

STUDENT GOVERNANCE INITIATIVE

THE HANDY GUIDE TO  
**GOOD DECISION MAKING  
ON DISCIPLINE COMMITTEES**

UMSU ADVOCACY SERVICE  
2018

**UMSU**  
UNIVERSITY OF MELBOURNE  
STUDENT UNION

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# 1 HOW TO USE THIS GUIDE

The ‘mechanics’ of student misconduct processes are now set out in University Regulation 8 (Reg 8) and its attendant misconduct procedures and guidelines — the *Student Academic Integrity Policy (the Policy)*. The new procedures are scheduled at the back of this booklet for your reference.

This guide is designed to provide a thorough understanding of the regulatory and procedural context for the University’s misconduct processes, and the range of long standing foundational principles underpinning good decision-making.

## SOME THOUGHTS ABOUT YOUR ROLE

Sometimes the pressure to focus on issues of academic honesty obscures the importance of sound decision-making. However without a fair, consistent and transparent process, there can be no integrity to the University’s position on academic honesty. The rules of procedural fairness and the other good decision-making principles set out in this guide are fundamental to due process.

Ensuring procedural fairness is considered so important that it is one area where the courts, which are otherwise extremely reluctant to deal with internal university matters, have leverage to intercede. Under the *Administrative Law Act 1978 (Vic)*, decisions by University committees are reviewable by the Supreme Court with respect to the application of natural justice.<sup>1</sup>

The right to procedural fairness exists independently of whether the student has committed misconduct. The Advocacy Service routinely provides advice and advocacy to students who have clearly done the wrong thing. Our role is not to try to exculpate them, or to make

them feel better about what they may have done. On the contrary, the approach which serves the student’s own interests best is to assist them to critically reflect on their actions and present their case honestly and candidly to the Discipline Committee.

Moreover, the role of the Advocacy Service in supporting students facing University misconduct procedures is to ensure that the University observes the rules of procedural fairness, consistency, proportionality and transparency so that students’ right to sound decisions is protected.

For student members on these committees, your role as a decision-maker also requires a solid understanding and application of these principles. This means you need to understand the basic tenets of good administrative decision making. You may have a significant part to play in influencing and guiding the committee on the implementation of many of the principles set out in this guide.

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1. See e.g. *Simjanoski v La Trobe University* [2004] VSC 180 (27 May 2004).

## 2 STUDENT CONDUCT POLICY

The *Academic Board Regulation 8 (Reg 8)* and the *Student Academic Integrity Policy (the Policy)* introduce a number of new considerations, and codify certain elements of custom and practice which were not formally part of the old Statute 13.1. These are highlighted here, and explored in more detail in parts three and four of this guide. Copies of the relevant sections of Reg 8 and the Policy are included at the end of this booklet for your reference. While they are correct at the time of printing, you should always refer to the online editions in the University's policy library for the most up to date versions.

### CHANGES AT A GLANCE

#### **Distinguishing between major and minor breaches**

Sections 1(b) and 5.19 of the Policy outline the sorts of things to which an investigation (including the hearing itself) must have regard when determining whether a breach of academic integrity is a major or minor one.

#### **Express requirement that students are proactively educated on academic integrity**

Section 5.1 (b)-(e) of the Policy make clear the University's responsibility to provide education to students regarding its exact expectations with academic honesty, and to provide various methods to reduce the incidence of inadvertent breaches.

#### **A much more granular list of penalties**

One of the most troubling aspects of the old Statute 13.1 was the lack of gradation between penalties. This made the issue of proportionality and consistency in penalties especially difficult and provided no capacity for an educative approach. Sections 45 and 49 of Reg 8 now contain a far greater diversity of available penalties for academic and general misconduct respectively, and

the Policy includes provisions for diversion into an educative response (s 5.23), and resubmission (s 5.26), all of which will allow a far greater degree of proportionality in possible outcomes.

#### **Better particulars provided in notices**

Section 5.34 provides more detail about the sorts of particulars which should accompany a misconduct notice so that students facing allegations have a much better idea of the case to be met when responding.

#### **Requirement for all student members to undertake training**

Section 5.32(a)(ii) and (b)(ii) makes express the requirement that student members of committees must first undertake training recognised by the Academic Secretary. By agreement, that training is provided by the UMSU Advocacy Service to accompany this guide.

#### **Express prohibition against committee members with actual or perceived conflict**

The Policy provides at s 5.33 that the committee must not include anyone one who has been previously involved with the allegation, or the examiner who marked the work. Additionally, the Policy makes clear that having student members of the committee who are also staff of the University or a Student Organisation is an inherent conflict, and must be avoided.

### 3 THE PROCEDURES AND RELATED PRINCIPLES

Alongside the ‘mechanics’ set out in the University’s Regulations, procedures and guidelines which provide the authority to undertake your role on the committee, you need to have a good working knowledge of the issues to consider when making decisions. Considering the principles set out below will help you make decisions which have proper regard to students’ rights and interests and which are less likely to be challenged. Everyone benefits from sound decisions made the right way the first time.

#### THE RIGHT TO PROCEDURAL FAIRNESS

You may have heard the terms ‘procedural fairness’ and/or ‘natural justice’. The two terms are not identical (although they tend to be used interchangeably) but for most purposes refer to the same concepts. The main difference is that natural justice tends to be used more in procedures used by courts. For this reason we refer to procedural fairness when talking about misconduct procedures because it relates to administrative decision-making. Essentially procedural fairness applies to administrative decisions made by individuals and committees and where the decision might affect a person’s rights or interests.

##### **The High Court has said:**

*The law has now developed to a point where it may be accepted that there is a common law duty to act fairly, in the sense of according procedural fairness, in the making of administrative decisions which affect rights, interests and legitimate expectations, subject only to the clear manifestation of a contrary statutory intention.<sup>2</sup>*

A student’s ‘right’ or ‘interest’ covers a broad category, including personal freedom, status, preservation of livelihood and reputation. In this context it is clear that misconduct procedures attract the right to procedural fairness.

Procedural fairness has a close association with natural law which has history dating back to Greeks in 6<sup>th</sup> century BC. It is predicated on the following notions:

- people are basically good;
- a person of good intent should not be harmed; and
- one should treat others as one would like to be treated.

There are three main principles:

1. The hearing rule — the right to a fair hearing before a decision is made;
2. The bias rule — a decision must be made by decision-maker(s) with no vested interest, prior involvement in the case or preconceived ideas/bias;
3. The ‘no evidence’ rule — the right to have the decision based on logically probative evidence.

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2. *Kioa v West* (1985) 159 CLR 550 per Mason J at 582.

### The right to be heard

The person affected by the decision should be given:

- All the information and documentation which was provided to the decision makers;
- Adequate time to prepare a response; and
- The opportunity to present his or her case either in person or in written documentation or both.

To this end, the Policy provides at ss 5.30(b) and 5.34(a)–(g) the requirements of a hearing and the notice to be provided to the student. It is important to familiarise yourself with these notice requirements, as failure to comply with them can have an adverse impact on the student's right to be heard. If the student indicates, or other evidence before you suggests, that there has been a failure to comply with the notice requirements — the Committee should take this into consideration when weighing the evidence.

### Notice and adverse information

Although the process of formulating and providing notice of misconduct to a student is a separate administrative function to your role on the Discipline Committee, it is important to be aware of these requirements as they may have a bearing on the student's capacity to present their case in the hearing.

A student facing a misconduct allegation should be provided with notice of the allegation along with particulars of any credible, relevant and significant information (such as Turnitin or invigilator reports) which the decision-maker has, and

which may affect the decision to be made. The student should also be given an opportunity to respond to the allegations and any other information that the decision-maker has. This applies to both oral submissions and occasions when decisions are made solely on the basis of written submissions. Adequate time should be given to the person to prepare for an oral presentation (if there is one) or prepare written submissions before a decision is made (where reasonably practicable).

Section 5.34 of the Policy sets out the sorts of particulars which should be provided to the student facing an allegation. Importantly, the allegation notice should contain 'the regulations and policies which are alleged to have been breached **as well as all relevant allegations of fact, action or omission in support of the allegation**'. It is reasonable to expect that these allegations should be particularised with respect to Reg 8 ss 42 and 43 which set out definitions of various forms of misconduct.

It is not uncommon to see allegation notices which are very light on the latter information, which was not previously expressly required under the Statute. The allegations of fact, action or omission should clearly and unambiguously set out the alleged conduct of the student which is purported to have caused the breach. The student may then present evidence in their submission or at a hearing that rebuts or casts doubt on the likelihood that this conduct occurred, at all, or in the way it has been alleged.

If a student has already responded to some material, but further information comes to the attention of the Discipline Committee before a decision is made, then the student should also be given an opportunity to respond to that extra information.

### **The right to an objective decision**

The right to an objective decision concerns whether the decision maker has, is likely to have, or whether a reasonable person in the circumstances would believe that a decision maker has prejudged the situation. In the context of faculty Discipline Committees it can be very difficult to avoid an apprehension of bias. For this reason, the rule is applied strictly only at the appeal stage, where the entire committee must be, and be seen to be, totally impartial.

However, the Policy provides at s 5.33 that the committee must not contain any members who have had previous involvement with the allegation — that is its investigation or the referral of the matter for investigation. This includes the examiner or staff member who marked a paper or and staff member who invigilated an exam where misconduct is alleged. The Policy does permit the examiner of the assessment to provide a report to the committee, verbally or in writing. Additionally, student members of committees must not have an employment relationship with either the University or a Student Organisation, as this represents a potential financial interest which could lead to actual or apprehended conflict.

When you receive the Committee papers prior to the hearing, it is worth paying close attention to the constitution of the committee and cross-referencing it with any staff member who is raising the allegation or providing evidence in support of it. If you think there is a problem, you can flag it ahead of the hearing with the committee chair. If it becomes apparent only in the course of the hearing, you may wish to ask the minute taker to note your concern about apprehended bias. Similarly, if you know the student who is facing the allegation well, you should excuse yourself from membership of the Committee and seek an alternative member to replace you. However, if you attend the hearing and simply recognise the student as someone you vaguely know, then this is generally not an issue.

Finally, the Policy provides at s5.47(d) that the committee must not take a prior finding of misconduct into account when determining whether the allegation is substantiated or not. This means that the Committee should not know of any prior findings until it has made a determination regarding whether the allegation is made out of not. Prior findings may then have a bearing on the selection of penalties, which is covered under *Proportionality* further below.

## The Right to an evidence-based decision

The decision should be based on clear and defensible reasoning. This means it must be possible to put a clear and logical rationale for the decision, as opposed to a ‘gut feeling’ for example.

To come to an evidence-based decision, you need to consider each allegation, the supporting evidence presented to the committee, and the student’s response; and decide whether each fact alleged has been proved using the appropriate standards of evidence and proof (discussed further below).

You should also bear in mind that there is a material difference between an *unsubstantiated allegation* and *exoneration* or *‘innocence’* of all wrongdoing. Evidence is the issue here — you do not have to think the person is completely innocent to find an allegation unsubstantiated on the evidence available. It is a matter of whether there is sufficient and credible evidence in front of the Committee to find that the misconduct occurred on the balance of probabilities (more on that later).

You might also ask yourself whether, in the absence of credible evidence to prove wrong doing, the committee is making a decision based on the student’s failure to produce evidence that they did not commit misconduct. In other words, be alert to situations where there is an absence of evidence generally about the misconduct

and the committee’s decision is being made on the basis that the student failed to prove they didn’t commit misconduct. As a general rule, if there is no credible evidence on either side of an allegation — regardless of ‘suspicions’ — the allegation is unsubstantiated.

