

# Student Misconduct Rule 2020

## 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 (183)-(186).

### 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, and
  - 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
  - iii. appeals against student misconduct decisions and penalties, and
  - iv. 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, and
- b. staff of a partner institution or organisation that delivers a course of the University.

(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.

(9) The Rule applies to students, in that it defines processes for finding whether student misconduct has occurred and penalising it, for students to appeal against findings of or penalties for misconduct, 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, appeals against findings or penalties, 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.

### **General power to direct**

(12) 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**

(13) 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. Appeals committee – means a committee convened under Division 7 – Committees to hear appeals against a student misconduct finding or penalty.
- d. Appeals committee panel – means a list of staff members and students who can be selected to serve on an appeals committee.
- e. Appellant student – means a student who is submitting an appeal against a misconduct finding and/or penalty under Division 6 – Appeals.
- f. 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 (15).
- g. 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.
- h. Bully – has the meaning stated in Division 2 – Types of misconduct.
  - i. Campus – means a location controlled by the University, at which its courses are delivered.
  - j. Chair – means a person appointed to chair a committee.
  - k. Cheating – has the meaning stated in Division 2 – Types of misconduct.
  - l. Collusion – has the meaning stated in Division 2 – Types of misconduct.
- m. Committee – means a student misconduct committee or an appeals committee convened in accordance with

Division 7 – Committees.

- n. Contract cheating – has the meaning stated in Division 2 – Types of misconduct.
- o. Convening officer – means an officer nominated by the Deputy Vice-Chancellor (Students) to convene student misconduct committees and appeals committees, under Division 7 – Committees.
- p. Course – means a program of study that leads to an award conferred by the University
- q. 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.
- r. Decision-maker – means the appointed officer, senior manager, committee or council that makes a decision under this Rule.
- s. 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.
- t. Executive Dean – means the Executive Dean of a faculty of the University.
- u. 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.
- v. General misconduct – has the meaning stated in Division 2 – Types of misconduct.
- w. Harassment – has the meaning stated in Division 2 – Types of misconduct.
- x. Hazing – has the meaning stated in Division 2 – Types of Misconduct.
- y. Level 1, 2 or 3 penalty – a penalty listed in Division 5 – Penalties for misconduct.
- z. Misconduct – has the meaning stated in Division 2 – Types of misconduct.
- aa. Penalty – means a penalty applied to a student who is found to have committed misconduct.
- ab. Placement provider – means a business or organisation that provides a workplace learning placement to a student.
- ac. Plagiarism – has the meaning stated in Division 2 – Types of misconduct.
- ad. 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.
- ae. 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.
- af. Research misconduct – has the meaning stated in Division 2 – Types of misconduct.
- ag. Respondent student – means a student against whom an allegation of misconduct is made, and who accordingly has the opportunity to respond to it.
- ah. Right to peaceful assembly – has the meaning stated in Division 2 – Types of Misconduct.
- ai. Rule or this Rule – means the Charles Sturt University (Student Misconduct) Rule 2020.
- aj. Secretary – means, of an appeals committee or student misconduct committee, the professional staff member who is assigned to take notes of hearings and handle correspondence for the committee and its chair.
- ak. Session – means any session, term or other teaching period in which subjects are delivered.
- al. Sexual harassment – has the meaning stated in Division 2 – Types of misconduct.

- am. 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.
- an. Student misconduct committee – means a student misconduct committee convened under Division 7 – Committees to hear and decide allegations of misconduct.
- ao. Student misconduct committee panel – means a list of staff members and students who can be selected to serve on a student misconduct committee.
- ap. 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.
- aq. Subject – means a unit of study in which a student enrolls and that will appear on the transcript of their grades.
- ar. 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’.
- as. 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.
- at. 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.
- au. Suspension order – means an order made under Division 9 – Suspension orders.
- av. Telecommunications technology – includes teleconferencing, videoconferencing and virtual meetings technology.
- aw. Temporary restriction order – means an order made under Division 8 – Temporary restriction orders.
- ax. The University – means Charles Sturt University.
- 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**

(14) 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**

(15) 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.

(16) 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.

(17) 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.

(18) 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**

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

## **Some terms relevant to general misconduct**

(20) 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**

(21) 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. disrupts the orderly conduct of a university activity
- l. 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
- m. 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
- n. enters any place in the University that a student is not authorised to enter
- o. behaves in a way that tends to harm or undermine the good order and governing of the University
- p. unreasonably hinders others in their university studies or in participating in the life of the University
- q. brings the University into disrepute (but see clause (22))
- r. fails to meet the standards of behaviour defined by the University's Student Charter
- s. 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
- t. 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
- u. 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.
- v. behaves in any other way that a reasonable person would consider reprehensible behaviour on the part of a member of the university community.

