 9 – Suspension orders.

au. Telecommunications technology – includes teleconferencing, videoconferencing and virtual meetings technology.

av. Temporary restriction order – means an order made under Division 8 – Temporary restriction orders.

aw. The University – means Charles Sturt University.

ax. University Student Advocate - A Charles Sturt University staff member who provides students with information, guidance and advice regarding the University's rules policies and procedures. They can provide moral, emotional, or other forms of support as requested by the student.

ay. Weapon – means an instrument designed for or used in attack or defence in combat or fighting.

    i. Examples of weapons include but are not limited to guns, explosives, armaments, arms, ammunition, knives of any kind, explosives, cross bows, sling shots, darts, maces, flails, whips, nunchaku, batons, electric shock devices, knuckle dusters, studded gloves, ammunition magazines, handcuffs.

az. Workplace learning – means learning that occurs in workplace or professional settings, which may be at another organisation’s premises.

Interpretation

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

a. The singular includes the plural and vice versa: for example, ‘a student’ includes any student and ‘students’ includes any individual student.
b. Other grammatical forms of defined words and expressions have corresponding meanings.
c. A reference to a clause or 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 means the person or persons appointed to that role and includes anyone acting in that role temporarily.
f. The phrase ‘in writing’ includes electronic and hard copy communications.
g. The words ‘reasonable’, ‘reasonably’, ‘unreasonable’, ‘unreasonably’ mean on grounds that another reasonable person would consider (as relevant) reasonable or unreasonable.
h. The words ‘includes’, ‘including’, ‘for example’ or other similar expressions do not limit what is included.
i. The verbs ‘will’ or ‘must’ state mandatory requirements for action or behaviour.
j. ‘Business days’ mean Mondays to Fridays inclusive, other than:
    i. public holidays in New South Wales or, where relevant, in another state or territory where a hearing or decision on a misconduct allegation requires work to take place at a campus in that state or territory, and
    ii. any other day when the University is closed for business as published on the University’s website.

Authority and delegations

(17) The Vice-Chancellor may:

a. appoint appointed officers and specify the matters they can decide by:
    i. adding positions to Schedule 1, and
    ii. defining the matters an appointed officer can hear and decide in Schedule 1, and
b. remove appointed officers by removing them from Schedule 1.

(18) An appointed officer or committee:

a. has the authority to deal with the matters stated for their role in Schedule 1
b. may summon a staff member or student to provide information at any hearing
c. may obtain advice or help from another person, or authorise another person to investigate an allegation, but will remain responsible for the investigation and/or decision, and

d. may do other things necessary to prepare for or support an investigation or decision delegated to them.

(19) The Vice-Chancellor may appoint another person to perform an appointed officer's function under this Rule where:

a. the position of that appointed officer no longer exists, or
b. the appointed officer is unable or unavailable to perform the function.

(20) The Vice-Chancellor may:

a. authorise members of a class of staff or an officer of the University to apply temporary restriction orders, by:
    i. adding a class of staff or position to Schedule 2, and
    ii. defining in Schedule 2 the matters in relation to which a class of staff or officer may apply a temporary restriction order, and
b. remove an authority to apply temporary restriction orders by removing a class of staff or officer from Schedule 2.

Division 2 – Types of misconduct

(21) Student misconduct includes general misconduct, academic misconduct and research misconduct.

Some terms relevant to general misconduct

(22) For the purposes of the following definitions:

a. Bully means to engage in repeated unreasonable behaviour that intimidates, demeans or humiliates another person, whether physical, verbal or written, and that causes or may cause a risk to the health, safety or welfare of the other person.
b. Harassment means behaviour, comments or images that are unwelcome, offensive, humiliating or intimidating to another person, where a reasonable person in the circumstances would anticipate that the other person would be offended, humiliated or intimidated.
c. Hazing means an initiation ceremony, ritual or other activity that requires or induces new members of a student residence, club, society or other group to do something that might reasonably be considered unsafe, unhealthy or humiliating.
d. Right to peaceful assembly means the right of individuals and groups to meet for a common purpose or in order to exchange ideas and information, to express their views publicly and to hold a peaceful and lawful protest.
e. Sexual harassment means harassment of a sexual nature, such as:
    i. making an unwelcome sexual advance or unwelcome request for sexual favours to another person, or
    ii. other unwelcome behaviour of a sexual nature including a statement of a sexual nature to or in the presence of the other person, whether the statement is verbal or written.
f. In considering whether harassment or sexual harassment has occurred, the circumstances a decision-maker should take account of include:
    i. 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, and any disability they may have, and
    ii. the relationship between the person harassed and the person who made the advance or request or who engaged in the behaviour.

Types of general misconduct

(23) General misconduct occurs when a student:

a. causes or threatens to cause harm to another person
b. sexually assaults or sexually harasses another person
c. engages or threatens to engage in non-consensual conduct of a sexual nature in relation to another person where a reasonable person would, in the circumstances, consider the conduct an invasion of privacy or indecent, or otherwise unacceptable
d. attacks, harasses, intimidates, stalks or bullies another person or threatens to do so
e. behaves in a manner likely to cause harm to anyone
f. leads, organises or participates in hazing
g. behaves in a manner likely to damage, cause the loss of, interfere with or obstruct the use of, property of the University or of another person
h. breaches a law of a country the student is in for a university activity
i. fails to comply with a rule, policy or procedure of the University
j. breaches the terms of use of any service or resource provided by the University
k. breaches the data privacy or confidentiality of another student
l. shares a confidential credential with another student such as an identification card or building security code
m. disrupts the orderly conduct of a university activity
n. submits a forged document or an altered document to gain an academic advantage
o. in their dealings with the University or a placement provider, a staff member or representative of the University or placement provider, knowingly:
    i. makes a dishonest, deceptive or false statement or representation
    ii. submits a forged document or a document that they have altered, or
    iii. behaves dishonestly or deceptively, including by withholding personal information
p. fails to comply with a reasonable direction of a staff member or other person authorised by the University, such as to produce identification, leave a place or not to enter a place in the University or a work placement location
q. enters any place in the University that a student is not authorised to enter
r. behaves in a way that tends to harm or undermine the good order and governing of the University
s. unreasonably hinders others in their university studies or in participating in the life of the University
t. brings the University into disrepute (but see clause (24))
u. fails to meet the standards of behaviour defined by the University's Student Charter
v. if enrolled in a course that is accredited by a professional body, fails to meet the standards of behaviour expected of students in the course by the accrediting body
w. while on a workplace learning placement:
    i. behaves in a manner likely to damage, cause the loss of, interfere with or obstruct the use of, property of the placement provider
    ii. fails to comply with a reasonable direction of a staff member of the placement provider
    iii. breaches reasonable requirements of the placement provider for conduct or work of its staff
    iv. enters any part of the provider's premises that the student is not authorised to enter, or
    v. behaves in a way that is reasonably likely to damage the University's relationship with the placement provider, other placement providers or the wider community
x. possesses or uses or intends or threatens to use a weapon, unless:
    i. the weapon is authorised to be possessed or used by the university, or
    ii. the weapon is authorised to be possessed or used by law

y. behaves in any other way that a reasonable person would consider reprehensible behaviour on the part of a member of the university community.