Section 5.48(a) of the Policy requires that the determination is based on actual evidence adduced to the committee. To ensure that your decision is appropriately evidence based, it is good practice to make note of the following:

- the decision itself (i.e. whether the allegation is sustained or unsubstantiated);
- the findings on material facts (i.e. what evidence supported the decision that particular facts were true and others were not);
- the evidence or other material on which those findings are based (i.e. turn it in reports, witnesses — such as invigilator reports or people who actually saw the misconduct occur, CCTV); and
- the reasons for any penalty chosen (i.e. addressing issues of consistency and proportionality discussed further below).

Whatever the Discipline Committee decides in a case, it must explain its reasons in a concise statement. The student should be able to see why the Committee has taken a particular course. Moreover, the student may have the right to appeal the committee’s decision and this rationale will be critical to determining the grounds and arguments of such an appeal.

### Breach of Procedural Fairness

The consequence of a breach of the above rules is that it may give grounds for the student to appeal from the original determination. If the breach occurs at the appeal stage, then it would fall within the ambit of an Ombudsman Victoria review.

If the breach goes to the heart of the decision, that is – if the decision would potentially be different but for the breach –

the appeal committee may uphold the appeal and substitute its own decision. If the Ombudsman makes a finding, then the matter is referred back to the University with appropriate recommendations.

If the breach does not directly affect the outcome, the appeal committee may uphold the appeal, but remit the decision to a new faculty discipline committee acting in accordance with procedural fairness.

## 4

## OTHER PRINCIPLES FUNDAMENTAL TO SOUND DECISIONS

The overall process and procedures involved in the running of the Discipline Committee will be governed by the University's Regulations and attendant policy and procedures. The University generally also produces guidelines to add even more detailed information to the way committees should conduct themselves. However, there are a few best practice steps you might bear in mind alongside the formal guidelines to maximise the implementation of the principles described above in the decision-making process.

### Deciding the facts – standard of proof and standard of evidence

There are two important concepts which inform the process of determining whether the facts in the allegation are made out or not.

1. the 'balance of probabilities' – is the *standard of proof* required to determine whether there is sufficient evidence to substantiate allegation; and
2. the rule in *Briginshaw* – is the *standard of the evidence* required for extremely serious allegations such as those involving a crime, fraud or other type of moral wrong doing, which if proven, would have serious consequences for the alleged wrong-doer.

Generally, proof of a fact on the balance of probabilities requires the decision-maker to determine whether it is 'more probable than not' that the facts occurred.<sup>3</sup> This may require the decision-maker to compare competing versions of events to determine which version is more probable. However this is not simply a higher mathematical probability of odds at least a 51 % to 49% that the events occurred. Rather in *Briginshaw v Briginshaw* the High Court stated that the balance of probabilities test required the tribunal in this case to:

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3. *Miller v Minister of Pensions* [1947] 2 All ER 372 at 374 per Denning J.

*feel an actual persuasion of its occurrence or existence before it can be found. It cannot be found as a result of a mere mechanical comparison of probabilities independently of any belief in its reality ... [A]t common law ... it is enough that the affirmative of an allegation is made out to the reasonable satisfaction of the tribunal.<sup>4</sup>*

Where the allegation concerns especially serious misconduct which might have a very onerous outcome for the student, including where suspension or termination of enrolment is a potential penalty, the *Briginshaw* rule requires more substantial verification than merely circumstantial or uncorroborated evidence to substantiate the allegations. For example, it would be unsound to make a finding based solely on uncorroborated hearsay evidence that a person forged a document.

### **Proportionality**

The Discipline Committee exercises a degree of discretion in deciding on the appropriate outcome or penalty. In doing this, it must be satisfied that its action is *proportionate* in all the circumstances of the case. This principle is made express at s 5.51 of the Policy.

The simplest definition of the doctrine of proportionality is that you should apply the minimum penalty to achieve the required outcome ('bottom up' approach). The European Court of Human Rights has put it that the application of the doctrine of proportionality is to ensure that

a measure imposes no greater restriction upon a respondent than absolutely necessary to achieve its objectives. This will involve the Committee giving consideration to such matters as:

- Consistency and fairness of sanctions; and
- The existence of any aggravating or mitigating factors of the offence or conduct.

### ***Consistency and fairness – fair in form AND fair in effect?***

Consistency of approach is not always easy and is made more difficult both because the composition of the Discipline Committee varies, and because the volume of misconduct cases does not provide for an especially sound sample size. Further, while general consistency is important, it is also necessary to bear in mind that each case is different and must be decided on its own particular facts and merits. Moreover, while penalties which are typically issued for similar types of misconduct may provide a good reference point – regard should be had not just to the penalty itself, but also to the particular **effect** of that penalty on the student.

For example: the usual penalty for serious plagiarism is to deny credit for the whole subject. For a domestic student in the middle of their degree, this is an inconvenience. For an international student completing their final subject – this might approximate termination of enrolment. Financial penalties in general misconduct matters are also likely to have disproportionate effects on different students.

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4. (1938) 60 CLR 336 at 361-2.

The best guide is to consider not just the penalty itself, but the **impact** of the penalty in all of the student's specific circumstances. Overall, consistency is best promoted by adopting a structured and principled approach to decision-making — which is the purpose of this guide.

### *Aggravating and mitigating factors*

Aggravating and mitigating factors have no bearing on whether the facts proving an allegation are made out, however the Discipline Committee should have regard to any relevant aggravating or mitigating factors present when determining a proportionate penalty for proven misconduct.

Sections 5.53(a)–(e) and 5.54(a)–(d) of the policy deal with matters which the Committee may consider when determining whether the breach is major or minor. It is reasonable to expect that Committees will require the evidence adduced to support the allegation will properly address these factors. It should not simply fall to the student to advert to these matters in their defence, but rather the faculty should be proactive in providing information on each of these points to the Committee.

Section 5.55 provides that all allegations outside of those covered in the sections above are to be considered major academic conduct. In practice you should exercise some caution in applying this provision as it is written, because ss 5.53 and 5.54 are framed as non-exhaustive lists. This means that there may actually be further cases which should be considered as minor breaches;

necessitating a careful case by case analysis, rather than application of s 5.55 as a blanket rule.

As a broad guideline, aggravating factors in either general or academic misconduct matters may include:

- a. Wilful dishonesty or premeditated misconduct;
- b. Degree of harm or adverse impact on others;
- c. Recklessness;
- d. Misconduct sustained or repeated over a period of time;
- e. No insight into or contrition for the misconduct;
- f. Previous adverse findings of a University Discipline Committee (ss 5.58 and 5.59)

Mitigating factors may include:

- a. Single and isolated minor incident;
- b. An error of judgement made under extraordinary circumstances;
- c. Inexperience;
- d. Open and frank admissions at an early stage;
- e. Ill health at the time of the misconduct;
- f. Significant lapse of time since the incident;
- g. Demonstration of insight into and contrition for the misconduct committed.

Mitigation can be presented by personal evidence as well as references and testimonials.

In some cases, mitigating circumstances may go to negate factors which would otherwise be aggravating. For example where someone has committed misconduct and then had a very hostile response to the allegation, showing no contrition or insight (aggravating factors); however, they adduce evidence of a severe mental health problem which affects their capacity for an appropriate response.

Generally, the Discipline Committee should explain its reliance on mitigating or aggravating factors when giving reasons for decisions.

### **Intention**

In the courts there is an experienced judiciary to make or guide determinations having regard to a person's intention to commit an offence. However processes outside of a court context usually do not attempt to make decisions with respect to intention. For this reason, student misconduct is frequently regarded as a strict liability matter — that is, intention is not required to establish a finding.

However, intention should play a role in considering penalty. For example where the conduct was inadvertent or ignorant, a committee might opt for a reprimand rather than a more onerous penalty. In academic misconduct matters, the student might be offered an opportunity to resubmit academic work on a pass/fail basis as an educative exercise.

Onerous penalties should be reserved for wilful or aggravated conduct because they act as a deterrent as well as a penalty,

whereas inadvertent or ignorant misconduct is better served by an educative response — that is, the minimum penalty to achieve the required outcome.

### **The New Penalty Regime**

There is a far more extensive list of available penalties in Reg 8 than previously available under Statute. This means that proportionality can be given full effect when selecting a penalty for substantiated cases of misconduct.

### **A Suggested Guide for Applying Proportionate Penalties**

The guide below should not be substituted for careful consideration of the particular facts of each case, it is provided as an example of how certain types of conduct might relate to an available penalty in accordance with the doctrine of proportionality. Bear in mind that more than one of these penalties can be combined to cover a range of appropriate circumstances.

It should be noted that some of these penalties may be appropriate in relatively rare cases — including those which put conditions on students' access to university services or premises. Care should be exercised in not issuing these sorts of penalties capriciously or arbitrarily — they should be used when the conduct suggests that these penalties are required to address that conduct. This is because these sorts of penalties have a real potential to involve unanticipated consequences which make them more onerous than intended and may affect their proportionality.

## 1. Academic Misconduct

TYPE OF CONDUCT	PENALTY
Minor, unintentional breaches which have not gained the student any academic advantage.	<ul style="list-style-type: none"> <li>Issue a reprimand and caution to the student.</li> </ul>
Breaches which may have come about due to mitigating circumstances which affected the student's judgment or capacity.	<ul style="list-style-type: none"> <li>Agree with the student a course of corrective action.</li> <li>Agree with the student on a course of counseling.</li> </ul>
Academic misconduct which has involved unauthorised or illegitimate access of areas or services of the university or abuse of certain activities which has led to an academic advantage.	<ul style="list-style-type: none"> <li>Prohibit or deny access to or use of University premises, University facilities and services or University activities for up to two weeks.</li> <li>Impose conditions on the student's attendance at University premises, participation in University activities or use of University facilities and services.</li> </ul>
Inadvertent conduct, including poor referencing which has potentially gained the student an academic advantage, and for which the opportunity to resubmit represents an opportunity for an educative response.	<ul style="list-style-type: none"> <li>Require the student to resubmit, or revise and resubmit, the whole or part of the assessment, examination or research.</li> </ul>
Wilful breaches which have resulted in a material academic advantage, and where there are no mitigating circumstances.	<ul style="list-style-type: none"> <li>Disallow or amend a mark or grade for the whole or part of the assessment, examination or research.</li> </ul>
Wilful breaches which have resulted in a material academic advantage, where there are aggravating circumstances, and where there are no mitigating circumstances.	<ul style="list-style-type: none"> <li>Fail the student.</li> </ul>
Wilful and major breaches, where there are aggravating circumstances (such as previous offending), but where there are mitigating circumstances.	<ul style="list-style-type: none"> <li>Recommend to the Vice-Chancellor that the student's enrolment be suspended for any period and on such terms and conditions as the committee considers necessary or appropriate.</li> </ul>
Wilful and major breaches, where there are aggravating circumstances (such as previous offending), and where there are no mitigating circumstances.	<ul style="list-style-type: none"> <li>Recommend to the Vice-Chancellor that the student's enrolment be terminated.</li> </ul>
Where the student has graduated and been admitted to an award, and where the misconduct is evidenced to have been material in the obtaining of that award, and where the substantiated misconduct is of a serious and wilful nature.	<ul style="list-style-type: none"> <li>Recommend to Council the revocation of the award.</li> </ul>

