

Rules - Student Misconduct Rules

Part A - Preliminary and Procedural Matters

Division 1

Rule 1 - Introduction and Objectives

(1) This Rule sets out the procedures for investigating and determining Allegations of misconduct by students, as well as penalties that may be applied and rights of review.

Rule 2 - Application and Implementation of this Rule

(2) This Rule applies to any alleged misconduct by a person who, at the time of that alleged misconduct, was enrolled or registered as a student of the University, regardless of whether:

- a. subject to clause (6), the alleged misconduct occurred before or after the commencement of this Rule; or
- b. the person has subsequently ceased to be enrolled.

(3) This Rule applies to any alleged misconduct by a student that occurs in the course of or is associated with a student undertaking study with the University, regardless of where the alleged misconduct occurs. For example, it applies to alleged misconduct by a student that occurs while that student undertakes clinical or other forms of practical training or field trips, or to threatening or undesirable behaviour by a student towards another student or a staff member outside university premises.

(4) Nothing in this Rule precludes the University from initiating any form of legal action against a student in connection with an Allegation of misconduct.

(5) This Rule should be read in conjunction with the University's approved Code of Conduct and the Student Academic Integrity Policy.

(6) Subject to clause (104), clause (2)b does not apply to an allegation of misconduct that has been the subject of a final determination before the commencement of this Rule.

(7) This Rule applies in conjunction with existing rules, policies and other instruments of the University dealing with allegations of misconduct against students.

Rule 3 - Definitions

(8) In this Rule, the following words have these meanings when commencing with a capital letter in the text:

- a. Academic Misconduct - includes, without limitation:
 - i. cheating or acting dishonestly in connection with academic work, including assisting or procuring another person to do so, or seeking assistance from another person to do so;
 - ii. copying, or attempting to copy, another person's work and pass it off as one's own work, regardless of whether they have that person's authority to do so;
 - iii. using, or attempting to use, anything not specified on an examination paper for use in an examination;

and

- iv. any other behaviour that is inconsistent with academic standards or practices normally expected of university students, regardless of whether these are explicitly expressed in any rules, policies or guidelines of the University.
- b. Allegation - means an allegation of Misconduct.
- c. Appeal - means an Appeal made under (as the case may be) Rule 15 or Part D or 5.
- d. Council Appeals Committee - means the Council Appeals Committee of Southern Cross University established pursuant to Rule 30.
- e. Caution - means a personal warning given against a course of action.
- f. Chair - means the person appointed as Chair, Student Misconduct Committee.
- g. Chair, School Board - means the person elected as Chair, School Board or Chair, College Board.
- h. Committee - means (as the case may be) the Student Misconduct Committee or the Council Appeals Committee.
- i. Council - means the Council of Southern Cross University.
- j. Decision-Maker - means:
 - i. in relation to suspension of a Student under Part B, a person specified in clause (26), (27) or (33);
 - ii. in relation to an Allegation (including an investigation of an Allegation) under Parts C or D, a person appointed (as the case may be) under Part C or Part D to make such a determination; or
 - iii. in relation to an Appeal, a Head of School /Head of College or Director, Special Research Centre (for Appeals under Part C), and as the case may be the Student Misconduct Committee (for Appeals under Part D) or the Council Appeals Committee (for Appeals under Part E), and includes any person acting in any of the above positions.
- k. Head of School - means the head of a University School or College;
- l. Misconduct - means Academic or Non Academic Misconduct;
- m. Non-Academic Misconduct - includes, without limitation:
 - i. discriminating against, or harassing or bullying other people, or inciting other people to do so;
 - ii. using University grounds, facilities or services (including, without limitation, computer or communications facilities or services) for any illegal purpose, or in any way that is inconsistent with any University policy, guidelines or directions, or which is otherwise contrary to the purpose or manner for which they are intended to be used;
 - iii. stealing, damaging or destroying anything that does not belong to that student;
 - iv. unreasonably disrupting a class, meeting or other University activity;
 - v. intimidating, threatening or assaulting any one;
 - vi. attempting to access or alter any record of the University without authorisation;
 - vii. non-compliance with any direction or order lawfully given by University staff or other people authorised by the University to give them, including an order to identify oneself when asked to do so;
 - viii. failing to comply with any penalty imposed in accordance with this Rule;
 - ix. interfering with the freedom of other people to pursue their studies or research, carry out their functions or otherwise participate in the life of the University;
 - x. any other behaviour that is inconsistent with any rules, policies or guidelines of the University including, without limitation, those relating to traffic and parking, and consumption of alcohol; or
 - xi. any behaviour that is inconsistent with or otherwise prejudicial to the good order and government of the University.
- n. Reprimand - means a formal censure.
- o. Student - means a person who, at the time or times the Misconduct is alleged to have occurred, is registered as a student of the University, regardless of whether at that time he or she is currently enrolled in a course of

study conducted by or within the University.