(24) General misconduct does not include participating in any demonstration, protest or rally where a student exercises their lawful right to peaceful assembly. A student will, however, be committing general misconduct if they participate in or propose a demonstration, protest or rally that:

a. causes or threatens to cause harm to persons or property
b. breaches or threatens to breach any law including anti-discrimination laws or laws against hate speech
c. is reasonably likely to humiliate or intimidate other persons, or
d. unreasonably restricts the University in:
    i. carrying out teaching and research activities
    ii. ensuring the wellbeing of students or staff, or
    iii. meeting its legal obligations.

(25) A student commits general misconduct if they:

a. organise or advertise an activity or event that they might reasonably expect will involve general misconduct as defined above, or
b. as an organiser of an event, where participants in the event unexpectedly engage in general misconduct as defined above, do not take reasonable steps to stop the misconduct from continuing or recurring.

Poor behaviour

(26) Poor behaviour is where a student has engaged in minor actions, through either recklessness or ignorance of university behavioural expectations, that could be general misconduct. The behaviour has not caused harm to students, staff, or the university's reputation.

(27) On receiving an allegation that a student has committed general misconduct, an appointed officer may decide that the student has behaved poorly, but has not committed general misconduct as defined in clause 23.

(28) Where, however, a student again engages in poor behaviour, after receiving a warning, or being fined, this may be handled as general misconduct.

(29) Division 3 – Reports and preliminary action states the actions that may be taken where a student is found to have engaged in poor behaviour.

Types of academic misconduct

(30) Academic misconduct is dishonest behaviour that misrepresents a person's level of academic achievement in assessment or their scholarly achievement in a work of scholarship. Behaviours that constitute academic misconduct include:

a. cheating: where a person seeks to gain an unfair advantage in an assessment task such as an exam, test, thesis or dissertation, including but not limited to:
    i. copying the work of others undertaking the task and presenting it as their own
    ii. having help from others during the task that is not specifically permitted by the instructions for the task
    iii. having another person perform the task for them
    iv. using a resource or device during the task that is not specifically permitted by the instructions for the task, including but not limited to submitting work generated by an algorithm, computer generator or other artificial intelligence or other means, or

v. exam cheating – where a person seeks to gain an unfair advantage in an exam. See Assessment - Conduct of Coursework Assessment and Examinations Procedure for more information regarding the expectations of students when sitting exams or assessments. Exam cheating includes, but is not limited to:
    - a student writing notes on themselves or bringing unauthorised materials into the exam room
    - attempting to copy from other students
    - communicating with other students or people within or outside the exam venue while the exam is in progress (other than invigilators)
    - using electronic devices to access information related to the exam while it is in progress, or
    - bringing prohibited items, such as unapproved calculators or textbooks, into exams.

b. collusion: unauthorised cooperation with one or more other students to complete assessable work. Where no authorisation of cooperation has been given, students are expected to complete assessments on their own. Collusion includes, but is not limited to:
    i. working with another student to write an assessment that is not authorised as group work
    ii. sharing exam questions and/or answers with another student
    iii. accessing or allowing another student to access a completed assessment in preparation of their assessment, or
    iv. enabling another person to cheat, either deliberately or by not taking reasonable care.

c. contract cheating: when assessment work is outsourced to a third party, or where course materials are provided by a student to a third party for which the student receives access to download materials or outsource assessment work. This is regardless of whether the third party is a commercial provider, current or former student, private tutor, family member or acquaintance. The University may monitor students accessing contract cheating sites and take appropriate action to prohibit such behaviours. Contract cheating includes, but is not limited to:
    i. accessing or downloading material from unauthorised websites not affiliated with the University that purports to contain information on assessment items
    ii. uploading assessments and/or the University's copyrighted teaching materials such as but not limited to, unit of study outlines, lecture slides and assignment questions to unauthorised websites not affiliated with Charles Sturt University, in order to gain access to documents and other content uploaded by others, or
    iii. organising another person to take an examination on your behalf.

d. falsifying assessment tasks (part or full): as part of an assessment task, submitting a false document, falsified or fabricated references or data, breaching confidentiality, or falsely claiming to have received a permission

e. plagiarism: presenting someone else's work or ideas as the student's own, with or without their consent, by incorporating it into the student's work without full acknowledgment. This can include published or unpublished material such as a manuscript, interactive media (video, web, audio and games), programmatic work (apps, games web design, database design and software) and may be printed or electronic. This includes, but is not limited to, failing to acknowledge work primarily produced by a collaborator and the use of software services designed to disguise plagiarism.

f. self-plagiarism: where a person presents text, ideas or data from their own previous scholarly work or work submitted for assessment, in a different context, as new work, without acknowledging the other work as the source.

g. Submitting an assessment task generated by an algorithm, computer generator or other artificial intelligence or other means, without specific permission to do so.

(31) Academic misconduct may also include inappropriate help or supervision, where the teaching staff member or supervisor is in effect an unacknowledged co-author of an assignment, dissertation or thesis, or edits the work for the

student or higher degree by research candidate to the extent that the student's or candidate's scholarship and writing ability are misrepresented. In such cases, the staff member bears the primary responsibility for the misconduct but the student also commits misconduct in accepting inappropriate supervision.

Poor academic practice

(32) Where a student is alleged to have committed academic misconduct, an appointed officer may decide that the student has not committed academic misconduct but has engaged in poor academic practice. Poor academic practice is where the student has engaged in behaviour that falls within one or more of the types of misconduct in Division 2, however, because of their demonstrated ignorance or inexperience, it is more suitable that clause 49 is applied.

(33) If a student engages in behaviour that falls within the types of misconduct in Division 2 after having already been found to have engaged in poor academic practice, the further breach will be handled as academic misconduct.

(34) Division 3 – Reports and preliminary action states the actions that can be taken when a student is found to have engaged in poor academic practice.

Types of research misconduct

(35) Research misconduct is a serious breach of the University's code for the responsible conduct of research. That code is specified by the University's Research Policy.

(36) Research misconduct may occur in contexts where a student is carrying out a research project or publishes an output from a research project. Behaviours that constitute research misconduct in such a context include:

a. fabrication, falsification or misrepresentation of results
b. plagiarism (as defined in clause (30)(e) and (f)
c. misleading attribution of authorship
d. use of others' intellectual property without acknowledgment or with insufficient acknowledgement
e. failure to declare and manage conflicts of interest
f. failure to manage research funds responsibly
g. falsification or misrepresentation to obtain funding
h. conducting research without appropriate written ethics or safety approval, or that deviates significantly from the research process which received written ethics or safety approval
i. risking the safety of human participants, the welfare of animals or harm to the environment
j. deviations from the University's code for the responsible conduct of research that occur through gross or persistent negligence
k. wilful concealment or facilitation of research misconduct by others, or
l. repeated or continuing breaches of the University's code for the responsible conduct of research, particularly where the person has previously received counselling or specific direction to avoid such breaches.

(37) Research misconduct does not include honest errors that are minor and unintentional, or honest differences in interpretation of data.

Breaches of the code

(38) A student may act or fail to act in a way that deviates from a standard stated in the University's code for the responsible conduct of research, but which is not research misconduct as defined above.

(39) Division 3 – Reports and preliminary action states the actions that can be taken when a student is found to have breached the University's code for the responsible conduct of research but not to have committed research misconduct.

Division 3 – Reports and preliminary action

Reporting misconduct

(40) The University expects anyone who reasonably believes that a student has committed misconduct to report it to:

a. an appointed officer or
b. any member of staff, who, if they are not an appointed officer, must then refer the report promptly to an appointed officer.