## 2. General Misconduct

TYPE OF CONDUCT	PENALTY
Minor, unintentional breaches.	<ul style="list-style-type: none"> <li>Issue a reprimand and caution to the student.</li> </ul>
Wilful breaches which are not especially serious or aggravated. Regard should be had to the student's relative financial situation. This is another penalty which may seem proportionate on the face of it, but a monetary fine for a student who is supported by their parents may not be especially onerous, compared to the financial burden caused by a fine to a student who is living independently without financial support. For a student in the latter situation, the penalty below will be more appropriate.	<ul style="list-style-type: none"> <li>Fine the student an amount not exceeding the sum of \$1,000.</li> <li>If the misconduct of the student caused damage to property or facilities, a fine of up to \$1,000 and the cost of making good that damage.</li> </ul>
Breaches which may have come about due to mitigating circumstances which affected the student's judgement or capacity, and, or breaches which might otherwise attract a fine, but where the student's financial capacity would make that penalty disproportionately onerous.	<ul style="list-style-type: none"> <li>Impose a requirement that the student undertake work, activities, service and apologies.</li> </ul>
General misconduct which has involved unauthorised or illegitimate access of areas or services of the university.	<ul style="list-style-type: none"> <li>Exclude the student from all or any part of University premises for such period and on any terms and conditions.</li> </ul>
Traffic or parking related misconduct.	<ul style="list-style-type: none"> <li>Prohibit the student from bringing any motorised vehicle or non-motorised vehicle, as those expressions are defined in any regulation or policy of the University dealing with traffic and parking rules, onto all or any part of University premises either permanently or for any period and on any terms and conditions.</li> </ul>
Contraventions of the Provision <i>and Acceptable Use of IT Policy</i> (MPF1314) or other IT related misconduct.	<ul style="list-style-type: none"> <li>Exclude the student from using any of the University's library and computing and network facilities for a period not exceeding 28 days either absolutely or on any terms and conditions.</li> </ul>
Substantiated sexual or other types of harassment complaints.	<ul style="list-style-type: none"> <li>Impose a requirement that the student refrain from having any or such specified contact with particular students, members of staff, or other members of the University community;</li> </ul>
Wilful and major misconduct, where there are aggravating circumstances (such as previous offending), but where there are mitigating circumstances.	<ul style="list-style-type: none"> <li>Recommend to the Vice-Chancellor that the student's enrolment be suspended for any period and on such terms and conditions as the committee considers necessary or appropriate.</li> </ul>
Wilful and major misconduct which, where there are aggravating circumstances (such as previous offending), and where there are no mitigating circumstances.	<ul style="list-style-type: none"> <li>Recommend to the Vice-Chancellor that the student's enrolment be terminated.</li> </ul>

## 5

# CONFIDENTIALITY AND DIFFICULT OR UPSETTING CASES

Finally, a few words about your broader responsibilities as a discipline committee member. You will be privy to highly confidential information, and it is absolutely critical that you do not disclose this to anyone in a way which might identify the respondent to the allegation. This means keeping and disposing of the committee papers securely and not discussing the case with anyone in terms which make the matter identifiable.

However in some cases, there may be issues which you find disturbing or upsetting. It may be a matter of the respondent's personal circumstances raised in mitigation or it may be details of the alleged misconduct itself which affect you. In such situations it is important that you are able to debrief. There are several appropriate ways to do this; you could talk to the other members of the committee

after the hearing, you can discuss the matter with the advocate who attended in support of the student or another staff member in the Advocacy Service, we can arrange a debrief with someone from the University Counseling and Psychological Services, or you can debrief with someone outside of the university, taking care to discuss the matter in ways that would not identify the people involved. If in doubt, come and speak to someone in Advocacy. Whatever you do, don't carry around bad feelings or distress.

We trust you have found this guide useful. It is a prototype of sorts and as such we welcome your feedback on any errors or omissions or issues you feel we should cover in future editions.

You can contact us at:

[suashelp@union.unimelb.edu.au](mailto:suashelp@union.unimelb.edu.au)

# STUDENT ACADEMIC INTEGRITY POLICY

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## 1. Objective

The objectives of this policy are to:

- (a) define and articulate the importance of maintaining academic integrity;
- (b) outline what constitutes major or minor cases of breaches of academic integrity, and the procedures for dealing with each;
- (c) provide a framework to ensure that academic standards and expectations are met;
- (d) assist in identifying academic misconduct;
- (e) ensure that student academic misconduct procedures are transparent, consistent, equitable and fair, and consistent with the principles of natural justice;
- (f) identify responsibilities and accountabilities for decisions and processes;
- (g) ensure that decision-making on academic misconduct is undertaken at appropriate levels of responsibility within the University;
- (h) provide for the membership of committees formed to consider student academic misconduct; and
- (i) define a framework of penalties which may be imposed for substantiated academic misconduct that are appropriate, proportionate and consistent.

## 2. Scope

- 2.1 This policy applies to all students of the University.
- 2.2 Where allegations of research misconduct relating to students engaged in research, an investigation will be undertaken in accordance with the Research Misconduct Policy.

## 3. Authority

This policy is made under the *University of Melbourne Act 2009 (Vic)*, the University of Melbourne Statute and the Academic Board Regulation.

## 4. Policy

### Student Academic Integrity Principles

- 4.1. The University maintains high academic standards in its courses and subjects and expects students to conduct themselves in a manner which is fair, honest and consistent with the principles of academic integrity, particularly when undertaking assessment and research.
- 4.2. Work submitted for assessment purposes must be the independent work of a student or approved groups of students to demonstrate their proficiency in course and subject objectives and learning outcomes.
- 4.3. The University provides clear guidance and assistance to students to ensure that they understand the requirement to maintain academic integrity and are aware that failure to maintain academic integrity constitutes academic misconduct which is defined in the Academic Board Regulation, Part 8 — Student Conduct.
- 4.4. The University supports an educative response to first-time plagiarism or collusion incidences where this is appropriate and possible.
- 4.5. The University provides students and staff who make an allegation of academic misconduct, or about whom an allegation is made, the opportunity to formally present their cases. No person will suffer any discrimination or victimisation as a result of raising an allegation in good faith.
- 4.6. University staff who are responsible for investigating an allegation of academic misconduct reach conclusions based on a fair hearing and will respect the privacy and confidentiality of all parties.
- 4.7. Each faculty must have strategies in place to ensure that students receive appropriate education about, and support to fulfil, the University's expectations of students in terms of academic honesty.

## **5. Procedural Principles**

### **Supporting Integrity in Submission of Assessment**

5.1. Deans are responsible for ensuring that:

- (a) the faculty has a strategy in place to educate students about:
  - i. the University's expectations of students in terms of academic honesty;
  - ii. the definition of academic misconduct detailed in Part 8 — Division 2 — Academic Board Regulation, sections 42 and 43;
  - iii. plagiarism, collusion and copyright infringement and how to ensure that students do not use these strategies in completing assessment items;
  - iv. the requirements for completing assignments that involve background research and referencing of source material;
  - v. the use of appropriate citation conventions in all submitted work throughout their degree in accordance with the Assessment and Results Policy; and
  - vi. where the university's regulation, policies, procedures and guidelines about academic integrity and academic misconduct are published;
- (b) educative materials are provided to students, including, for example, self-assessment exercises, by which students can assess their level of understanding of what constitutes plagiarism and other forms of academic misconduct and that the educative materials are to be available to students throughout their enrolment;
- (c) assessment tasks are designed to lessen the opportunity for cheating or plagiarising, in accordance with the Assessment and Results Policy;
- (d) written and online material is provided to students outlining the assessment tasks for each subject which indicates clearly and explicitly whether or not:
  - i. collaborative work is permissible or encouraged in any assessment task; and
  - ii. the extent of collaboration that is allowed in that assessment task;
- (e) all subject and course outlines set out expectations regarding adherence to the University's requirements with regard to academic integrity including links to relevant regulations, policies and procedures. 5.2. Deans must ensure that students are directed towards materials regarding research integrity, academic honesty, plagiarism, collusion and copyright early in the teaching period through provision of links to policy and other materials on the Learning Management System.

5.3. Students must review the educative materials provided by the faculty and successfully complete any self-assessment as directed.

5.4. Students must complete a declaration in hard copy or online when submitting assessment task. The declaration must include a statement:

- (a) that the student understands the University's policy on academic integrity and has reviewed the educative materials provided by the faculty;
- (b) about the originality of the work;
- (c) that the student has not assisted any other student in the completion of their work, unless the submission is for a collaborative assessment task;
- (d) that the student has not been assisted by any other person (collusion);
- (e) that the student has not used any sources without proper acknowledgment (plagiarism); and
- (f) that indicates the student's individual contribution to the assignment.

- 5.5. Where an assessment task involves the submission of computer program or code, students must be advised that the work must include all of the following forms of acknowledgement:
- (a) a detailed comment stating which part of it, if any, is copied, stating who wrote the copied part, and include this comment at the start of the program or in a header file;
  - (b) clear comments in the body of the program marking the start and end of the copied material. These comments must also give the name of the author;
  - (c) if code has been obtained from elsewhere, then modified by the student, the modifications must be explained in a prominent component of the submission. For example, a comment might have the wording “The original code obtained from John Smith was modified to print more detailed error messages”. Each adaptation of the original code must be documented, both in a prominent location and in each part of the code that was modified;
- 5.6. For copyright material included in a graduate research course thesis, the documentation must also include a statement that permission was obtained from the author. An email address or web link where the permission can be verified must also be provided; and,
- 5.7. Where information is sourced from the internet, the full URL, the date and time of viewing must be cited.

#### **Detecting breaches of research integrity and application of penalties**

- 5.8. Potential research misconduct by students engaged in research (“researchers”) must be reported to the relevant dean. The dean will refer the matter to the Director, Office of Research Ethics and Integrity (OREI).
- 5.9. An investigation into an allegation of research misconduct may be undertaken in accordance with the Research Misconduct Policy.
- 5.10. Following any investigation the Director (OREI) will notify the dean of the finding.
- 5.11. Where an allegation of research misconduct is upheld the dean must convene a committee comprising:
- (a) the faculty’s associate dean (research) or equivalent, who will chair the committee; and
  - (b) two registered supervisors who are not members of the student’s department.
- 5.12. The committee must be convened within 10 working days of the notice from the Director (OREI) and must apply a penalty in accordance with the “penalties for academic and research misconduct” section of this policy.
- 5.13. The committee must notify the student of the outcome and penalty applied within 5 days of the committee decision.
- 5.14. Nothing in this section prevents the Director (OREI) from directing the matter back to the dean. The dean must then conduct an investigation in accordance with this policy.

#### **Detecting breaches of academic integrity**

- 5.15. Academic staff or examination invigilators will usually identify potential breaches of academic integrity. Detection strategies include:
- (a) using search engine(s) to find sites that students are likely to find by using a likely search phrase;
  - (b) letting students know of their awareness of particular sites; or,
  - (c) making use of content matching or authenticity software.

- 5.16. To assist in identification, or exclusion, of potential breaches, students may be required to:
- (a) discuss or explain components of their assessment tasks;
  - (b) use content matching software to assist in verifying that original work has been submitted, and/or to supply reports generated by such software as part of the conditions of assessment for particular subjects or particular assessment items. The use of content matching software for this purpose must be clearly stated in the subject outline for the particular subject; or
  - (c) authenticate their learning on the assessment task, for example, by showing notes/drafts/resource materials used in the preparation of the task.

#### **After detecting breaches of academic integrity**

- 5.17. In the first instance, an allegation of plagiarism or collusion must be reported to the head of department (HOD) (or equivalent) in the relevant academic division.
- 5.18. If a student is suspected of any other form of academic misconduct the allegation must be reported directly to the faculty dean.
- 5.19. When dealing with allegations of plagiarism and collusion, the HOD must determine whether the case represents an unintended, minor or major breach of this policy.
- 5.20. The student may be asked to attend a meeting with the HOD and the subject co-ordinator to discuss the assessment task in which the plagiarism or collusion is suspected to have occurred. The student must be warned that the meeting may lead to formalising an allegation of misconduct.
- 5.21. If it appears during discussions with the student that the incidence of academic misconduct was minor or unintended, the HOD may implement an educative response.
- 5.22. If it appears during discussions with the student that deliberate and significant academic misconduct has occurred, the HOD must end the meeting and advise the student that he or she intends to initiate the disciplinary process. The HOD must refer the matter to the Dean in the form of a written report.