(22) 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.

(23) 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**

(24) 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 above.

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

(26) 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**

(27) 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 or test, for example by:
  - 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, or
  - iv. using a resource or device during the task that is not specifically permitted by the instructions for the task
- b. collusion: where a person:
  - i. collaborates with another person to prepare assessment work, beyond the extent of collaboration specifically permitted by the instructions for the assessment task. Where no instructions about permissible collaboration are provided, all of the work must be the student's own or acknowledged as another person's work. Use of learning and study skills support services provided by the University is not considered collusion.
  - ii. impersonates another person to sit or complete an assessment task, or by recording the other person's attendance at a class or activity when the other person is absent
  - iii. collaborates with another person to enable cheating to occur, or
  - iv. deliberately or by not taking reasonable care enables another person to cheat
- c. contract cheating: where one person pays another person or service, or offers them some other inducement, to write or develop assessment work that the first person presents as their own work
- d. as part of an assessment task, submitting a false document, falsified references or data, or falsely claiming to have received a permission
- e. plagiarism: where a person uses another person's idea or data, or way of expressing an idea, without acknowledging the source, so that the idea, data or words are incorrectly or deceptively presented as their own
- 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.

(28) 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**

(29) On receiving an allegation that a student has committed academic misconduct, an appointed officer may decide



that the student has engaged in poor academic practice, but has not committed academic misconduct.

(30) Poor academic practice is where a student has colluded or committed plagiarism or self-plagiarism through carelessness or ignorance, and this is somewhat excusable because of their level of experience as a student.

- a. In such cases, collusion, plagiarism or self-plagiarism may be handled as poor academic practice rather than academic misconduct.
- b. Where, however, a student with a low level of experience commits collusion, plagiarism or self-plagiarism again after having received warnings or minor reductions in marks, the further breach will be handled as academic misconduct.

(31) 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**

(32) 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](#).

(33) 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 (27)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.

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

### **Breaches of the code**

(35) 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.

(36) 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

(37) 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.

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

(39) 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

(40) 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 Manager, Ethics and Compliance for initial assessment. The Manager, Ethics and Compliance 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 (48)
- 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.

(41) 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 temporary restriction order on the student under Division 8 - Temporary restriction orders for up to 10 business days while the misconduct allegation is investigated
  - iii. classify the alleged misconduct as poor behaviour or poor academic practice in accordance with clause (24) or clauses (29) and (30), and/or
  - iv. dismiss the report if it is misconceived or the matter is trivial.

(42) 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 (147) or (148).

### **Advice for appointed officers**

(43) 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 Sub Dean (Workplace Learning).

(44) Where a student's alleged misconduct may be a criminal offence, the Manager, Student Conduct 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**

(45) Where an appointed officer considers that a student has engaged in poor behaviour under clause (24):

- 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**

(46) Where an appointed officer considers that a student has engaged in poor academic practice under clauses (29) and (30), 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 or other counselling
- d. direct the student to do remedial work in academic integrity, such as repeating the online academic integrity module
- e. direct the student to resubmit the relevant assessment task, which will then be marked and the mark reduced by 20 percentage points or less, and/or
- f. direct that the assessment be marked and then the mark reduced by 20 percentage points or less. (A penalty of a mark reduction greater than 20 percentage points can only be applied in relation to an academic misconduct finding.)

(47) The appointed officer who considered that a student has engaged in poor academic practice is responsible for communicating actions in clause (46) to other staff where they need to carry these out.

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

(48) Where an appointed officer receives a report from the Manager, Ethics and Compliance that under clause (35) 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.

(49) 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 (48) that they need to carry out.

## **Division 4 - Misconduct processes**

### **Who hears and decides misconduct allegations or appeals**

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

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

(52) An appeals committee can hear and decide an appeal against any misconduct finding or penalty, other than findings by or penalties applied by an appeals committee.

(53) Unless they consider it unreasonable or impractical, an appointed officer or a student misconduct committee can hear and decide:

- 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.

(54) An appointed officer or student misconduct committee may decide the allegation on the basis of written submissions or may hold a hearing.

(55) 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.