- p. Student Misconduct Committee - means the committee established pursuant to clause (61).
- q. University Grounds - includes all land, buildings owned, leased or otherwise used or operated by the University and includes without limitation:
 - i. residential colleges of, or other accommodation provided by, the University; and
 - ii. premises on which students undertake clinical or practical training as part of their studies, for instance, teaching hospitals of the University.

(9) 2. In this Rule, unless the contrary intention appears:

- a. a word or term commencing with a capital letter and not defined in clause (8) has the same meaning attributed to that term in the Southern Cross University Act 1989 or the Southern Cross University By Law 2005; and
- b. a reference to an officer of the University includes any person acting in that position.

Division 2 - Procedural Issues

Rule 4 - Responsibilities and Powers of Decision-Makers

(10) A Decision-Maker must, in relation to the hearing and determination of an Allegation:

- a. act as quickly as is practicable, and without undue formality as is appropriate for the circumstances of the case and in accordance with the rules of procedural fairness;
- b. ensure that the Student concerned understands the nature of any Allegation made and the implications of that Allegation;
- c. ensure that the Student is provided with the opportunity to be heard or to have his or her submissions considered before any determination is made;
- d. if requested to do so, explain to the Student the procedure of the Decision-Maker or any determination made by that Decision-Maker.

(11) A Decision Maker has those powers conferred on him or her by this Rule. Subject to this Rule, they may act on their own initiative or in response to an Allegation.

(12) A Decision-Maker must not delegate a function or a power conferred under this Rule. However, a Decision-Maker may seek assistance or advice for the purpose of exercising functions as such (for example, directing staff to carry out an investigation into Misconduct and to provide a report).

(13) A Decision-Maker may hear and determine one or more different Allegations at the same time.

(14) If, before a final determination is made, a fresh Allegation is made against a Student that arises out of or relates to the same conduct that is the subject of the previous Allegation, then the Decision-Maker may hear the fresh Allegation together with the original Allegation, but subject to the procedures prescribed in this Rule.

(15) Subject to this Rule and principles of procedural fairness, a Decision-Maker has power to:

- a. summon any member of staff or student of the University to provide information or evidence (including documents) about an Allegation;
- b. to the extent permitted by law, obtain information concerning an Allegation in any way that Decision-Maker sees fit;
- c. make any procedural directions in connection with the hearing of an Allegation;
- d. inquire into any matter in such manner as that Decision-Maker thinks fit;
- e. require evidence or argument to be presented orally or in writing, and determine on which matters that

Decision-Maker will hear oral evidence or argument;

- f. extend any deadlines given to a Student by that Decision-Maker under this Rule; or
- g. correct any obvious errors in any notice or other communication given under this Rule in the following circumstances:
 - i. where there is an obvious clerical or typographical error in the text of that notice or communication;
 - ii. where a document was omitted from a notice or other communication (for instance, a copy of this Rule) arising from an accidental oversight or omission;
 - iii. where there is an error arising from an accidental slip or omission; or
 - iv. where there is a defect of form.

Rule 5 - Rights and Responsibilities of Students

(16) All Students are entitled to procedural fairness in the investigation and determining of any Allegation against them.

(17) Procedural fairness includes, but is not limited to:

- a. the Student being informed of the Allegation and all relevant particulars relating to the Allegation;
- b. the Student being given a reasonable opportunity to answer an Allegation;
- c. the Student having the choice to be accompanied by a friend or a support person at any hearing to answer any Allegations of Misconduct;
- d. the Student being given normally not less than 14 days notice of the hearing of any Allegation;
- e. the Student being allowed to be present during those parts of a hearing in which any evidence or submission is given or made in relation to the Allegation or, if the Allegation is to be determined without a hearing, being given a reasonable opportunity to respond to any evidence or submission;
- f. the Student or the accompanying friend or support person being given a reasonable opportunity to question witnesses present and/or evidence presented at any hearing, subject to the discretion and determination of the Chair of the Committee for the hearing;
- g. the Student being given access to or copies of any evidence or submission given or made in relation to the Allegation, subject to the discretion and determination of the relevant determination maker, normally the Chair of the Committee for the hearing;
- h. absence of actual or perceived bias or conflict of interest on the part of the Decision-Maker;
- i. the Decision-Maker acting in accordance with any procedures prescribed by these Rules;
- j. the Decision-Making basing his or her determination on the evidence before him or her at the time that determination is made; and
- k. the Decision-Maker giving a statement of reasons for his or her determination.