(41) Misconduct should be reported in writing or using the online form for this purpose.

(42) Where an appointed officer forms a belief that a student has committed misconduct, without having received a report of the misconduct from another person, they cannot then decide the misconduct. Instead, after any initial investigation, they must submit a report of the misconduct to another appointed officer for formal investigation and action. This avoids any conflict of interest.

Initial assessment

(43) Where an appointed officer receives a report of research misconduct or a breach of the University's code for the responsible conduct of research, they will forward it to the Research Integrity Manager for initial assessment. The Research Integrity Manager will decide whether the reported behaviour:

a. is a breach of the University's code for the responsible conduct of research, but not research misconduct, in which case they will refer it to the student's principal supervisor (or, for a breach in relation to research in a coursework subject, the subject coordinator) for actions under clause (51)
b. is research misconduct, in which case they will refer it to an appointed officer or a student misconduct committee, depending on the degree of seriousness of the alleged misconduct or
c. is research misconduct by a student who is also a staff member, in which case they will refer it to the Executive Director, People and Culture or their nominee, for assessment under Division 10 – Alleged misconduct by a student who is a staff member.

(44) When an appointed officer receives a report of academic or general misconduct by a student, they will, as soon as is practicable:

a. where the student is also a staff member, refer the misconduct to the Executive Director, People and Culture or their nominee for initial assessment under Division 10 – Alleged misconduct by a student who is also a staff member, or
b. where the student is not a staff member, consider whether the alleged misconduct falls within the definition of one or more of the types of misconduct defined in Division 2 – Types of misconduct, and then take one or more of the following actions:
    i. draft an allegation of misconduct and follow the process under Division 4 – Misconduct processes to decide the allegation on the basis of written submissions, hold a hearing or arrange for a student misconduct committee to hear the allegation
    ii. place a WD grade on the subject while the allegation is being investigated
    iii. place a temporary restriction order on the student under Division 8 – Temporary restriction orders for up to 10 business days while the misconduct allegation is investigated
    iv. classify the alleged misconduct as poor behaviour or poor academic practice in accordance with clauses (26) and (27) or clauses (32) and (33), and/or
    v. dismiss the report if it is misconceived or the matter is trivial.

(45) The appointed officer may also at this point issue a suspension order under Division 9 – Suspension orders if they are authorised to do so by schedule 1 under this Rule, and the circumstances meet the criteria for a suspension order in clauses (126) or (127).

Advice for appointed officers

(46) Where an appointed officer receives an allegation of misconduct while a student was on a workplace learning placement, they should seek the advice of the relevant faculty expert in Workplace Learning.

(47) Where a student's alleged misconduct may be a criminal offence, the Associate Director, Safe and Respectful Communities can advise appointed officers on whether an allegation needs to become a police matter, and will consult the Legal Office as needed.

Actions for poor behaviour

(48) Where an appointed officer considers that a student has engaged in poor behaviour under clause (27):

a. they will warn the student that a repetition of the same poor behaviour may be general misconduct
b. they may also counsel the student, and
c. where the behaviour is a breach of the student's agreement with the University as a resident in student accommodation, the Director, Uni Life or their nominee may fine the student up to the amount stated in the residential agreement.

Actions for poor academic practice

(49) Where an appointed officer considers that a student has engaged in poor academic practice under clause (32), they may take one or more of the following actions:

a. warn the student that a repetition of the same poor practice will be academic misconduct
b. counsel the student
c. ask the student to commit to attending academic counselling
d. direct the student to undertake a course or other learning activity, and/or
e. direct the student to resubmit the assessment task, which will be marked without penalty.

(50) The appointed officer who decided that a student has engaged in poor academic practice or their delegate:

a. is responsible for communicating actions in clause (49) to other staff where they need to carry these out, and
b. will make themselves available to discuss poor academic practice with the student as required (see the Academic Integrity Conversations Guidance Note).

Actions for a breach of the University's code for the responsible conduct of research that is not research misconduct

(51) Where an appointed officer receives a report from the Research Integrity Manager that under clause (38) a student has breached the University's code for the responsible conduct of research, but has not committed research misconduct, they may take one or more of the following actions, in consultation with the student's supervisors:

a. warn the student that a repetition of the breach may be research misconduct
b. direct the student to revise the relevant part of the research project or thesis, and/or
c. recommend that the student be counselled, for example by a supervisor.

(52) The appointed officer who considered that a student has breached the University's code for the responsible

conduct of research, but has not committed research misconduct, is responsible for communicating to other staff any actions in clause (51) that they need to carry out.

Division 4 – Misconduct processes

Who hears and decides misconduct allegations

(53) An appointed officer can decide an allegation of misconduct that if substantiated warrants a level 1 penalty.

(54) A student misconduct committee can hear and decide an allegation of misconduct that if substantiated warrants a level 2 penalty.

(55) Unless they consider it unreasonable or impractical, an appointed officer or a student misconduct committee can decide during the response process to consider:

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

(56) An appointed officer or student misconduct committee may decide the allegation on the basis of written submissions or may hold a hearing for level 2 or level 3 allegations. Level 1 allegations will be decided on written submissions during the response process.

(57) When considering an allegation an appointed officer may decide that the allegation will be dealt with more appropriately by a student misconduct committee (if it warrants a level 2 or level 3 penalty). This does not preclude the appointed officer from investigating the allegation and gathering evidence of the alleged misconduct, before seeking approval to forward the allegation to a student misconduct committee.

New allegations

(58) If another report of misconduct results in a new allegation of misconduct about the same incident or set of circumstances, before there has been a finding on the original allegation, the new allegation may be heard or decided along with the original allegation. However, the respondent student must be given:

a. another notice including the new allegation, and
b. an opportunity to make a written submission or to be heard in relation to the new allegation, by the process stated in this division.

When a student admits misconduct

(59) A respondent student may admit an allegation of misconduct at any stage of this process. Where this occurs before a hearing or before a decision on the basis of written submissions, if the student has not stated the admission clearly, the appointed officer or secretary of the student misconduct committee will confirm with the respondent student that they are admitting that they have committed the misconduct alleged. If the student acknowledges misconduct, the Appointed Officer will take these admissions into consideration when recommending a final penalty.

a. If the student clearly admits the misconduct alleged, and the misconduct warrants a level 2 penalty, an appointed officer who is authorised to apply penalties for the type of misconduct may apply the penalty instead of a student misconduct committee being convened; the officer may also apply level 1 penalties.
b. The appointed officer will first invite the student to make a statement to them about possible penalties, giving them five business days in which to respond.
c. After the student has responded about penalties, or where the student has not responded within five business

days, the appointed officer will send the respondent student a notice that states:

i. the misconduct the student has admitted
ii. details of any penalty applied
iii. a short statement of reasons for applying that penalty
iv. a statement that the student has a right to appeal the penalty, and
v. an electronic copy of this Rule or the address of this Rule on the University's website.

(60) Where a student admits to misconduct that warrants a level 3 penalty, the appointed officer or committee will ask the Vice-Chancellor to recommend to the University Council that it apply the level 3 sanction.