#### **Educative responses to plagiarism and collusion**

- 5.23. The HOD may determine that an educative response to plagiarism or collusion would be appropriate if it appears that this was unintentional and
- (a) the case involves the first teaching period of the first year (or level one graduate) students, except when plagiarism or collusion appears to have occurred on a substantial scale;
  - (b) where what appears to be plagiarism is minor, such as a few sentences or a very small percentage of the essay; or
  - (c) in a case where a citation was provided but no quotation marks were used.
- 5.24. Where an educative response is decided the HOD must discuss with the student the matters at 5.16. Following the discussion:
- (a) the student must review the educative materials provided by the faculty and, for example, successfully complete the self-assessment materials where relevant; and
  - (b) the student must meet with the HOD to discuss the results of the self-assessment, where relevant.
- 5.25. In the meeting the HOD must warn the student about the consequence of any subsequent failures to maintain academic integrity.
- 5.26. Where directed, the student must resubmit the assessment task having corrected the matters identified. The work will be marked and graded within the full range of marks available.

- 5.27. Where a student refuses to participate in an educative response, the dean may move to a formal investigation.
- 5.28. Formal investigations and disciplinary proceedings can only be brought against a student if the student has been directed to educative materials and the University's policy on academic misconduct and the possible consequences that might then follow.
- 5.29. Only when a student has gone through the disciplinary process, which is a hearing before a formally constituted student academic misconduct committee can the following occur:
- (a) a penalty be imposed; or
  - (b) any entry be made on a student's record.

**Formal Investigations of Academic Misconduct — Student Academic Misconduct Committee Meetings**

- 5.30. If the dean decides that an allegation of academic misconduct against a student, or students, is to be investigated he or she must, within 10 working days of the allegation being brought to his or her attention, act on the allegation by:
- (a) referring the matter to a committee for determination in accordance with the procedural principles set out below; and
  - (b) providing a notice to the student, or students, setting out the allegation of academic misconduct and containing the details set out in sections 5.27.
- 5.31. Where the allegation of academic misconduct involves more than one student and is alleged to have occurred during group work, the students are heard individually.
- 5.32. Subject to the overriding discretion of the president of the Board to determine or vary the composition of a student academic misconduct committee, the composition must be:
- (a) where the student is enrolled in an undergraduate course, subject or group of subjects or program:
    - i. two senior members of the academic staff of the faculty nominated by but not including the dean (one of whom must chair the committee); and
    - ii. one student member of the University of Melbourne Student Union (UMSU) nominated by the President, UMSU who has received appropriate training recognised by the Academic Secretary; or
  - (b) where the student is enrolled in a graduate course subject, group of subjects, graduate program:
    - i. two senior members of the academic staff nominated by but not including the dean (one of whom must chair the committee); and
    - ii. one student member of Graduate Students Association (GSA) nominated by the President GSA who has received appropriate training recognised by the Academic Secretary; or,
  - (c) in all other cases three persons nominated by the president of the Academic Board (one of whom must chair the committee) 5.33. In selecting members of a student academic misconduct committee, regard must be taken in appointing only members who have not been involved with the allegation prior to the hearing and must avoid any real or perceived conflict of interest. The examiner of assessment in the subject must not be a member of the committee but may provide a verbal or written report to the committee. The student member of the committee must not be a member of University staff or a staff member of a student organisation.

- 5.34. The dean must provide the student with a written notice (the allegation notice):
- (a) setting out the regulations and policies which are alleged to have been breached as well as all relevant allegations of fact, action or omission in support of the allegation;
  - (b) attaching copies of any primary supporting documents of which the dean is aware relating to the alleged misconduct;
  - (c) offering the student an opportunity:
    - i. to provide in writing an explanation or submission or evidence in response to the allegation; and/or
    - ii. to be heard in relation to it;
  - (d) naming the chair of the committee;
  - (e) informing the student that they may seek independent advice from the Student Union Advocacy Service;
  - (f) advising the student of possible outcomes that can include termination or suspension of enrolment and referring them to support services; and
  - (g) referring the student to the provisions of the Board regulation and this policy.
- 5.35. Any notice to a student for the purposes of this policy is sufficient if it is in writing and is provided in one of the following ways:
- (a) emailed to the student's allocated university email account;
  - (b) given to the student in person;
  - (c) posted by registered or express post to the student at the address shown on the student's enrolment record as his or her postal address on the date of posting;
  - (d) delivered by courier to the address shown on the student's enrolment record as his or her address on the day of delivery; or
  - (e) sent in any other form or method approved by the Board for the purposes of bringing a notice to the attention of the student.
- 5.36. A notice is deemed to have been received:
- (a) if sent by email, 24 hours after the time it was sent;
  - (b) if sent by registered or express post to an address within Australia, on the third working day after it was sent;
  - (c) if sent by registered or express post to an address outside Australia, on the seventh working day after it was sent;
  - (d) if delivered by courier, on the date recorded in the courier's records as the date of delivery; or
  - (e) if sent in any other form or method approved by the Board, on such date as the Board prescribes as the date of deemed receipt of that notice.
- 5.37. A copy of any notice sent to the student must be retained by the University in such form as the Board may prescribe.
- 5.38. If a student wishes to take up any of the opportunities set out in the allegation notice the student must notify the chair of the committee in writing within 10 days of the deemed receipt of the allegation notice.
- 5.39. If a student does not request a hearing the committee will proceed to deal with the allegation, including the conduct of a hearing if deemed necessary or appropriate by the committee, in the absence of the student.
- 5.40. If the student gives notice stating they wish to attend a hearing, or make a submission, the chair of the committee must convene a meeting of the committee within 20 working days after the deemed receipt of the allegation notice by the student to determine the allegation of academic misconduct.
- 5.41. If the student requests a hearing, he or she must be given at least seven days' notice of the time and place of the committee meeting during which the hearing will be conducted.

- 5.42. Any additional documents relating to the alleged misconduct that could not be provided with the allegation notice must be provided to the student and deemed to have been received by the student no less than five days prior to the hearing.
- 5.43. The meeting may be convened at any time of the calendar year. However, the student and the chair of the committee may agree in writing at any time to extend or shorten the time limits referred to in this policy or to reschedule the date, time and place for any meeting of the committee.
- 5.44. The student may, no later than 24 hours before the commencement of a meeting of the committee at which the hearing is to take place, notify the chair of the committee that he or she wishes to have a specified person present at the hearing (the “support person”). The support person may not be:
- (a) a person who was involved in, associated with, or alleged to have been involved in or associated with the misconduct alleged in the allegation notice; or
  - (b) a qualified legal practitioner unless permitted by the chair of the committee.
- 5.45. The support person accompanying the student in a committee meeting under this section has no right to be heard, except with the permission of the chair of the committee, and may be excluded from the hearing by the chair of the committee if he or she disrupts or unreasonably impairs the conduct of the hearing.
- 5.46. The chair of the committee may adjourn and reconvene any meeting of the committee.
- 5.47. In determining an allegation of misconduct under this section, the committee:
- (a) may follow any procedure it considers appropriate;
  - (b) is not bound by the rules of evidence or other technicalities or legal forms, and may inform itself in relation to any matter in any manner it thinks fit;
  - (c) must act fairly in all the circumstances, having regard to the requirements of natural justice;
  - (d) may not take into account prior findings of misconduct when deciding whether or not to uphold an allegation of misconduct; and
  - (e) must allow the student to be accompanied by a support person nominated in accordance with this policy.
- 5.48. The student academic misconduct committee members must:
- (a) make a decision on the evidence before them on a balance of probabilities — i.e. that a proposition is more likely to be true than not;
  - (b) balance the rights of the individual student with the need for fair and impartial decision-making for all students;
  - (c) preserve the academic integrity of programs and standards on behalf of the University
  - (d) be scrupulously honest and exercise all due care and diligence in the performance of their duty;
  - (e) avoid any action which could affect their judgement when dealing with committee matters;
  - (f) treat each other and University staff and students with professionalism, courtesy, confidentiality and respect; and
  - (g) not improperly influence other committee members.

## **Student Academic Misconduct Committee Investigation, Deliberations and Findings**

- 5.49. The committee must either dismiss or uphold each allegation of academic misconduct.
- 5.50. The committee must dismiss an allegation of academic misconduct unless a majority of the members of the committee is satisfied that the allegation has been upheld.
- 5.51. Where the committee upholds an allegation of academic misconduct, it may impose a penalty on the student in accordance with the Academic Board Regulations and the Board's schedule of penalties. Any penalty imposed must be proportionate to the seriousness of the offence.
- 5.52. If a committee determines that the alleged misconduct is in the nature of general misconduct not academic misconduct, it must refer the matter to the Academic Registrar, and the provisions of **Part 8 - Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation** apply.
- 5.53. The following considerations may be used to assist in assessing whether the academic misconduct is minor or major:
- (a) the extent of the breach - how much of the assessment item is in question and what proportion of the marks for the entire subject does the assessment item represent;
  - (b) the level of the student's course (graduate or undergraduate) and how long the student been a student of the University;
  - (c) the student's knowledge, understanding and exposure to the accepted practices, and cultural norms;
  - (d) discipline practices and requirements. What are the accepted practices in the student's discipline and the extent to which these practices have been made clear to the student; and
  - (e) whether the student has been found to have breached the principles of academic integrity in the past. This can only be taken into account where the committee has agreed that academic misconduct has occurred.
- 5.54. Minor cases of failing to maintain academic integrity, taking into account section 5.43, may include:
- (a) inadequate, incorrect or inconsistent citation and/or referencing of sources;
  - (b) paraphrasing too close to the original;
  - (c) minor copying of material, such as copying up to a few sentences (note that this may sometimes be inadvertent, for example, if a student mistakes a verbatim transcript in their notes as their own words);
  - (d) copying of a small number of answers to questions at the end of laboratory practicals.
- 5.55. All other cases of failing to maintain academic integrity are dealt with as major academic misconduct.
- 5.56. Within 5 working days of the student academic misconduct meeting the student must be provided with written notice of:
- (a) the decision of the committee;
  - (b) the terms of the decision;
  - (c) any penalty imposed or recommended;
  - (d) any implications of the committee's decision or recommendation which may impact the student's visa or scholarship conditions;
  - (e) the right to appeal; and
  - (f) the availability of independent advice from the Student Union Advocacy Service.
- 5.57. The Academic Registrar must be provided with a copy of the notice.

### **Penalties for academic and research misconduct**

- 5.58. Where a committee upholds an allegation of academic misconduct against a student, it may take into account prior findings of misconduct and any prior penalties imposed when deciding on a penalty.
- 5.59. Where a committee, constituted under section 5.11, applies a penalty for research misconduct, the committee may take into account any prior findings of misconduct and any prior penalties imposed when deciding on a penalty.
- 5.60. A committee may impose a penalty in accordance with the Academic Board Regulation, this policy and the Board's schedule of penalties.
- 5.61. Where the committee refers the matter to the Vice-Chancellor, he or she must have regard to the terms of the decision and the recommendation made by the committee. The Vice-Chancellor is not required to accord a hearing to the student before imposing a penalty in such a case. The Vice-Chancellor may:
- (a) accept the committee's recommendation and terminate or suspend the student's enrolment (as the case requires);
  - (b) if the committee recommended that the student's enrolment be terminated, suspend the student's enrolment for such period and on such terms and conditions as the Vice-Chancellor considers necessary or appropriate;
  - (c) if the committee recommended that the student's enrolment be suspended, suspend the student's enrolment for a shorter period than that recommended by the committee and/or on such terms and conditions as the Vice-Chancellor considers necessary or appropriate; or
  - (d) refer the matter back to the committee with a recommendation that it impose one or more of the penalties referred to in the Academic Board Regulation and the Board's schedule of penalties.
- 5.62. If a student is also a graduate of the University, the student misconduct committee may recommend to Council the revocation of any award in the following circumstances:
- (a) where the academic misconduct is held to be proven; and
  - (b) where the academic misconduct is of a very serious nature; and
  - (c) where the academic misconduct is demonstrated to have occurred in a manner that shows that the award or awards already made were obtained as a result of this misconduct.
- 5.63. Where a matter is referred back to the committee on a recommendation of the Vice-Chancellor, the committee must consider the recommendation, and within the next 5 working days, impose one or more of the penalties referred to in the Academic Board Regulation and the Board's schedule of penalties.
- 5.64. Where Council refers the matter back to the committee, in accordance with the Revocation of Awards Policy, for further investigation the committee must conduct a further investigation and make a finding in accordance with this policy.