(56) Where clause (55) is the case, the appointed officer or committee may seek the approval of the Deputy Vice-Chancellor (Students) or their nominee to forward the allegation and evidence to a student misconduct committee.

### **New allegations**

(57) 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**

(58) 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.

- 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 under Division 6 – Appeals, and
  - v. an electronic copy of this Rule or the address of this Rule on the University’s website.

(59) 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**

(60) 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.

(61) 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 clause (62), or
- b. state that there will be a hearing of the matter under clauses (64)–(66).

### **Notice of allegation and decision on the basis of written submissions**

(62) An appointed officer or student misconduct committee, in the notice of allegation, may:

- a. 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, and if so will:
  - i. state that 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
  - ii. state that 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.
- b. The notice may also invite the student to an informal interview with the appointed officer or chair of the committee to discuss the matter.

(63) If the notice invites the student to make a written response, it must also offer the student the option of a hearing, if the student requests this.

## **Notice of allegation and hearing**

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

(65) Where an appointed officer or the secretary of a student misconduct committee sent the student a notice of allegation and decision on the basis of written submissions, but the student requested a hearing, the appointed officer or secretary will send them a substitute notice of allegation and 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 (167)
- 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 (62) 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 (64)-(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 (66)
  - 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. as soon as practicable after the deadline for written submissions from the student, or
- b. where a hearing is held, during the hearing, and will inform the respondent student of the decision verbally if they are present.
- c. Where, however, 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.

(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, as soon as practicable after 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 (for example, where this would be required for the purpose of clause (106)b), 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 for a maximum mark of 50 per cent (or else, where the student does not resubmit, a mark of zero in the task). 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:
  - i. an appointed officer or student misconduct committee if they find that a student has committed misconduct, or
  - ii. an appeals committee in relation to an appeal under this Rule.
- 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
  - iii. the Vice-Chancellor under Division 10 – Alleged misconduct by a student who is also a staff member, or
  - iv. an appeals committee in relation to an appeal under this Rule.
- 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 write 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 have counselling from a specific person or service
  - v. a direction that the student undertake a course or other learning activity, and
- b. for general misconduct:
  - i. a direction that the student be barred temporarily or permanently from membership of a club or society
  - ii. a fine of up to \$250
  - iii. a direction that the student by a specified date undertake up to 20 hours unpaid work within the University that will benefit the university community
  - iv. 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
  - v. a direction not to approach, contact or try to contact a staff member or another student
  - vi. 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, 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.

(92) Where a student is directed to undertake unpaid work as a penalty, the Student Conduct unit will arrange the work and ensure it is properly supervised.

## **Level 2 penalties**

(93) 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. suspension from undertaking an activity such as research, fieldwork or workplace learning in connection with a subject or course for up to two sessions
  - iv. permanent exclusion from a course or termination of higher degree by research candidature
  - v. exclusion from the University for a period of up to five years
  - vi. 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
  - vii. expulsion from the University, and
- b. for general misconduct:
  - i. a fine of up to \$500
  - ii. a direction that the student by a specified date undertake up to 50 hours unpaid work within the University that will benefit the university community, or
  - iii. a direction to pay more than \$2000 for repair or replacement of damaged or lost property based on an independent estimate of these costs
  - 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.

(94) Where a student is directed to undertake unpaid work as a penalty, the Student Conduct unit will arrange the work and ensure it is properly supervised.

(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 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 Deputy Vice-Chancellor (Students) or their nominee, 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 respondent student's personal circumstances and level of experience
- d. the need to deter the student and others from misconduct in future
- e. the need to protect the university community and the integrity, good governance and reputation of the University, and
- f. any university policies, conventions or guidelines on standards of behaviour (including academic integrity and conduct) expected of students.

### **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) A student may appeal to an appeals committee against a finding of misconduct and/or a level 1 or level 2 penalty.

(104) There is no avenue of review or appeal within the University against:

- a. a finding that a student has committed poor behaviour, poor academic practice or has breached the University's code of responsible research conduct but has not committed research misconduct
- b. a finding that a student has committed misconduct where no penalties other than a warning or reprimand are applied, or
- c. a decision by, or a recommendation to, the University Council to apply the level 3 penalty.

### **Grounds of appeal**

(105) An appeal must meet one or more of the following grounds:

- a. There is evidence that there has been a failure to provide procedural fairness in hearing and/or deciding the allegation or deciding a penalty.
- b. There is new evidence that the respondent student did not know or that was not available to the respondent student before the finding of misconduct was made, and which would have been a significant factor in the original decision.
- c. A penalty is:
  - i. inconsistent with Division 5 – Penalties for misconduct, or
  - ii. excessive and out of proportion to the misconduct and the student's record of misconduct.