Notice of allegation

(61) Before they consider a misconduct allegation, unless the student has already admitted the misconduct, the appointed officer or secretary of the student misconduct committee will send the respondent student a notice that:

a. gives enough details of each allegation to enable the student to respond to it
b. includes any evidence of the allegation or a summary of the evidence (but see clauses (67) and (68))
c. states that if the student admits the allegation or allegations, then before any penalty is decided, they may make a statement about the level or type of penalty to be imposed
d. includes an electronic copy of this Rule or the address of the Rule on the University's website.

(62) The notice of allegation may either:

a. state that the appointed officer or committee will decide the matter on the basis of written submissions, under clauses (63)-(64), or
b. state that there will be a hearing of the matter under clauses (65)–(66).

Notice of allegation and decision on the basis of written submissions

(63) An appointed officer or student misconduct committee, in the notice of allegation, may invite the student to make a written response to the allegation or allegations, giving the student at least 10 business days in which to respond.

(64) The notice of allegation will state that:

a. the appointed officer or committee will decide the matter on the basis of the allegations, the student's written response, and any further investigation of the matter they carry out, and
b. if the student does not make a written response to any allegation by the deadline for response, the appointed officer will decide the matter on the basis of the allegations and any relevant evidence.

Notice of allegation and hearing

(65) An appointed officer or student misconduct committee may, however, state in the notice of allegation that there will be a hearing.

(66) Where the notice states that there will be a hearing, it must state:

a. the date, time and place of the hearing, which must be at least 10 business days from the date on which the notice is sent, although the student can then request an earlier hearing date
b. that the respondent student may bring a support person or an advocate to the hearing, subject to the requirements of clause (146)
c. that the respondent student may make a written response to the allegations and evidence, but that for this to

be considered at the hearing the decision-maker must receive it by two business days before the hearing date, and

d. that if the respondent student does not attend the hearing without reasonable excuse, the allegation will be heard and decided in their absence.

Notice of allegation – exclusion or redaction of evidence

(67) Evidence may be excluded from the notice or redacted if disclosure of the evidence or redacted content at that time could unreasonably:

a. compromise the investigation of the alleged misconduct, or
b. cause a risk to the health, safety or welfare of any person.

(68) Where evidence is excluded from the notice of allegation or content is redacted, the notice must give enough details of the substance of the evidence that the respondent student has an opportunity to respond to the allegations as supported by that evidence.

Decisions on the basis of written submissions

(69) Where an appointed officer or student misconduct committee decides an allegation of misconduct on the basis of written submissions, following a notice under clause (63) above, they will:

a. consider all available evidence about the allegation
b. consider the respondent student's written response, if any, to the allegation
c. where relevant to deciding whether intentional misconduct has occurred, consider any records of previous poor behaviour, poor academic practice or breaches of the University's code for the responsible conduct of research, by the respondent student
d. make findings of fact about the allegation on the basis of any relevant evidence and the student's written response, and
e. decide whether the allegation is substantiated.

(70) The appointed officer or student misconduct committee must not, however, consider any previous misconduct findings against the respondent student, until after they have decided whether misconduct occurred in the circumstances that are the subject of the present allegation.

(71) If the respondent student does not provide a written submission by the deadline for this stated in the notice of allegation, the appointed officer may proceed to make a finding on the basis of the allegation and any relevant evidence.

Hearings

(72) Where a hearing is held following a notification under clauses (65)-(66), the appointed officer or student misconduct committee may:

a. make a recording of the hearing or have minutes taken. If the hearing is to be recorded the appointed officer or chair will advise all those present of this, and
b. permit use of telecommunications technology to conduct a hearing and, where necessary during a hearing, withdraw that permission.

(73) For telecommunications technology to be used to conduct a hearing, all parties present must be able to hear clearly and respond to all other parties present.

(74) At a hearing:

a. the appointed officer or student misconduct committee may have present, or may include in the hearing by telecommunications technology:
    i. the staff member who submitted an allegation, or another staff member from the same area, to answer questions and respond to the student's submissions, and/or
    ii. persons suitably qualified to advise on clinical, professional or academic discipline aspects of the alleged misconduct.
b. The appointed officer or student misconduct committee will:
    i. confirm that the respondent student has been given the notice of the hearing required under clause (65)
    ii. confirm whether the respondent student admits or denies each allegation
    iii. consider all available evidence about each allegation and make findings of fact based on any relevant evidence
    iv. give the respondent student a reasonable opportunity to respond to the allegation and any evidence, and to present their evidence or make any statements
    v. where relevant to deciding whether intentional misconduct has occurred, consider any records of previous poor behaviour, poor academic practice or breaches of the University's code for the responsible conduct of research, by the respondent student, and
    vi. unless further evidence, investigation or hearings are needed before a decision can be made, decide whether each allegation is proven.
c. The appointed officer or student misconduct committee must not, however, consider any previous misconduct findings against the respondent student, until after they have decided whether misconduct occurred in the circumstances that are the subject of the present allegation.
d. The respondent student will have a reasonable opportunity to:
    i. bring witnesses to give evidence on their behalf
    ii. respond to any evidence
    iii. present any evidence or make verbal or written statements
    iv. subject to clause (75), question witnesses, and
    v. if any allegations are proven, make a statement before any penalty is applied.

Questioning witnesses

(75) A respondent student or their advocate may only question a witness directly if the appointed officer or chair of the student misconduct committee allows this. Otherwise they may question a witness through the appointed officer or chair.

(76) Witnesses may be questioned in person or using telecommunications technology with or without the respondent student being present.

(77) If the respondent student attends the hearing but is not present for the questioning of a witness, they must be given details of the substance of any evidence given by the witness and a reasonable opportunity to respond to that evidence before a finding is made.

Non-attendance of respondent student

(78) If the respondent student does not attend the hearing, it will proceed without them. The appointed officer or chair of the student misconduct committee may, however, adjourn a hearing or extend a deadline for a student's written submission by a short period, if they consider it reasonable in the circumstances.

Decision and report

(79) An appointed officer or student misconduct committee will decide the outcome of a misconduct allegation:

a. within 15 business days after the deadline for written submissions from the student
b. where an outcome cannot be resolved within 15 business days of receipt of the written submission, the student must be kept informed as to the progress of their case
c. where a matter is complex and requires multiple hearings or further investigation following the one hearing, the decision and notification of outcome(s) will follow as soon as is practicable, however the student must be kept informed of the progress of their case.

(80) After an appointed officer or student misconduct committee has:

a. considered the written submissions, where the decision is to be on this basis, or
b. considered any written submissions, heard the respondent student (if they attend a hearing), their advocate (where relevant), any witnesses and any other parties, then

the appointed officer or student misconduct committee will decide the allegation, as follows.

(81) The appointed officer or student misconduct committee will:

a. dismiss the allegation if satisfied that it is:
    i. not proven on the balance of probabilities, or
    ii. so trivial as not to warrant applying a penalty, or
b. either:
    i. find that the alleged misconduct is proven on the balance of probabilities, or
    ii. find that some other misconduct is proven on the balance of probabilities
c. and, where they find that misconduct has occurred, if appropriate, apply one or more penalties.

(82) Where the decision-maker dismisses the allegation as trivial under clause (81), they may find that the student has engaged in poor behaviour, poor academic practice or has breached the University's code for the responsible conduct of research. In such cases they may take any of the actions available to address these types of behaviour in Division 2 – Types of misconduct.