### **Initiating allegations of combined academic and general misconduct**

- 5.65. Where both academic misconduct and general misconduct are alleged to have been committed by a student arising from one incident or closely related incidents, the Academic Secretary will decide whether the matter is to be heard as academic or general misconduct.

### **Reinstatement Where Suspended and Forfeiture of Fees**

- 5.66. A student's enrolment must be automatically reinstated after the expiration of any period of suspension, provided that the student has complied with any terms and conditions imposed as part of the suspension.

- 5.67. The Vice-chancellor may at his or her discretion, reinstate a student's enrolment after the expiration of any period of suspension even though the student has failed to comply with any terms or conditions imposed as part of the suspension.
- 5.68. No fees paid by a student relating to any period of suspension will be refunded.

#### **Readmission Where Terminated and Forfeiture of Fees**

- 5.69. A student whose enrolment has been terminated in accordance with this policy may not enrol in any course, subject or group of subjects at the University without the written consent of the Vice-chancellor, which consent will only be granted at the discretion of the Vice-chancellor in exceptional circumstances.
- 5.70. Where a student's enrolment is terminated under this policy no fees paid by the student will be refunded.

#### **Record keeping**

- 5.71. The Academic Registrar must keep a record of:
- (a) all findings of academic misconduct;
  - (b) all penalties imposed in respect of such findings; and
  - (c) all cases of potential academic misconduct that result in an educative response, including the details of the nature of the educative response.
- 5.72. The records form part of the student's disciplinary record and must form part of a student's file. The file may be made available to persons within the University or outside the University in accordance with the University's privacy policy.
- 5.73. Each faculty and graduate school must maintain a record of students who:
- (a) receive an educative response; and
  - (b) proceed to a formal misconduct hearing. Where the outcome of that hearing is to find that academic misconduct has occurred, the record must detail the nature of the academic misconduct and the penalty imposed.

#### **Student Conduct Reports**

- 5.74. The Academic Registrar issues, on request, a student conduct report, for graduates seeking admission to the Supreme Court of Victoria to practise law. Law graduates require a report from any institution where they undertook any tertiary study (including but not limited to their professional qualification) on disciplinary action arising from conduct in attaining the approved academic qualification. The report will be submitted to the Victorian Legal Admissions Board.

#### **Appeals**

- 5.75. Appeals against a
- (a) decision of the Student Academic Misconduct Committee or
  - (b) a decision of the Vice Chancellor or
  - (c) a recommendation to Council by the Student Academic Misconduct Committee to Council made under this policy must be made in writing to the Academic Secretary within 20 days of the deemed receipt of the outcome of the student academic misconduct committee meeting or the committee meeting described at section 5.11.
- 5.76. Where a student chooses not to access the appeal processes within the 20 working day period, withdraws from the process the original decision or recommendation, as the case may be, will stand.

# STUDENT CONDUCT POLICY

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## (MPF1324)

### 1. Objective

The objectives of this policy are to:

- (a) ensure that student behavioural standards and expectations are defined and met;
- (b) ensure that student discipline procedures are transparent, consistent, equitable and fair, and consistent with the principles of natural justice;
- (c) identify responsibilities and accountabilities for decisions and processes;
- (d) define a framework of penalties which may be imposed for substantiated misconduct that is appropriate, proportionate and consistent;
- (e) ensure that decision-making on misconduct is undertaken at appropriate levels of responsibility within the University; and
- (f) provide direction for the membership of committees formed to consider student misconduct.

### 2. Scope

2.1. This policy applies to:

- (a) all members of the University community;
- (b) allegations of general misconduct only.

2.2. This policy does not include alleged academic misconduct or research misconduct, which are considered under the Student Academic Integrity Policy and the Research Integrity and Misconduct Policy.

### 3. Authority

This policy is made under *the University of Melbourne Act 2009* (Vic) and the Academic Board Regulation.

### 4. Policy

#### **Student Conduct**

- 4.1. The Student Charter sets out key principles underpinning the relationship between students and the University, and informs the policy principles described in sections 4.2 and 4.3 below.
- 4.2. As members of the University community, students must conduct themselves in a manner consistent with the standards of behaviour that promote the good order and management of the University. Accordingly, students must:
  - (a) make themselves aware of and comply with University statutes, regulations, policies, rules and procedures concerning their enrolment, studies and conduct at the University;
  - (b) supply accurate personal and other information to the University according to the deadlines set by the University;
  - (c) treat staff and other students with respect and courtesy;
  - (d) comply with the Appropriate Workplace Behaviour Policy where relevant and treat others fairly and equitably, and not engage in harassing, bullying or discriminatory behaviour;
  - (e) respect the rights of other members of the University community to express dissent or different political or religious views, subject to those actions or views complying with the laws of Australia and not endangering the safety of other members of the community;
  - (f) behave respectfully towards other cultures;
  - (g) respect the opinions of others and engage in rational debate in areas of disagreement;

- (h) respect all University property and facilities, including the library, computing and laboratory resources, and respect the rights of others to use these facilities;
  - (i) take reasonable steps to secure their personal property whilst on University premises;
  - (j) not engage in frivolous or vexatious complaints or grievances;
  - (k) conduct themselves in a professional manner while undertaking professional placements and fieldwork;
  - (l) respect the rights of other persons and animals when accessing privileged information through study, and treat all such information in a confidential and ethical manner. For example, students may not take photographs, video or audio recordings of lectures, tutorials, rehearsals, performances or practical classes without the express permission of the staff member supervising the activity (or the subject coordinator) and the written permission of any identifiable individuals, or their legal guardians. In relation to such recordings within clinical or hospital settings in which University teaching occurs, the informed consent of the identifiable individuals or owner of any identifiable animal must be provided as well as the express written permission of the relevant dean; and
  - (m) provide considered and honest feedback to the University and its staff on the quality of learning and teaching and University services. not engage in frivolous or vexatious complaints or grievances.
- 4.3. The University aims to promote a diverse and inclusive environment and will:
- (a) continually develop and improve its practices and structure to provide an inclusive and diverse study environment;
  - (b) regularly review its policies, processes, practices, official documentation and publications to accord with equal opportunity and health and safety principles;
  - (c) support and assist staff to exercise their leadership and authority to ensure a supportive, flexible, safe and inclusive study environment;
  - (d) provide continued advice and support to employees and students through awareness, training and development programs;
  - (e) encourage students to participate in and complete any programs or training to promote a diverse and inclusive university; and
  - (f) develop and implement reasonable adjustments to any requirement, condition or practice in order to avoid direct or indirect discrimination which may disadvantage a person with an attribute or be unreasonable in the circumstances.
- 4.4. An individual must not directly or indirectly, or incite others to:
- (a) unlawfully discriminate against other individuals based on an attribute defined in this policy or at law;
  - (b) engage in harassment;
  - (c) engage in sexual harassment;
  - (d) sexually assault an individual;
  - (e) engage in bullying;
  - (f) engage in stalking;
  - (g) engage in victimisation;
  - (h) vilify an individual or group of individuals.

- 4.5 Failure by a student to meet expected standards of behaviour detailed above may be dealt with as student general misconduct under this policy and the student must be subject to disciplinary action.

#### ***Student General Misconduct***

- 4.6. Student general misconduct has the meaning given to it in Part 8, Division 3 - General Misconduct and High Risk Conduct - of the Academic Board Regulation.

#### ***Allegations of General Misconduct***

- 4.7. Allegations of general misconduct are considered by the Academic Registrar. The Academic Registrar may nominate a person to act on her or his behalf. The nomination must be made in writing and approved by the Vice-Chancellor.
- 4.7. Where the Academic Registrar has nominated another person to act, that person must notify the Academic Registrar of every allegation of general misconduct brought to his or her attention and of the decision he or she has made in relation to it.
- 4.9. If the Academic Registrar decides that it is more appropriate for an allegation of general misconduct to be investigated by another senior officer, he or she must immediately refer it to that other senior officer.

#### ***Investigating Misconduct***

- 4.10. Allegations of general misconduct are initiated and investigated in accordance with the procedures prescribed in this policy.
- 4.11. The University follows transparent, fair and timely procedures for addressing allegations of misconduct in accordance with principles of natural justice, ensuring that all parties are treated equally and fairly.
- 4.12. The University gives students and staff who make an allegation

of misconduct the opportunity to formally present their cases and they will not suffer any discrimination or reprisal as a result of raising an allegation in good faith.

- 4.13. University staff who are responsible for investigating an allegation of misconduct must reach conclusions based on a fair hearing of each point of view and must respect the privacy and confidentiality of all parties to the extent lawfully allowable.

#### ***Penalties***

- 4.14. Penalties for misconduct are applied in accordance with Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.

### **5. Procedural principles**

#### ***Investigating Misconduct Allegations***

- 5.1. If the Academic Registrar determines that an allegation should be investigated, he or she must, within 10 working days of the allegation being brought to his or her attention:
- (a) refer the matter to a discipline committee for determination in accordance with sections 4.9-4.12; and
  - (b) provide a notice to the student setting out the allegation of general misconduct and containing the details set out in section 5.2.
- 5.2. Where an allegation of general misconduct against a student is to be investigated, the Academic Registrar must provide the student with a written allegation notice:
- (a) setting out the alleged misconduct;
  - (b) attaching copies of any primary supporting documents of which the Academic Registrar is aware relating to the alleged misconduct;

- (c) offering the student an opportunity to:
    - i. provide in writing an explanation or submission or evidence in response to the allegation; and/or
    - ii. be heard in relation to it,
  - (d) naming the chair of the committee which will investigate the allegation of misconduct;
  - (e) referring the student to the provisions of the relevant regulation and policy; and
  - (f) advising the student of the provisions of section 4.11 and that they may seek independent advice from the Student Union Advocacy Service.
- 5.3. If a student wishes to take up any of the opportunities set out in the allegation notice the student must notify the chair of the committee in writing accordingly within 10 days after receipt or deemed receipt of the allegation notice.
- 5.4. If no notice requiring a hearing is given by the student, the committee will proceed to deal with the allegation, including the conduct of a hearing if deemed necessary or appropriate by the committee, in the absence of the student.

#### ***Convening the Discipline Committee***

- 5.5. If the student gives notice, the chair of the committee must convene a meeting of the committee to determine the allegation of misconduct within 20 working days after receipt or deemed receipt of the allegation notice by the student.
- 5.6. The committee must give the student the opportunity nominated in his or her notice. If the student requires a hearing, he or she must be given at least seven days' notice of the time and place of the committee meeting during which the hearing will be conducted.
- 5.7. Any additional documents relating to the alleged misconduct that could not be provided with the allegation notice must be received or be deemed to have been received by the student no less than five days prior to the committee hearing. Otherwise the committee must not have regard for these documents in making a determination.
- 5.8. The committee hearing may be convened at any time of the calendar year subject to the conditions outlined in sections 4.9-4.12. However, the student and the chair of the committee may agree in writing at any time to extend or shorten the time limits or to reschedule the date, time and place for any meeting of the committee.
- 5.9. The chair of the committee may, as the case requires, adjourn and reconvene any meeting of the committee.

#### ***Composition of Discipline Committee***

- 5.10. The discipline committee cannot include the person who referred the allegation to the Academic Registrar and comprises the following members:
- (a) the Academic Registrar or his or her nominee; who must be a senior member of the academic staff or a senior member of the professional staff;
  - (b) a senior member of the academic staff of the faculty in which the student is enrolled or assigned for administrative purposes;
  - (c) a senior member of the professional staff who is not part of the faculty in which the student is enrolled or assigned for administrative purposes;
  - (d) a student nominated by the recognised student organisation who has received appropriate training recognised by the Academic Registrar.