### **Submitting an appeal**

(106) For an appeal to be considered the appellant student must submit the appeal application to the secretary of the appeals committee:

- a. within 10 business days after the day on which the decision-maker sent them the report of the misconduct decision, or
- b. within 20 business days where the appellant is an overseas student holding a visa for study within Australia, whose enrolment will be suspended or cancelled as an outcome of a level 2 penalty to exclude them from a

subject or course or expel them from the University.

(107) An appeal application must be in writing and must:

- a. state the finding and/or penalty under appeal
- b. identify the ground or grounds of appeal under clause (105) above
- c. provide:
  - i. details and copies of any evidence where this is required for a ground of appeal, and
  - ii. an argument that the application meets the nominated ground(s) of appeal.

(108) It is the responsibility of the appellant student to include any documents that are needed to meet the grounds of appeal and substantiate the appeal, including:

- a. the notice of allegation sent to the student under clause (60) and any evidence of the misconduct
- b. the report of the decision and any penalties sent to the respondent student under clause (83), and
- c. other documents that are relevant to and support the appeal application, such as communications between the appellant student and staff, assessment items, subject outlines.

### **Appeal process**

(109) The appeals committee will meet to decide the appeal without the appellant student present unless:

- a. the appellant student has asked in writing to be heard in person, or
- b. the appeals committee invites the appellant student to attend.

(110) For an appeal meeting where the appellant student is to be present (an appeal hearing), the secretary of the committee, on behalf of the committee chair, will send the appellant student a notice that:

- a. specifies the date, time and place of the hearing, and
- b. states that:
  - i. the appellant student may bring a support person or an advocate to the hearing, subject to the requirements of clause (167),
  - ii. if the appellant student does not attend the hearing without reasonable excuse, the appeal will be heard and decided in their absence, and
- c. includes an electronic copy of this Rule or the address of the Rule on the University's website.

(111) Where the appeal is to be decided on the appeal application, the secretary on the chair's behalf will inform the appellant student of the outcome of the appeal.

(112) An appeal will proceed to be heard or decided even if the student who is appealing does not:

- a. attend the hearing without reasonable excuse, or
- b. respond to a notice by any deadline for response stated in the notice.

(113) A student who has submitted an appeal may withdraw it before the appeals committee hears or decides it. In this case:

- a. the appeal will be considered to have been dismissed, and
- b. the original decision, including any penalty, will stand.

## Appeal decision

(114) The appeals committee:

- a. must limit its consideration to the grounds of appeal in clause (105), and
- b. may decide to assess an appeal on any ground stated in clause (105) in addition to the ground identified in the appeal application.

(115) The appeals committee must:

- a. limit the scope of its inquiry to:
  - i. the material and evidence that was before the appointed officer or student misconduct committee
  - ii. where a ground of appeal is that there is new evidence, any new evidence submitted by the student, and
- b. take account of:
  - i. any submission by the appellant student concerning the appeal, and
  - ii. any relevant laws or rules, policies or procedures of the University.

(116) For an appeal on the ground of new evidence, the appeals committee will decide whether that ground is made out, and:

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

(117) For an appeal on either of the other two grounds, the appeals committee will decide whether that ground is made out and:

- a. if so, uphold the appeal (in whole or in part), and decide whether:
  - i. the original finding of misconduct should be varied or set aside, or
  - ii. an original penalty should be varied or replaced with a different penalty, or
- b. if the ground is not made out, dismiss the appeal.

(118) The appeals committee may also decide that although the ground of appeal is made out, neither the original finding nor any penalty should be set aside, varied or replaced. In this case it may allow the appeal but confirm the original finding and penalty or penalties.

## Notification of appeal decision

(119) The secretary of the appeals committee will as soon as practicable after the hearing send the appellant student a report stating:

- a. the committee's finding and decision on the appeal (including any penalties)
- b. a short statement of reasons for these
- c. a summary of the evidence or submissions on which the finding and decision were based, and
- d. if the appellant student is studying on an Australian student visa, information on avenues of external review or appeal available to them, as required by the National Code 2007 enacted under the [Education Services for Overseas Students Act 2000](#) (as amended).

(120) The decision of the appeals committee takes effect on the date the secretary sends the report.