(83) The appointed officer or chair of the student misconduct committee will, within 15 business days of the decision, send the respondent student a report that sets out:

a. their findings of fact
b. a summary of the evidence on which those findings of fact are based
c. any finding of misconduct
d. any penalty or penalties they have applied
e. a brief statement of reasons, and
f. how the respondent student may appeal the decision and/or a penalty and the time-frame for them to submit an appeal.

(84) Subject to obligations under privacy law and clause (28) of the University's Privacy Management Plan, a decision-maker may inform a person who may have been affected by alleged misconduct, or who may be affected by the outcome of misconduct proceedings, of the progress and outcome of such proceedings. Similarly, they may inform a staff member who reported alleged academic misconduct or research misconduct, of the progress and outcome of the proceedings. Any recipient of information which is confidential (including the detail or substance of misconduct

proceedings, any decision made or penalty imposed, or the identity of parties or witnesses) is obliged to maintain the confidentiality of that information.

(85) A decision (including any penalties other than those stated as an exception in clause (86)) takes effect:

a. where the respondent student does not submit an appeal against the decision, 15 business days after the decision
b. where the decision-maker states in the report that a penalty will take effect at a later date, at that date
c. where the respondent student submits an appeal against a decision or penalty, when the report of the appeal outcome is sent to the student if the penalty still stands.

(86) The following level 1 penalties under Division 5 – Penalties for misconduct, however, take effect immediately after the report of the decision is sent to the student:

a. a reduced mark in an assessment task (including a reduction to zero)
b. a reduced grade in a subject (including a reduction to a fail)
c. an invitation to resubmit an assessment task in a coursework subject, for a maximum mark of 50 per cent, or else receive a mark of zero for the assessment task if the student does not resubmit. Where, however, this penalty has been applied, and the student has chosen not to resubmit but to appeal against the misconduct finding or penalty, and their appeal is unsuccessful, they must then be given the opportunity to resubmit, and
d. a reprimand.

(87) The decision-maker may specify a later date on which a penalty will take effect to take account of:

a. the start or finish of a session
b. the length of a temporary restriction order or suspension order previously applied to the respondent student in relation to the incident or set of circumstances that are the subject of the misconduct allegation, or
c. any other circumstances that the decision-maker considers require a later take-effect date.

(88) The appointed officer, secretary of the student misconduct committee or, for the level 3 penalty, the University Secretary, is responsible for advising other staff or units of the university, or officers of a club or society, of any action they need to carry out, to put a penalty into effect. Where school staff need to take actions, the appointed officer or secretary will advise the head of the school, who will forward the advice to the relevant staff.

Division 5 – Penalties for misconduct

Levels of penalties

(89) Three levels of penalty can be applied when a student is found to have committed misconduct. The levels are as follows.

a. Level 1 penalties may be applied by an appointed officer or student misconduct committee if they find that a student has committed misconduct.
b. Level 2 penalties may be applied by:
    i. a student misconduct committee
    ii. an appointed officer if a respondent had admitted to misconduct that warrants a level 2 penalty, or
    iii. the Vice-Chancellor under Division 10 – Alleged misconduct by a student who is also a staff member.
c. The Level 3 penalty may only be applied by the University Council on the recommendation of the Vice-Chancellor.

Level 1 penalties

(90) Level 1 penalties are:

a. for any type of misconduct:
    i. a reprimand
    ii. a direction that the respondent student writes an undertaking not to continue or repeat the behaviour or activity that has been found to be misconduct
    iii. a direction to make an apology in a form satisfactory to the decision-maker
    iv. a direction that the student has counselling from a specific person or service
    v. a direction that the student undertakes a course or other learning activity, and
b. for general misconduct:
    i. a fine of up to $250
    ii. a direction to pay for repair or replacement of damaged or lost property up to $2,000 based on an independent estimate of these costs
    iii. direction that the student be barred temporarily or permanently from membership of a club, society or student representative role
    iv. a direction not to approach, contact or try to contact a staff member or another student
    v. restrictions or conditions on access to or use of any university or placement provider area, building, residential facility or service, including information and communication technology, for a period of up to one full session,
    vi. University medal and Dean's award recipients may be ineligible to receive awards if they have breached the Rule, and
c. for academic misconduct or research misconduct:
    i. a direction that the student complete or repeat the online academic integrity module and/or the online research integrity module
    ii. reduction of the student's mark for an assessment task, including reduction to zero
    iii. an invitation to resubmit an assessment task in a coursework subject, for a maximum mark of 50 per cent, or else receive a mark of zero for the assessment task if the student does not resubmit
    iv. reduction of the student's final grade for a coursework subject, including reduction to a fail (zero per cent).

(91) A penalty that reduces a student's mark for an assessment task, or their grade for a subject, prevents the student from making any other application in relation to that mark or grade, such as a special consideration application or application for review of the mark or grade.

a. Where the student has already made such an application, the penalty terminates the application or, where a decision has been made on the application, overrules the decision.
b. The only avenue for review of such a penalty within the University is the appeal process set out in Division 6 – Appeals.

Level 2 penalties

(92) Level 2 penalties are:

a. for any type of misconduct:
    i. exclusion from a subject or course for a specified period
    ii. termination of a scholarship held by the student

iii. University medal and Dean's award recipients may be ineligible to receive awards
iv. suspension from undertaking an activity such as research, fieldwork or workplace learning in connection with a subject or course for up to two sessions
v. permanent exclusion from a course or termination of higher degree by research candidature
vi. exclusion from the University for a period of up to five years
vii. a determination that the respondent student will not be conferred with the relevant award for the course or courses in which they were enrolled at the time the misconduct occurred
viii. expulsion from the University, and

b. for general misconduct:
    i. a fine of up to $500
    ii. a direction to pay more than $2000 for repair or replacement of damaged or lost property based on an independent estimate of these costs
    iii. a direction that the student be barred temporarily or permanently from membership of a club, society or student representative role
    iv. exclusion from a student residence to a specified period
    v. expulsion from a student residence, and
c. for academic misconduct or research misconduct:
    i. an extension of the period during which a higher degree by research candidate will remain on probation and not confirmed as a candidate, which may include additional conditions for confirmation of the candidature
    ii. a direction to resubmit an assessment task in a research component subject for a maximum mark of 50 per cent
    iii. reduction of the student's final grade for a research component subject, including reduction to a fail.

(93) A penalty that directly or indirectly reduces a student's mark for an assessment task and/or their final grade for a subject prevents the student from making any other application, such as a special consideration application or application for a review of the subject grade, in relation to the relevant mark and/or grade.

(94) Where the final grade is a marginal fail, a penalty that reduces a student's mark for any of the assessment tasks prevents the student from being offered an Additional Assessment or Additional Exam, and the fail grade is to stand.

(95) Where the decision-maker applies a level 2 penalty of:

a. exclusion from a subject, this automatically entails the level 1 penalty of a fail grade in that subject
b. exclusion from a course, this automatically entails the level 1 penalty of a fail grade in all subjects for that course in which the student is enrolled at the time the penalty takes effect
c. exclusion or expulsion from the University, this automatically entails the level 1 penalty of a fail grade in all subjects in which the student is enrolled at the time the penalty takes effect.

(96) Where a student is excluded from a course or from the University:

a. the decision-maker may set conditions on their readmission to any course, and
b. their readmission to any course will be subject to:
    i. any conditions on readmission set as part of the penalty,
    ii. the requirements for admission to the course that apply to any other applicant for admission, at the time of admission, and
    iii. any requirements for readmission of an applicant who has been excluded for misconduct stated in the University's admissions policy and procedures.