5.11. Notwithstanding requirements set in section 5.10, the Academic Registrar or nominee may vary the composition of a general misconduct committee.

### **Right to Support Person**

5.12. The student may, no later than 24 hours before the commencement of a meeting of the committee, notify the chair of the committee, that he or she wishes to have a specified support person present at the hearing to assist the student in presentation of his or her case. The support person may not be:

- (a) a person who was involved in, associated with, or alleged to have been involved in or associated with the misconduct alleged in the allegation notice; or
- (b) a qualified legal practitioner unless permitted by the chair of the committee.

5.13. The support person has no right to be heard, except with the permission of the chair of the committee, and may be excluded from the hearing by the chair of the committee, at the chair's discretion, if he or she disrupts or unreasonably impairs the conduct of the hearing.

### **Committee Procedure**

5.14. In determining an allegation of misconduct the committee:

- (a) may follow any procedure it considers appropriate
- (b) is not bound by the rules of evidence or other technicalities or legal forms, and may inform itself in relation to any matter in any manner it thinks fit
- (c) must act fairly in all the circumstances, having regard to the requirements of natural justice
- (d) may not take into account prior findings of misconduct when deciding whether or not to uphold an allegation of misconduct

- (e) must inform the student of the evidence it intends to take into account in making its decision and give the student the opportunity to present the student's case and to respond to any relevant evidence or allegations orally and/or in writing, and
- (f) must allow the student to be accompanied by a support person nominated in accordance with this policy.

### **Concurrent and Other Matters**

5.15. If the Academic Registrar or senior officer is considering whether or not an allegation of misconduct against a student should be investigated and becomes aware that the student's enrolment may be terminated for unsatisfactory progress, the Academic Registrar or senior officer, as the case may be, may defer consideration of whether the matter ought to be referred to a committee for investigation until a determination on any unsatisfactory progress.

5.16. The Academic Registrar or senior officer may determine at any time that it may be appropriate to report to the police the circumstances of the misconduct, in which case the matter must first be discussed with the Academic Registrar.

5.17. If the Academic Registrar determines that the matter should be reported to the police, the Academic Registrar must also determine whether the investigation of the allegation of misconduct is to continue or is to be deferred pending the outcome of the police investigation in order to ensure the privilege against self-incrimination is preserved.

### **Outcomes of Investigations**

5.18. The committee must make a decision on whether it is more likely than not, on the balance of probability, that the allegation is either proved or not proved.

- 5.19. The committee must either dismiss or uphold each allegation of misconduct.
- 5.20. The committee must dismiss an allegation of misconduct unless a majority of the members of the committee is satisfied that the allegation has been upheld.
- 5.21. Where the committee upholds an allegation of misconduct, it may impose a penalty on the student in accordance with Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.
- 5.22. Within three working days of any decision being made under clause 5.18:
- (a) the student must be provided with:
    - i. written notice of the terms of the decision;
    - ii. any penalty imposed or recommended; and
    - iii. the right to appeal under section 5.49; and
  - (b) the Academic Registrar must be provided with a copy of the notice.

### ***Notices and General Provisions***

- 5.23. Any notice to a student for the purposes of this policy is sufficient if it is in writing and is:
- (a) given to the student in person;
  - (b) posted by registered or express post to the student at the address shown on the student's enrolment record as his or her postal address on the date of posting;
  - (c) delivered by courier to the address shown on the student's enrolment record as his or her address on the day of delivery;
  - (d) emailed to the student's allocated university email account; or
  - (e) sent in any other form or method approved from time to time by the Vice-Chancellor for the purposes of bringing a notice to the attention of the student.
- 5.24. A notice is deemed to have been received if:
- (a) sent by registered or express post to an address within Australia, on the third working day after it was sent;
  - (b) sent by registered or express post to an address outside Australia, on the seventh working day after it was sent;
  - (c) delivered by courier, on the date recorded in the courier's records as the date of delivery;
  - (d) sent by email, 24 hours after the time it was sent; and
  - (e) sent in any other form or method approved from time to time by the Vice-Chancellor, on such date as the Vice-Chancellor prescribes as the date of deemed receipt of that notice.
- 5.25. A copy of any notice sent to a student must be retained by the University in such form as the Vice-Chancellor may prescribe.
- 5.26. The Vice-Chancellor or the Academic Registrar may in his or her discretion extend any of the time limits or times prescribed for the taking of any actions or steps referred to in this policy for such period and on such terms, if any, as he or she considers appropriate.
- 5.27. A person or committee exercising any power or carrying out any function under this policy may use such administrative and professional assistance and support as is reasonable to facilitate the exercise of such powers or functions.

### ***Penalties for General Misconduct***

- 5.28. Where a committee upholds an allegation of general misconduct against a student, it may apply a penalty in accordance with Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.

5.29. Where the committee refers a matter to the Vice-Chancellor, the Vice-Chancellor must have regard to the terms of the decision and the recommendation of the committee. The Vice-Chancellor is not required to accord a hearing to the student before imposing a penalty. The Vice-Chancellor may:

- (a) accept the recommendation and terminate or suspend the student's enrolment (as the case requires);
- (b) if the committee recommended that the student's enrolment be terminated, suspend the student's enrolment for such period and on such terms and conditions as the Vice-Chancellor considers necessary or appropriate;
- (c) if the committee recommended that the student's enrolment be suspended, suspend the student's enrolment for a shorter period than that recommended by the committee and/or on such terms and conditions as the Vice-Chancellor considers necessary or appropriate, being terms and conditions which in the Vice-Chancellor's opinion are less onerous than those recommended by the committee; or
- (d) refer the matter back to the committee with a recommendation that it impose one or more of the penalties referred to in Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.

5.30. Where the Vice-Chancellor refers a matter back to the committee, the committee must consider the recommendation made by the Vice-Chancellor, and within the next 5 working days, impose one or more of the penalties referred to in Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.

### ***Undischarged Penalties***

5.31. While any penalty imposed in accordance with this policy remains outstanding, unfulfilled or unpaid, or while a student is suspended or excluded due to undischarged penalties, the student must not, without the written consent of the Vice-Chancellor:

- (a) enrol;
- (b) attend any classes;
- (c) receive any results of assessment;
- (d) graduate or receive a degree, diploma or any certificate stating that the student is qualified to graduate or receive a degree or diploma in the University;
- (e) receive a certificate of academic record; or
- (f) access the University's library or computing and network facilities.

5.32. Where any penalty imposed takes some time to discharge, the Vice-Chancellor may provide written consent for the student to engage in specific activities in section 5.31.

### ***Emergency Power to Exclude and Suspend***

5.33. Notwithstanding any other provision of this policy:

- (a) the Vice-Chancellor may in his or her discretion immediately exclude and/or suspend a student for such period and on such terms and conditions as he or she considers necessary; and
- (b) (b) the head of an affiliated educational establishment may in his or her discretion immediately exclude a student from all or specified premises or facilities of that establishment, or all or any activities, subjects, lectures, tutorials or incidents of University life carried out or conducted at or in any part of those premises or facilities on such terms and conditions as he or she considers necessary.

- 5.34. The powers under this section must be exercised in accordance with the provisions of Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.
- 5.35. Where the Vice-Chancellor or the head of an affiliated educational establishment decides to exclude and/or suspend a student under this section, he or she must, within 24 hours, provide a written notice to the student in accordance with Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.
- 5.36. Where the Vice-Chancellor or a head of an affiliated educational establishment decides to exclude and/or suspend a student under this section, he or she must, as soon as practicable, refer the matter to a senior officer who must initiate an investigation into the matter in accordance with this policy by:
- (a) providing a written notice to the student, in accordance with sections 5.23-5.27 of this policy, setting out in summary form the details of the conduct or behaviour that led to the decision to exclude or suspend him or her and seeking a written response and explanation from the student within 5 working days;
  - (b) establishing a committee in accordance with sections 5.5-5.11 of this policy to consider the allegation and the student's response to the notice;
  - (c) advising the student of the provisions of this section of this policy and that they may seek independent advice from the Student Union Advocacy Service; and
  - (d) referring the student to the provisions of this policy and the Academic Board Regulation.
- 5.37. The Vice-Chancellor or the head of an affiliated educational establishment may at any time revoke or vary a decision to exclude and/or suspend a student under this section.
- 5.38. A decision to exclude and/or suspend a student under this section continues to operate unless or until:
- (a) it is revoked or varied by the Vice-Chancellor or the head of an affiliated educational establishment;
  - (b) the alleged general misconduct has been dismissed;
  - (c) the alleged general misconduct has been upheld and any penalty imposed in accordance with Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation; or
  - (d) it expires in accordance with its terms.
- 5.39. Where the Vice-Chancellor decides to exclude and/or suspend a student under section 5.33 of this policy he or she must provide a report to the next meeting of Council setting out in summary form the terms of and the reason or reasons for the decision.
- 5.40. Nothing in this policy derogates from the power of security officers approved as authorised officers by the Vice-Chancellor pursuant to the Property Policy, to revoke a person's right to remain on University premises in accordance with the Property Policy.

***Consequence of Suspension and Exclusion***

- 5.41. While a student is suspended he or she must not, without the written consent of the Vice-Chancellor:
- (a) attend any classes;
  - (b) sit any examinations;
  - (c) submit any work for assessment;
  - (d) gain any credit; or
  - (e) access the University's library or computing and network facilities.
- 5.42. While a student is excluded he or she must not:
- (a) attend any classes relating to any subject or group of subjects from which the student has been excluded;
  - (b) sit any examinations relating to any subject or group of subjects from which the student has been excluded;
  - (c) submit any work for assessment in any subject or group of subjects from which the student has been excluded;
  - (d) gain any credit for work submitted in any subject or group of subjects from which the student has been excluded; or
  - (e) seek to have access to, enter upon or otherwise use or enjoy any University premises, facilities, activities, subjects, tutorials or incidents of University life specified in any notice of exclusion issued in accordance with the terms of this policy.
- 5.43. A student is not entitled to receive any credit for any studies undertaken by the student at the University or any other institution during a period when the student's enrolment is or was suspended without the written consent of the Vice-Chancellor or the Academic Registrar.

***Reinstatement Where Suspended and Forfeiture of Fees***

- 5.44. A student's enrolment must be automatically reinstated after the expiration of any period of suspension, provided that the student has complied with any terms and conditions imposed as part of the suspension.
- 5.45. The Vice-Chancellor or the Academic Registrar may, at their discretion, reinstate a student's enrolment after the expiration of any period of suspension even though the student has failed to comply with any terms or conditions imposed as part of the suspension.
- 5.46. No fees paid by a student relating to any period of suspension shall be refundable.

***Readmission Where Terminated and Forfeiture of Fees***

- 5.47. A student whose enrolment has been terminated in accordance with this policy may not enrol in any course, subject or group of subjects at the University without the written consent of the Vice-Chancellor, which must only be granted at the discretion of the Vice-Chancellor in exceptional circumstances.
- 5.48. No fees paid by a student shall be repayable to the student upon or by reason of termination.

***Appeals***

- 5.49. Appeals against a decision made under this policy must be made in writing to the Academic Secretary in accordance with the Student Appeals to the Academic Board Policy.

**Confidentiality**

5.50. OAny person or committee who exercises any power or carries out any function under this policy or hears any appeal must treat the subject matter thereof in the strictest confidence, save where necessary for the discharge of that person’s or committee’s responsibilities pursuant to this policy or as otherwise required or permitted by law.

**Records**

5.51. The Academic Registrar must keep a record of all:

- (a) findings of general misconduct; and
- (b) penalties imposed in respect of such findings.

5.52. The records form part of the student’s disciplinary record and must form part of a student’s file which will be made available to persons within the University or outside the University in accordance with the University’s Privacy Policy.

5.53. Prior records may be taken into account for the purposes of assessing what penalty, if any, should be imposed or recommended under the provisions of this policy and the Academic Board Regulation in any case where an allegation of misconduct has been upheld or confirmed against a student.