(121) The secretary of the appeals committee is responsible for advising relevant staff or units of the University, or officers of a club or society, of any action they need to carry out, to ensure that:

- a. any cancelled penalty is not put into effect, and
- b. any varied or unaltered penalty is put into effect.

(122) Where school staff are to take action in relation to penalties, the secretary will advise the head of the school and/or faculty staff responsible for managing student misconduct, who will forward the advice to the relevant staff.

(123) The appeals committee's decision is final. There is no further avenue of review of or appeal against the decision within the University.

## **Division 7 - Committees**

(124) The requirements stated in this division apply to both student misconduct committees and appeals committees, except where one or the other type of committee is specified.

### **Convening and membership**

(125) Committees will be convened by a convening officer, namely:

- a. for student misconduct committees, an officer nominated by the Deputy Vice-Chancellor (Students), and
- b. for appeals committees, an officer nominated by the Deputy Vice-Chancellor (Students).

(126) The same appeals committee may be convened repeatedly over a period of time to hear all appeals that are assessed as meeting the grounds of appeal in that period.

(127) The convening officer will select committee members other than external members from:

- a. for a student misconduct committee, the student misconduct committee panel, or
- b. for an appeals committee, the appeals committee panel.

(128) 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 or appeal against a finding 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 or appeal against a finding of academic misconduct, will be an academic staff member
- d. at least one of whom, where the committee is to hear an allegation of research misconduct or appeal against a finding 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 (129).

### **External members**

(129) 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**

(130) 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 (129), the quorum must include the chair and one academic or professional staff member of the University.

## **Disqualification and casual vacancies**

(131) 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.

(132) 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.

(133) 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.

(134) 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**

(135) 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 (129).

(136) 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**

(137) 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**

(138) 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**

(139) 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.

(140) 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.

(141) 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 (138).

### **Notification**

(142) 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.

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

(144) 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**

(145) 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**

(146) 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. a Sub Dean (Graduate Studies) or Sub Dean (Workplace Learning)
- e. the Chief Financial Officer
- f. the University Secretary
- g. the Executive Director, Facilities Management
- h. the Director, Government and Community Relations, or
- i. the Director, Uni Life.

### **Purpose**

(147) An officer listed in clause (146) 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.

(148) An officer listed in clause (146) 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 (147), 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**

(149) 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.

(150) 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 (146).

### **Notification where the order will exceed 10 days**

(151) 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.

(152) 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.

(153) 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 days**

(154) 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**

(155) An officer listed in clause (146) may vary or lift a suspension order at any time where the circumstances change so that the relevant risks are reduced.

(156) 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 days of the order being applied, the order is automatically revoked.

(157) 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**

(158) 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**

(159) 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.

(160) 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.

(161) 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, Human Resources 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, Human Resources 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**

(162) 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**

(163) 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.

(164) 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

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

(166) 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 Deputy Vice-Chancellor (Students) or their nominee 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, and in any appeal by the student against exclusion for unsatisfactory academic progress.
- 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

(167) A respondent student may bring a support person or an advocate to speak on their behalf at a hearing of an allegation of misconduct or an appeal hearing. The support person or advocate cannot be a currently practising barrister or solicitor, and must be available at the date and time specified in the notice of hearing.

## Allowance for academic disadvantage

(168) 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.

(169) 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 Student Conduct unit to arrange these types of reasonable assessment flexibility for them.

### **Fairness and conflicts of interest**

(170) 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.

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

(172) 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**

(173) 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**

(174) Except for minimum periods of notice to be given to a respondent student, and the period within which an appeal must be submitted, any deadlines specified in this Rule are indicative only.

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

### **Meaning of no further avenue of review or appeal within the University**

(176) If a clause in this Rule states that there is no further avenue of review of or appeal against a decision within the University, then that decision cannot be the subject of any further review or appeal under any other internal rule, policy, procedure or process of the University.

(177) This does not, however, preclude a respondent student from exercising any available right of review of the decision by a court, tribunal or other external body with the authority to review it.

### **Administrative errors or omissions**

(178) 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.

(179) 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**

(180) 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**

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

(182) A decision under clause (181) 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**

(183) 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.

(184) 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.

(185) 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.

(186) 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.



## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	12th January 2021
<b>Review Date</b>	1st January 2025
<b>Approval Authority</b>	Vice-Chancellor
<b>Approval Date</b>	12th January 2021
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## Glossary Terms and Definitions

**"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.

**"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.