Level 3 penalty

(97) The only level 3 penalty is revocation of an award the University has conferred on the respondent student.

Suspended penalties

(98) A decision-maker may apply a suspended penalty, with or without conditions, unless the penalty is:

a. suspension, temporary or permanent exclusion, or expulsion (level 2 penalties)
b. revocation of an award that the University has conferred on the respondent student (the level 3 penalty), or
c. the respondent has previously been given a suspended penalty for the same or similar misconduct.

(99) A decision-maker may set one or more conditions when suspending a penalty that the respondent will be required to comply with. Conditions may include:

a. undertaking to do or not to do something that will reduce risk of further misconduct or to the health, safety or welfare of any person
b. undertaking counselling, training or other action to reduce the likelihood of future misconduct, such as completing a relevant subject, community service or meeting with representatives of external communities
c. making an apology in a form that is satisfactory to the decision-maker, either verbally or in writing, to a specified person, people or group
d. contacting or reporting to a specified staff member at specified intervals, or
e. any other reasonable condition that the respondent student accepts.

(100) If the respondent student fails to comply with a condition on a suspended penalty, then the decision-maker who applied the suspended penalty or the Associate Director, Safe and Respectful Communities will:

a. arrange for the penalty to take effect, and
b. notify the respondent student as to when it will take effect.

Factors in deciding penalties

(101) A penalty must be proportionate to the type and circumstances of the misconduct. In deciding penalties, the decision-maker must take into account:

a. the nature, severity and impact of the misconduct
b. any previous finding of misconduct against the respondent student
c. the year or level of study
d. severity of the breach
e. the respondent student's personal circumstances and level of experience
f. the need to deter the student and others from misconduct in future
g. the need to protect the university community and the integrity, good governance and reputation of the University
h. any university policies, conventions or guidelines on standards of behaviour (including academic integrity and conduct) expected of students, and
i. once a determination has been made, precedent must be considered to ensure fair and consistent application of penalties.

Penalties for misconduct in student residences

(102) A penalty applied under this Rule, for conduct that occurred within a student residence, does not preclude any

other action concerning the respondent student continuing as an occupant of the student residence.

Division 6 – Appeals

(103) To appeal a decision made under this Rule, see the University Student Appeals Policy and University Student Appeals Procedure.

Division 7 – Committees

(104) The requirements stated in this division apply to student misconduct committees.

Convening and membership

(105) Committees will be convened by a convening officer, who will be an officer nominated by the Executive Director, Safety, Security and Wellbeing.

(106) The convening officer will select committee members other than external members from a student misconduct committee panel.

(107) A committee will comprise at least three members:

a. one of whom may be a student, and if so, will be at the same level (undergraduate, postgraduate or higher degree by research candidate) as the respondent student
b. one of whom, where the committee is to hear an allegation of general misconduct, may be a professional/general staff member
c. at least one of whom, where the committee is to hear an allegation of academic misconduct, will be an academic staff member, and at least one an academic integrity officer. In the case of a research misconduct, at least one member must be from the Research Office
d. at least one of whom, where the committee is to hear an allegation of research misconduct, will be an academic staff member with experience of higher degree by research supervision and research ethics and compliance
e. at least one of whom, where a student misconduct committee is to hear an allegation of misconduct during workplace learning, should be a Sub Dean (Workplace Learning)
f. one of whom may be an external person appointed under clause (108).

External members

(108) If the alleged misconduct may also be a criminal offence punishable by 12 months imprisonment or more and would, if proven, warrant expulsion, the convening officer may appoint an external member of a student misconduct committee who is:

a. a senior academic from another university, from the same discipline as the applicant or a similar discipline
b. a person who has been admitted as a legal practitioner in Australia for at least seven years, or
c. a person who holds or has held office in Australia as a judge, magistrate or member of a judicial tribunal.

Quorum

(109) The quorum for any committee meeting or hearing is two members, provided they meet the following requirements:

a. Where the chair is a staff member of the University, they must be one of the two members.
b. Where the chair is an external member appointed under clause (108), the quorum must include the chair and one academic or professional staff member of the University.

Disqualification and casual vacancies

(110) A person cannot be appointed to a committee if they:

a. are a witness to any allegation before that committee, or
b. have been involved in reporting, investigating, deciding or giving advice or recommendations about any allegation or appeal before that committee.

(111) A person ceases or is disqualified to be a member of a committee if:

a. appointed to the committee as a staff member, they cease to be a staff member of the University
b. appointed to the committee as a student, they cease to be enrolled as a student
c. their appointment as a member of the committee is revoked by the convening officer for any reason
d. they resign from the committee, or
e. they are incapacitated or die.

(112) A person appointed to a committee from a panel may continue as a member of the committee if they cease to be a member of the panel.

(113) If a vacancy occurs on a committee after it begins to hear or consider a matter, but before it reaches a decision, then the convening officer, in consultation with the remaining committee members, will take into account what is fair and reasonable in the circumstances to decide:

a. to allow the remaining members to hear and/or decide the allegation or appeal, as long as there remains a quorum
b. to appoint a replacement member, or
c. to dissolve that committee, convene a new one and begin the hearing process again.

Chair

(114) The convening officer will designate the chair of any committee, who will be:

a. a university staff member, or
b. an external member appointed under clause (108).

(115) The chair has:

a. authority to make any decision or give any direction about committee processes that is consistent with the requirements of this Rule, including to adjourn a hearing or extend a deadline, and
b. where there is an equality of votes on any decision, an additional casting vote.

Division 8 – Temporary restriction orders

Who may apply

(116) A staff member of a class listed in Schedule 2, or an officer listed in schedule 2, may summarily apply a temporary restriction order to a student in the matters the schedule specifies for them.

Purpose

(117) The staff member or officer may apply a temporary restriction order to a student where the circumstances warrant urgent action, and either:

a. that student's conduct is unreasonably antisocial, disruptive or a threat to others or to the academic or business activities or systems, buildings or property of the University or of a placement provider, or
b. the student's behaviour warrants a suspension under Division 9 – Suspension orders.

Process

(118) A temporary restriction order:

a. may be given verbally or in writing
b. takes effect immediately when it is given, and
c. may be applied for a length of time of up to 10 business days from the day it is given.

(119) The staff member or officer considering applying a temporary restriction order may inform themselves about the student's behaviour, the circumstances and effects of the behaviour before applying the order, but does not have to give the student a chance to be heard before giving the order.

(120) A temporary restriction order:

a. must be proportionate to the circumstances, and
b. should if reasonably practicable minimise any unreasonable academic disadvantage to the student, provided that it meets its primary purpose under clause (117).

Notification

(121) A staff member or officer who has applied a temporary restriction order must within one business day of applying the order:

a. if they gave the order verbally to the student, confirm its nature, scope and length in writing to the student, and
b. notify the officers specified in schedule 2 as having to be notified of the order, giving the following details:
    i. the name and student identification number of the student to whom the order is applied
    ii. a brief description of the alleged incident or circumstances that led to the order, and
    iii. the date, nature, scope and length of the order and a recommendation whether the incident or circumstances warrant further investigation or action for misconduct.

(122) A student to whom a temporary restriction order is applied must comply with it.

(123) The officer who is notified of the temporary restriction order will decide whether the incident or circumstances warrant further investigation or action for misconduct.