<b>Role/Decision/Action</b>	<b>Responsibility</b>	<b>Conditions and limitations</b>
Provision of report to the Academic Registrar on student behaviour	Member of professional or academic staff	Report should be in writing and provide sufficient details of the behaviour or incident to facilitate investigation
Establishing a student discipline misconduct committee	Member of the professional staff authorised to act by the Academic Registrar	Authorisation to act on behalf of the Academic Registrar must be given in writing. Must be in accordance with this policy
Provision of allegation notice to students	Member of the professional staff authorised to act by the Academic Registrar	Authorisation to act on behalf of the Academic Registrar must be given in writing. Must be in accordance with this policy
Ensuring appropriate conduct of student general misconduct committees	Chair of the Student discipline committee	Must be in accordance with the provisions of this policy
Ensure that records are kept of all actions taken under this policy	Member of the professional staff authorised to act by the Academic Registrar	Must be in accordance with this policy and University Records Management Policy
Application of appropriate penalty as required	Appropriate senior member of staff	Must be in accordance with the provisions of the Academic Board Regulation and this policy
Provision of outcome notice to student	Appropriate member of senior staff	Must be in accordance with this policy

## 7. Definitions

**Academic Registrar** means the office holder duly appointed with that title, or with a title including that term, and includes a person duly appointed to act in the place of that officeholder for the time being.

**affiliated educational establishment** means an educational or residential establishment affiliated with the University where such educational establishment constitutes a school or department of the University.

**computing and network facilities** means computers, computer systems, data network infrastructure, dialIn network access facilities, email and other communications and information facilities together with associated equipment, software, files and data storage and retrieval facilities, all of which are owned or operated by the University and form part of the central facilities or the local facilities.

**exclusion** except where the context indicates otherwise, means denial of access to all or specified university premises, facilities, activities, subjects, lectures, tutorials or incidents of university life and 'exclude' has a corresponding meaning.

**general misconduct** has the meaning given to it in Part 8, Division 3 - General Misconduct and High Risk Conduct - of the Academic Board Regulation.

**natural justice** or **procedural fairness** means that a person receives a fair and unbiased hearing before a decision is made that will impact on their rights or interests.

**premises** means land or buildings.

**senior member of the academic staff** means a member of staff of the rank of senior lecturer or above.

**senior member of the professional staff** means a member of the professional staff appointed at or above HEW 10 level.

**senior officer** means a person nominated as a senior officer by the Vice-Chancellor for the purpose of this policy and may include a person who is external to the University.

**student** In this policy has the meaning given to it in Part 8, Division 1 - Student Misconduct - of the Academic Board Regulation.

**subject** means a subject offered on an assessed or a non-assessed basis.

**suspension** means the suspension of a student's enrolment at the University for a specified period at the end of which the student's enrolment is reinstated unless otherwise requested by the student, and "suspend" has a corresponding meaning.

**termination** means course cancellation initiated by the University as the result of a serious breach of policy (such as general or academic misconduct, unsatisfactory progress). In addition to normal readmission requirements, students may need to provide evidence that the reason for the termination is no longer of concern.

**University** means the University of Melbourne or any affiliated educational or residential establishment.

### POLICY APPROVER

Provost

### POLICY STEWARD

Principal Advisor, Student Grievances and Complaints

### REVIEW

This policy is to be reviewed by 21 Nov 2021.

## VERSION HISTORY

<b>Version</b>	<b>Approved by</b>	<b>Approval Date</b>	<b>Effective Date</b>	<b>Sections Modified</b>
1	Provost	19 Jul 2016	21 Jul 2016	New policy arising from the Regulatory Framework Review and the Policy Consolidation Project.
2	Principal Advisor, Student Complaints and Grievances	31 Aug 2016	31 Aug 2016	Editorial amendment to section 5.10(d) to correct omission regarding training.
3	Provost	16 Nov 2016	21 Nov 2016	Change of name and greater focus on DSHB issues and to bring this policy into line with Student Academic Integrity Policy and to ensure that the focus of soon-to-be rescinded student policies are covered by this policy.
4	Principal Advisor, Student Grievances and Complaints	2 Dec 2016	2 Dec 2016	Editorial amendment to section 4.1(d) to include link to newly published Appropriate Workplace Behaviour Policy (MPF1328).
5	Provost	13 Feb 2017	14 Feb 2017	Added section 4.1(i), incorporating content from previous Privileged Information Accessed through Study Procedure.
6	Principal Advisor, Student Grievances and Complaints	14 Feb 2017	14 Feb 2017	Editorial amendment to section 4.1(i).
7	Principal Advisor, Student Grievances and Complaints	20 Feb 2017	20 Feb 2017	Editorial amendment to section 4.1(i).
8	Principal Advisor, Student Grievances and Complaints	7 Mar 2017	7 Mar 2017	Editorial amendment to section 1(c).
9	Provost	25 May 2017	25 May 2017	Addition of section 4.1 referencing Student Charter.
10	Principal Advisor, Student Grievances and Complaints	7 Aug 2017	8 Aug 2017	Editorial amendment to section 4.1(i).

# ACADEMIC BOARD REGULATION

## PART 8 – STUDENT CONDUCT

### DIVISION 1 – STUDENT MISCONDUCT

#### 40 Definitions

In this part—

**“academic misconduct”**

has the meaning given to it in section 42 of this regulation.

**“exclusion”**

means, except where the context indicates otherwise, denial of access to all or specified university premises, facilities, services, activities, subjects, lectures or tutorials and “exclude” and “excluding” have a corresponding meaning.

**“facilities”**

includes University computing and/or network facilities.

**“general misconduct”**

has the meaning given to it in section 47 of this regulation.

**“plagiarism”**

has the meaning given to it in section 43 of this regulation.

**“research misconduct”**

means a failure to comply with the University code or policies set for conduct of research activities of the University.

**“senior member of the professional staff”**

means a member of staff appointed at or above HEW 10 level.

**“student”** includes:

- (a) a person who is enrolled in a course, a subject or a group of subjects at or offered by the University;
- (b) a person who is enrolled in a course, subject or group of subjects at or offered by an affiliated educational establishment which is approved as an award course, subject or group of subjects by the Board;
- (c) a student of another university or higher education institution who is granted temporary or ongoing rights of access to University premises or facilities;
- (d) a person who was a student at the time of any alleged misconduct;

(e) a person who became a student after having allegedly done so by misleading or false means;

(f) a person who has consented in writing to be subject to the statutes, regulations and policies of the University;

(g) a person who was at the time of any alleged misconduct a member of a class of persons designated pursuant to section 9(2)(c) of the Act or pursuant to any statute or regulation to be a student;

(h) a person who is on leave of absence from or who has deferred enrolment in a course, subject or group of subjects at or offered by the University or by an affiliated educational establishment which is approved as an award course, subject or group of subjects by the Board; and

(i) for the purposes of section 50 of this regulation a student includes a person who is seeking admission or enrolment at the University.

**“class of students”**

means a cohort of students defined by one or more criteria which may include citizenship status, course, course level, course type or fee type.

**“component of assessment”**

means a component of assessment for which marks for a subject are assigned or is hurdle requirement in a subject and may include:

(a) any examination, essay, test, exercise, article, thesis or other requirement determined by the board of examiners under section 31 of these regulations; and

(b) any additional or alternative assessment administered by a board of examiners.

**“course”**

means a program of study that leads to a degree or other award.

**“coursework”**

means studies undertaken for any undergraduate or graduate degree or other award but does not include studies undertaken in satisfaction of a requirement to submit a thesis for a higher degree by research.

**“degree”**

means an accredited program of learning leading to a formal certification that meets the requirements for an AQF qualification.

**“faculty”** means:

- (a) an academic unit established as a faculty under section 13(1) of the Council Regulation. This includes a graduate school established as a faculty; and
- (b) for the purposes of section 28 of this regulation, an institute or other academic unit that:
  - (i) is not assigned to a faculty; and
  - (ii) delivers accredited programs.

**“hardship”**

includes financial hardship.

**“higher degree by research”**

means studies undertaken in satisfaction of a requirement to submit a thesis for a higher degree by research.

**“nested suite”**

means two or more courses designed with specific advanced standing arrangements that allow students to easily articulate between courses at different award levels.

**“other award”**

means an accredited program of learning that leads to a formal certification at the University but the program is not a degree.

**“qualification descriptor”**

means the description given to a level of study.

**“senior lecturer”**

means a member of academic staff appointed at classification Level C.

**“student organisations”**

means those recognised by University Council under Council Regulation 19 (2).

**“supervisor”**

includes academic staff or designated representatives of the University involved in supervising assessment.

**“termination”**

means the cancellation of a student's enrolment at the University.

**“subject”**

means a subject offered on an assessed or a non-assessed basis.

**“suspension”**

means the suspension of a student's enrolment at the University for a specified period at the end of which the student's enrolment is reinstated unless otherwise requested by the student, and “suspend” has a corresponding meaning.

**“termination”**

means the cancellation of a student's enrolment at the University, without any right to enrol or re-enrol in any particular course or subject at the University, except with the consent of the Vice-Chancellor and “terminate” has a corresponding meaning.

**“University”**

means the University of Melbourne and any affiliated educational or residential establishment and associated premises and property or any establishment with which the University has an agreement for the purposes of a professional placement, or in which the student is participating in a University activity.

**“University community”**

includes staff, students, alumni, contractors, visitors and guests of the University as defined in this part.

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## **DIVISION 2 – ACADEMIC MISCONDUCT**

### **41 Objectives**

The objective of this regulation is to maintain and protect academic integrity at the University.

### **42 Student academic misconduct**

A person commits student academic misconduct if he, or she, is a student and:

- (a) by act or omission does anything which is intended to or is likely to have the effect of obtaining for that student or any other person an advantage in the performance of assessment, by unauthorised, unscholarly or unfair means whether or not the advantage was obtained; or
- (b) in relation to an examination or assessment, includes but is not limited to, a student who:
  - (i) engages in cheating;
  - (ii) engages in plagiarism;
  - (iii) resubmits in whole or in part one's own work for another assessment item;
  - (iv) gives or provides one's own work to someone else;
  - (v) falsifies or misrepresents data or results;
  - (vi) improperly colludes with another person or persons;
  - (vii) fails to comply with examination or assessment rules or directions;
  - (viii) engages in other conduct with a view to gaining unfair or unjustified advantage;
  - (ix) uses or possesses any unauthorised or prohibited information, books, notes, paper or other materials;
  - (x) directly or indirectly assist any other student or accept assistance from any other person;
  - (xi) copies from or otherwise uses the answer of any other person engaged in the performance of the same or comparable component of assessment or permits any other person to copy from or otherwise use his or her answer;

- (xii) forges or falsifies documents to gain for himself or herself, or for any other person, any academic advantage or advancement to which he or she or that other person is not entitled;
- (xiii) purchases or obtains assessment materials from commercial services or other individuals;
- (xiv) sells assessment materials to entities or individuals; and
- (xv) in relation to research, commits research misconduct.

### **43 Plagiarism**

- (1) For the purposes of this regulation a person engages in plagiarism if he or she uses another person's work as though it is his or her own work.
- (2) Without limiting sub-section (1), a person uses another person's work as though it is his or her own work if he or she, without appropriate attribution:
  - (a) when writing a computer program and presenting it as his or her own, incorporates the coding of a computer program written by another person;
  - (b) uses work from any source other than the person's own work, including a book, journal, newspaper article, set of lecture notes, current or past student's work or any other person's work;
  - (c) uses a musical composition, audio, visual, design, graphic or photographic work created by another person; and/or
  - (d) uses an object created by another person, including an artefact, costume or model.
- (3) Without limiting sub-section (1), it is plagiarism if a person produces and submits or presents as his or her own independent work an assessment item which has been prepared in conjunction with another person.