No appeal

(124) There is no further avenue within the University for review of or appeal against a decision to apply a temporary restriction order.

Division 9 – Suspension orders

Who may impose

(125) The following officers of the University may apply suspension orders:

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

c. an Executive Dean or Deputy Dean
d. Associate Dean (Partnerships and Workplace Learning)
e. the Chief Financial Officer
f. the Director, Security and Resilience (CSO)
g. the University Secretary
h. the Director, Facilities Management
i. the Associate Director, Residence Life
j. the Executive Director, Safety, Security and Wellbeing
k. the Executive Director, Student Experience

Purpose

(126) An officer listed in clause (125) may apply a suspension order to a student to prevent or minimise risk to:

a. the health, welfare or safety of the student or another person
b. the reputation of the University or its ability to comply with legislative requirements
c. the security or integrity of any university land, buildings (including student residential accommodation), business (including any research activity) or systems, and/or
d. the integrity of any evidence or investigation into suspected or alleged misconduct.

(127) An officer listed in clause (125) will automatically apply a suspension order to a student who is alleged to have committed misconduct that if proven would be a criminal offence potentially punishable by 12 months imprisonment or more (regardless of whether the student is charged with that offence), unless the officer is reasonably satisfied that:

a. the student alleged to have committed the misconduct does not pose any risk specified in clause (126), or
b. the risk can be managed without a suspension order, and on the condition that the student complies with any reasonable risk management steps specified by the officer.

Nature and scope

(128) A suspension order may:

a. withdraw or restrict any right, entitlement or privilege of a student, including:
    i. to attend lectures, placements or other workplace learning activities, fieldwork, research or other activities related to the student's study, enrolment, graduation or meetings or activities of a student club or society
    ii. to enter lands or buildings (including student residential accommodation) controlled by the University or by a placement provider, and/or
    iii. access to or use of any facility, service or other resource of the University or a placement provider (including libraries, laboratories, equipment or computers), and/or
b. direct the student to whom the order is applied not to contact or approach another specific person or group of people either in person or by other means of communication such as digital technology.

(129) A suspension order:

a. must be proportionate to the circumstances
b. may be made before or during an investigation or hearing for misconduct under this Rule
c. takes effect

i. on the date that the officer who applies the suspension order notifies the student that it has been applied to them, unless
ii. they specify a later time in that notice

d. may be applied for a specific period of time or until misconduct proceedings under this Rule are finished, and
e. may be extended by the officer who applied the order or, if they are unavailable to extend or renew the order, by another officer listed in clause (125).

Notification where the order will exceed 10 business days

(130) If the length of a suspension order (either the original order or as a result of it being extended) will exceed or is likely to exceed 10 business days, the student to whom the order is applied must have an opportunity to be heard by an appointed officer as to whether the suspension order will continue.

(131) To this end the officer who applied the suspension order will send the student to whom it applies a notice that:

a. summarises the alleged behaviour to which the suspension order relates
b. states the nature of the suspension order and its length
c. invites the student to make submissions on the issue of the suspension order only, either by:
    i. attending an interview with the relevant appointed officer (specifying their name and position, and the time, date and place of the interview, which must take place no earlier than three business days after the notice is sent), or
    ii. providing a written response by a date specified in the notice, which will be no earlier than three business days after the notice is sent)
d. states that:
    i. if the student does not attend the interview or make a written submission by the date specified, the suspension order will continue in effect, and
    ii. if the student attends the interview or makes a timely written submission, then a decision will be made on whether the suspension order will continue, taking into account the interview or submission, and
e. includes an electronic copy of this Rule or the address of the Rule on the university website.

(132) The appointed officer will consider any response provided by the student or interview with the student in deciding whether to advise continuing the suspension order to the officer who applied it or who may extend it.

Notification where the order will be for up to 10 business days

(133) A suspension order for a period of up to 10 business days, or which is unlikely to exceed 10 business days, will be sent in writing to the student to whom it applies, and will:

a. state:
    i. the alleged behaviour in relation to which the order is applied
    ii. the nature and length of the suspension order and the date it takes effect
    iii. in brief, the reasons for applying the suspension order
    iv. that the student may apply at any time to have the suspension order varied or lifted but, for this to occur, the student must demonstrate to the reasonable satisfaction of the decision-maker that circumstances have changed enough to warrant varying or lifting the order, and
b. include an electronic copy of this Rule or the address of the Rule on the university website.

Variation, lifting and expiry

(134) An officer listed in clause (125) may vary or lift a suspension order at any time where the circumstances change

so that the relevant risks are reduced.

(135) If the officer who applied the suspension order does not report an allegation of misconduct in relation to the student to whom the order was applied, within 10 business days of the order being applied, the order is automatically revoked.

(136) A suspension order ends on the earliest of:

a. 5:00 pm on the last day of the period for which the order applies, as stated in the notice of the order to the student
b. if and when it is revoked, or
c. at the end of misconduct proceedings under this Rule, in relation to the behaviour that gave rise to the suspension order.

No appeal

(137) There is no further avenue within the University for review of or appeal against a decision to apply a suspension order.

Division 10 – Alleged misconduct by a student who is also a staff member

(138) Where a student who is also a staff member is alleged to have committed misconduct as a student, the report of the misconduct will be forwarded to the Executive Director, People and Culture or their nominee.

(139) The Executive Director, People and Culture or their nominee will assess the allegation to decide whether it will be handled by the staff disciplinary process under the Enterprise Agreement.

a. Where the alleged misconduct is academic misconduct of a type that does not suggest deliberate dishonesty, they may forward the allegation to an appointed officer to be heard and decided as an allegation of academic misconduct under this Rule.
b. Where the Executive Director, People and Culture or their nominee forwards the allegation to an appointed officer or student misconduct committee, and then a new report of misconduct is received in relation to the same incident or set of circumstances, both the existing and new allegation will be forwarded to the Executive Director, People and Culture or their nominee, to decide whether to initiate the staff disciplinary process under the Enterprise Agreement.

(140) Where a staff member's alleged misconduct as a student is handled by the disciplinary process under the Enterprise Agreement:

a. If, on receiving the allegation from the Executive Director, People and Culture or their nominee, the Vice-Chancellor then decides the allegation will not be investigated as staff misconduct, they may refer the allegation back to an appointed officer or student misconduct committee to be handled as alleged student misconduct under this Rule.
b. If, on receiving the allegation from the Executive Director, People and Culture or their nominee, the Vice-Chancellor decides the allegation warrants further investigation as staff misconduct, then the independent investigator or review committee will be responsible for investigating the allegation both as a disciplinary matter under the Enterprise Agreement and as a matter of alleged student misconduct under this Rule.
c. Accordingly, the independent investigator or review committee will ensure that the respondent student:
    i. is notified of the types of misconduct under this Rule that they are alleged to have committed
    ii. has an opportunity to respond to these allegations of misconduct under this Rule, and
    iii. has an opportunity to make a statement in relation to possible penalties under this Rule.

d. For allegations of academic or research misconduct, if the independent investigator or staff disciplinary committee lacks experience of the academic or research context of the alleged misconduct, they will seek written advice from a senior academic staff member with relevant experience. This advice will also be made available to the respondent student, and they must have an opportunity to respond to it.
e. If the independent investigator or review committee finds that misconduct has occurred, they will consider whether to recommend that the Vice-Chancellor apply penalties under this Rule as well as disciplinary actions under the Enterprise Agreement.
f. On receiving a report from the independent investigator or review committee that misconduct has occurred, the Vice-Chancellor, in considering disciplinary actions under the Enterprise Agreement, may also, as appropriate:
    i. apply level 1 or level 2 penalties under this Rule, or
    ii. recommend to the University Council that it apply the level 3 penalty under this Rule.
g. If the Vice-Chancellor intends to apply a penalty under this Rule other than those recommended by the independent investigator or review committee, they will advise the respondent student of the penalty they intend to apply, and give them an opportunity to make a statement on the penalty.

Division 11 – Miscellaneous

Process authorities

(141) An appointed officer or committee:

a. may decide their own processes, as long as these are consistent with this Rule
b. is not bound by the rules of evidence
c. may make inquiries, obtain evidence and decide any matter, consistent with procedural fairness, and
d. may summon any person to give advice or evidence.

Cooperation with misconduct processes

(142) Students and staff of the University will:

a. reasonably cooperate with any process conducted under this Rule
b. not do or try to do anything (such as withholding or tampering with evidence) that will impair the integrity of a process under this Rule, and
c. behave in an appropriate and civil manner in any hearing.

(143) An appointed officer or committee chair may direct any person to leave a hearing if, in the opinion of the officer or committee, the person's behaviour is unreasonably disruptive. In such a case, the hearing may continue and a decision be made in the absence of that person.

Privacy

(144) Hearings under this Rule are confidential and must be conducted in private.

(145) Save as provided for in this clause or elsewhere in this Rule, no one may disclose the detail or substance of proceedings under this Rule, any decision made or penalty imposed, or the identity of parties or witnesses.

a. A student who is the subject of an allegation of misconduct, temporary restriction order or suspension order, may disclose details of the order, allegation or ensuing misconduct decision as part of obtaining advice, support or counselling. The decision-maker may, however, place restrictions on what information the student may disclose, and to whom, to ensure the safety and/or privacy of others involved in the misconduct proceedings, provided that these restrictions do not deprive the student of natural justice.

b. The Associate Director, Safe and Respectful Communities will, as required by relevant policies, and without identifying individual respondent students or providing details of circumstances that would allow them to be identified:
    i. provide reports of data on academic misconduct and research misconduct decisions and penalties, to governance committees, and
    ii. publish data on academic misconduct and research misconduct decisions and penalties to the university community.
c. Executive Deans will have access to the student misconduct management system enabling them to see any misconduct finding against a student enrolled in a course offered by their faculty, so that this can be considered in any decision about university or faculty prizes.
d. Information from a student misconduct finding may be disclosed in the following circumstances, where the University's Privacy Officer has approved the extent and wording of the disclosure:
    i. Where the respondent student is engaged in research for a project in partnership with an external body, or the findings of the research have been published or submitted for publication, the University may inform the external body or publisher that it no longer supports the research project or publication submission.
    ii. Where the respondent student is enrolled in a course leading to clinical or professional registration, the University may report the substance of the finding to the external registration body, if it is required by law to do so.
    iii. Where the Vice-Chancellor considers it 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.

Support people and advocates

(146) A respondent student may bring one support person or an advocate to a misconduct hearing. The support person or advocate cannot be a practicing as a barrister or solicitor, but may be:

a. a support person
b. a University Student Advocate, or
c. an external advocate.

Allowance for academic disadvantage

(147) The University will make reasonable allowance for academic disadvantage a student may face after being the subject of a temporary restriction order or suspension order where subsequently:

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

(148) In such cases:

a. reasonable allowance may include a supplementary examination or additional assessment task, or an extension of time to complete an assessment task, and
b. the student may ask the Safe and Respectful Communities unit to arrange these types of reasonable assessment flexibility for them.

Fairness and conflicts of interest

(149) 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 in accordance with the Code of Conduct and Conflict of Interest Procedure, and
c. treat any allegation, investigation, submission or decision under this Rule as strictly confidential and only discuss them with another person to the extent that this is necessary for the purposes of applying this Rule, or to seek legal or other professional advice.

(150) Appointed officers and committees should act as quickly and with as little formality as possible, but in accordance with this Rule.

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

Other action

(152) An action taken under this Rule does not preclude the University from doing any of the following in the circumstances that involved 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 regulatory authority), whether the University is under a legal obligation to do so or not.

Status of deadlines

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

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

Administrative errors or omissions

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

a. there is a 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.

(156) The respondent student must be notified of any correction made to a decision promptly following discovery of that error, defect or omission.

Recording decisions and penalties

(157) Subject to any right of appeal a respondent student has under this Rule, the following matters will be recorded on the student misconduct management system:

a. any decision that a student has engaged in poor behaviour, poor academic practice or has breached the University's code for the responsible conduct of research without having committed research misconduct
b. any finding of misconduct against a student
c. any penalty for misconduct applied to a student, and
d. any temporary restriction order or suspension order against a student.

Concurrent legal proceedings or police investigation

(158) The Vice-Chancellor or nominee may at any stage of proceedings under this Rule suspend any investigation or hearing of an allegation of misconduct if there is a police investigation or criminal proceeding in relation to the same conduct.

(159) A decision under clause (158) does not:

a. affect any temporary restriction order or suspension order already made
b. preclude a temporary restriction order or a suspension order from being made or extended, or
c. preclude reactivation of a misconduct process, starting a misconduct process or a new or further investigation under this Rule.

Savings and transitional provisions

(160) This Rule will take effect on 1 January 2020, except that the Charles Sturt University (Student Misconduct) Rule 2018 will continue to apply to any student enrolled in session 201990 in respect of alleged misconduct that occurs during session 201990, which finishes on 14 February 2020.

(161) All other alleged misconduct that occurs on or after 1 January 2020 will be dealt with under the Charles Sturt University (Student Misconduct) Rule 2020.

Note: These transitional arrangements will mean a student enrolled in session 201990 who is alleged to have committed misconduct at any time up to and including 14 February 2020 will be dealt with under the Student Misconduct Rule 2018, even if the alleged misconduct occurs in respect of a subject that commenced on or after 1 January 2020.

(162) If before this Rule takes effect, a person or committee has begun hearing an allegation of, or an appeal in relation to, misconduct under a process prescribed in the Charles Sturt University (Student Misconduct) Rule 2018, the matter will continue to be dealt with under that rule, until all processes in that rule are finished or exhausted.

(163) Any act, matter or thing that immediately before this Rule took effect had effect in accordance with any by-law, rule, policy, procedure or other instrument of the University is taken to have effect under this Rule.

(164) The University reserves the right to amend or rescind a part of or all of any clause within the Student Misconduct Rule 2020 at any time, in accordance with the Policy Framework Policy. If this occurs, the version that was in effect at the time of an allegation for misconduct being sent to a student will remain current for that case of misconduct.

Status and Details

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Unit Head	Stacey Jenkins Executive Director, Safety, Security and Wellbeing
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Enquiries Contact	Division of Safety, Security and Wellbeing

Glossary Terms and Definitions

"Subject convenor" - means a member of the academic staff of a faculty, appointed by the head of the teaching school, who is responsible to the head of the teaching school for coordinating the academic administration of a subject across all campuses and in all modes it is offered.

"Subject coordinator" - means a member of the academic staff of a faculty, appointed by the head of the teaching school, who is responsible to the head of the teaching school for the academic administration of a subject on a particular campus or in a particular mode.