#### **44 Proceedings for academic misconduct**

- (1) The dean of each faculty must establish one or more academic misconduct committees to implement academic misconduct requirements.
- (2) The composition of any academic misconduct committee must include at least one student nominated by the recognised student organisation.
- (3) Subject to (2) the Board may set in policy the composition of academic misconduct committees.
- (4) Notwithstanding requirements set in this section or policy made under this section, the Board President may vary the composition of an academic misconduct committee.
- (5) A student appearing before an academic misconduct committee may bring a specified support person who may not be a legal practitioner.
- (6) The Board may set requirements for proceedings of the academic misconduct committee including requirements relating to:
  - (a) allegations;
  - (b) hearings; and
  - (c) notification.

#### **45 Penalties for student academic misconduct**

- (1) Penalties for a finding of academic misconduct are:
  - (a) issue a reprimand and caution to the student;
  - (b) agree with the student a course of corrective action;
  - (c) agree with the student on a course of counselling;
  - (d) prohibit or deny access to or use of University premises, University facilities and services or University activities for up to two weeks;
  - (e) impose conditions on the student's attendance at University premises, participation in University activities or use of University facilities and services;

- (f) require the student to resubmit, or revise and resubmit, the whole or part of the assessment, examination or research;
  - (g) disallow or amend a mark or grade for the whole or part of the assessment, examination or research;
  - (h) fail the student;
  - (i) recommend to the Vice-Chancellor that the student's enrolment be suspended for any period and on such terms and conditions as the committee considers necessary or appropriate;
  - (j) recommend to the Vice-Chancellor that the student's enrolment be terminated; or
  - (k) recommend to Council the revocation of the award.
- (2) In the case of research misconduct concerning externally funded research under a contract requiring the misconduct to be dealt with in accordance with the Australian Code for the Responsible Conduct of Research, a course of action is to be taken in accordance with that Code.
  - (3) The faculty must allow 20 working days for the student to appeal to the Board before sending the recommendation to revoke the award to the University Secretary for Council's consideration.
  - (4) The Board may set the manner of application of penalties for academic misconduct by students.
  - (5) Failure by a student to comply with a penalty given under this section is general misconduct and the penalties for general misconduct may be applied.

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### **DIVISION 3 – GENERAL MISCONDUCT AND HIGH RISK CONDUCT**

#### **46 Objectives**

The objectives of this regulation are to:

- (a) provide proceedings for the exercise of the University's duty of care for the safety and protection of the University community and property;
  - (b) inform students of behaviour which the University regards as misconduct;
  - (c) implement fair and just procedures for dealing with cases of possible misconduct; and
  - (d) provide for the imposition of penalties for misconduct.
- (iii) disobeys any reasonable instructions of a supervisor;
  - (iv) refuses or fails to answer any reasonable question put by a supervisor;
  - (e) while on University premises, using University facilities or services or engaging in University activities engages in improper behaviour, including:
    - (i) harassment;
    - (ii) threatening or intimidating behaviour;
    - (iii) use of abusive or offensive language;
    - (iv) disorderly behaviour;
    - (v) breach of the peace;
    - (vi) accessing, displaying, downloading, uploading or broadcasting offensive material;
    - (vii) acting in breach of laws or rules of conduct relating to smoking, alcohol consumption, use of drugs, gambling, occupational health and safety or discrimination;
  - (f) fails to comply with any reasonable direction or request of a senior officer or a security officer employed or contracted by the University;
  - (g) interferes with University teaching or learning activities;
  - (h) engages in a pattern or sequence of conduct which places substantial demand on University resources, vexatiously or without proper justification;
  - (i) submits forged University or other documents to the University;
  - (j) offers a bribe or other improper inducement in relation to the provision of University services or the discharge of the functions or duties of University staff;
  - (k) engages in misrepresentation in relation to the provision of University services or the discharge of the functions or duties of University staff;

#### **47 Student general misconduct**

A person commits student general misconduct if he or she is a student and:

- (a) while on University premises, using University facilities and services or engaging in University activities:
  - (i) commits a crime;
  - (ii) intentionally or recklessly causes injury to any person or endangers the safety of any person;
  - (iii) engages in conduct which causes the University to be guilty of a crime;
  - (iv) causes risk or damage to the reputation of the University;
- (b) intentionally or recklessly causes damage to, or commits theft of:
  - (i) University property; or
  - (ii) property on University premises;
- (c) interferes with or improperly or unsafely uses University property, facilities or services;
- (d) during or in connection with the performance of any component of assessment:
  - (i) causes a disturbance, annoyance to or interferes with, any other student;
  - (ii) disobeys any instructions or directions given for the performance of a component of assessment;

- (l) falsely claims an identity, qualification, prior learning or professional experience;
- (m) falsely uses a title;
- (n) acts in breach of a provision of a University statute, regulation or policy relating to conduct;
- (o) while on University premises or using University facilities and services, engages in a breach of copyright;
- (p) incites another person to commit academic or general misconduct; or
- (q) fails to comply with a penalty set under section 45 of this regulation.

#### **48 Suspected general misconduct**

- (1) The Vice-Chancellor may set requirements for the treatment of students suspected of general misconduct including requirements relating to:
  - (a) allegations;
  - (b) hearings; and
  - (c) notification.
- (2) The composition of any general misconduct committee must include at least one student nominated by the recognised student organisation.
- (3) Notwithstanding requirements set in this section or policy made under this section, the Vice-Chancellor may vary the composition of a general misconduct committee.
- (4) A student appearing before a general misconduct committee may bring a specified support person who may not be a legal practitioner.

#### **49 Penalties for general misconduct**

- (1) Penalties for a finding of general misconduct by a student include, but are not limited to:
  - (a) issue a reprimand and caution to the student;
  - (b) fine the student an amount not exceeding the sum of \$1,000;
  - (c) if the misconduct of the student caused damage to property or facilities, a fine of up to \$1,000 and the cost of making good that damage;

- (d) exclude the student from all or any part of University premises for such period and on any terms and conditions;
  - (e) prohibit the student from bringing any motorised vehicle or non-motorised vehicle, as those expressions are defined in any regulation or policy of the University dealing with traffic and parking rules, onto all or any part of University premises either permanently or for any period and on any terms and conditions;
  - (f) exclude the student from using any of the University's library and computing and network facilities for a period not exceeding 28 days either absolutely or on any terms and conditions;
  - (g) impose a requirement that the student refrain from having any or such specified contact with particular students, members of staff, or other members of the University community;
  - (h) impose a requirement that the student undertake work, activities, service and apologies;
  - (i) recommend to the Vice-Chancellor that the student's enrolment be suspended for any period and on any terms and conditions; or
  - (j) recommend to the Vice-Chancellor that the student's enrolment be terminated.
- (2) The Vice-Chancellor may set the manner of application of penalties for general misconduct by students.

#### **50 High risk misconduct**

- (1) Notwithstanding any other provision in regulation, the Vice-Chancellor may:
  - (a) determine that a student is immediately subject to suspension and exclusion; or
  - (b) refuse to enrol an applicant as a student of the University.
- (2) The Vice-Chancellor, before any determination under (1), must be satisfied the:
  - (a) decision is reasonably necessary to protect against further high risk misconduct; and

- (b) student has acted or behaved or is acting or behaving in a way which involves or might involve an immediate risk of:
  - (i) injury to the student or to any other person;
  - (ii) serious damage to property; or
  - (iii) serious disruption of any activity sanctioned by the University or affiliated educational establishment;
- (3) For the avoidance of doubt, the Vice-Chancellor:
  - (a) is not required to accord a hearing to the student before making the decision;
  - (b) may inform him or herself in any way in relation to any matter; and
  - (c) may impose terms and conditions on the suspension and exclusion.
- (4) The Vice-Chancellor's decision is final and continues to operate until revoked, varied or expired.
- (5) The Vice-Chancellor must within 24 hours of the decision to suspend the student provide written notice to the student:
  - (a) of the decision, any terms and conditions of the decision, and a summary of the reasons for the decision;
  - (b) a copy of this regulation; and
  - (c) of the student's right of appeal against the suspension and exclusion.
- (6) A decision to suspend and exclude a student takes effect immediately.

## **51 Other considerations relating to misconduct**

- (1) Where both general and academic misconduct are alleged to have occurred by a student arising from one incident or closely related incidents, the allegation or allegations of general misconduct are to be investigated first.
- (2) A member of staff who reports misconduct, provides evidence of misconduct or refers an allegation of misconduct for investigation, may not be a member of any committee formed to investigate or decide an allegation of misconduct.
- (3) Proceedings into allegations of general and academic misconduct begun and not completed before the commencement of this regulation must continue to be dealt with in accordance with the University statutes and University regulations as in force immediately before the commencement of this regulation.
- (4) For the avoidance of doubt, any proceedings under (3) are not completed until appeal rights have been exhausted and appeals finally determined.

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## PART 9 — APPEALS TO ACADEMIC BOARD

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### 52 Appeal of decision

Except as otherwise provided by University statutes or regulations:

- (1) the Board may establish a committee of the Board to hear appeals arising from student grievances or student misconduct;
- (2) the Board may set the circumstances and manner for student appeals; and
- (3) student grievances arising from failure to read and act upon a notice or correspondence sent to their University email account are not grounds for an appeal.

### 53 Reference to an appeal committee

- (1) The Academic Secretary may accept appeals lodged with the Board.
- (2) Upon receipt of an application, the Academic Secretary, must, either allow the application or disallow the application and notify the student within 10 days of the allowance or otherwise of the application.
- (3) The Academic Secretary must, within 10 working days after allowing an application, refer the application to an appeal committee.
- (4) An appeal committee must comprise three members of the Board.
- (5) Notwithstanding (4) the Academic Secretary may invite an undergraduate or graduate student to sit on a student misconduct appeal committee.
- (6) A member appointed to an appeal committee must not be:
  - (a) a person who works in the academic subject or administrative area in which the decision under appeal was made; or
  - (b) a person who was a involved in, associated with, or alleged to have been involved in or associated with the decision being appealed.
- (7) The Academic Secretary must nominate one of the appeal committee members to be the chair of the committee.
- (8) The Academic Secretary must nominate a secretary to the appeal committee.

### 54 Hearing

- (1) The chair of an appeal committee, in consultation with the Academic Secretary, must decide how the appeal is to be conducted.
- (2) At an appeal in relation to penalty, the appeal committee must consider only the question of penalty.

### 55 Decision

- (1) Following consideration of an appeal, the appeal committee must decide, by majority, to:
  - (a) dismiss the appeal, for reasons stated in writing; or
  - (b) to allow the appeal in whole or in part and:
    - (i) if the appeal is in relation to penalty, substitute a different penalty; or
    - (ii) in any other case, substitute its decision for the original decision.
- (2) The appeal committee must dismiss the appeal unless a majority of the members of the appeal committee is satisfied that a ground of appeal has been established.
- (3) The appeal committee may not:
  - (a) increase the period of any suspension imposed; or
  - (b) impose any penalty which it considers more onerous than the original penalty imposed on the student.
- (4) When making a decision the appeal committee may include recommendations arising from the consideration of the appeal.
- (5) The appeal committee may make a recommendation to the Vice-Chancellor to alleviate hardship of students due to:
  - (a) alterations to the requirements for courses; or
  - (b) due to incorrect information or advice provided by any University staff or publication.

(6) The chair of an appeal committee must, as soon as is practicable after a decision is made, advise the applicant and the relevant dean of:

- (a) the decision and the reasons for it; and
- (b) in the case of the notification to the applicant, the applicant's right to apply for external review of the decision.

#### **56 External appeals not excluded**

Nothing in this regulation excludes or is intended to exclude:

- (a) the operation of any law giving a person a right to apply to a court for review of a decision or determination made under any of the statutes or regulations; or
- (b) the right of any person to lodge complaints and grievances with an appropriate body external to the University, including the relevant ombudsman or equivalent agency.