(18) Students are expected to conduct themselves in a proper manner at all times and not disrupt or prejudice the hearing or deciding of an Allegation or an Appeal. If a Student disrupts or prejudices any hearing of an Allegation or an Appeal, then he or she may be required to leave by the relevant Decision-Maker, and the relevant Decision Maker shall have power to continue hearing the Allegation or appeal in the absence of the Student.

(19) Clause (18) applies to any friend or support person chosen by the Student.

Rule 6 - Conflicts of Interest or Bias

(20) A Decision-Maker shall be disqualified from making a determination or exercising any other power conferred by this Rule if there is any actual or perceived bias or conflict of interest. A conflict of interest includes, but is not limited to:

- a. any personal relationship of a social or intimate nature between:
 - i. the Decision-Maker and the Student concerned; or
 - ii. any other person who gives evidence in respect of the Allegation;
- b. if the Decision-Maker is himself or herself a person who is a witness to, or is called to give evidence in respect of, an Allegation.

(21) If a member of the Student Misconduct Committee has a conflict of interest or there is a reasonable perception of bias, then the Senior Deputy Vice Chancellor must appoint another person to replace that member.

(22) If a Decision-Maker or a Student Misconduct Committee Member has a conflict of interest or there is a reasonable perception of bias, the Vice Chancellor must appoint another person to replace that Decision-Maker.

(23) If a member of the Council Appeals Committee has a conflict of interest or there is a reasonable perception of bias, then the Chancellor must appoint another member of Council to replace that member on the Council Appeals Committee.

Part B - Suspension of Students

Division 1 - Temporary Suspension

Rule 7 - When This Can Occur

(24) A Decision-Maker may immediately suspend a Student in circumstances where:

- a. a Student's behaviour amounts to Misconduct in the judgement of the Decision Maker; and
- b. there is, in the judgement of the Decision Maker, an imminent threat or likelihood of Misconduct by, or an Allegation of Misconduct against, a Student and it is reasonable in the circumstances to suspend that Student in order to:
 - i. attempt to prevent that Misconduct from occurring; or
 - ii. protect the health, safety and welfare of others, including the rights of other students to pursue their studies and the rights of staff to carry out their work; or
 - iii. ensure the University and its activities can function properly.

(25) Depending on the nature and extent of any Misconduct or threat or Allegation of Misconduct, and what is reasonable in the circumstances, a Student may be suspended temporarily for up to 14 days from:

- a. any part or all of the University grounds;
- b. attending any classes, meetings or other activities; or
- c. using any facilities or services of the University.

Rule 8 - Who Can Suspend a Student

(26) A determination to suspend a Student in respect of any Non-Academic Misconduct may only be made by:

- a. the Vice Chancellor;
- b. the Senior Deputy Vice Chancellor;
- c. the Deputy Vice Chancellor (Education);
- d. the Executive Director, Financial and Human Resources;
- e. the Director, Student Administration Services;
- f. the Director, Technology Services;

- g. the University Librarian (including, without limitation, a person appointed as a Liaison Librarian at any of the University's libraries); or
- h. the Head of Campus.

(27) A determination to suspend a Student in respect of any Academic Misconduct may only be made by:

- a. the Vice Chancellor;
- b. the Senior Deputy Vice Chancellor; or
- c. the Deputy Vice Chancellor (Education).

Rule 9 - Procedure for Suspending a Student

(28) A Decision-Maker may suspend a Student temporarily by notifying the Student in writing to that effect or, if it is impracticable to do so (for example, if there is an emergency or if the circumstances require urgent action), by telling that Student orally (either in person or by telephone). The Decision-Maker must tell the Student:

- a. that the Student is suspended temporarily in accordance with this Rule;
- b. the length of that suspension (including from when it takes effect);
- c. a brief description of why suspension is being imposed; and
- d. the scope of that suspension (for example, if a Student is only suspended from attending particular classes or from particular parts of University premises).

(29) If a Decision-Maker notifies a Student of his or her suspension orally, that Decision-Maker must also send the Student a notice in writing to that effect in accordance with clause (31) within 24 hours of suspending that Student.

(30) A failure by a Student to receive or acknowledge an oral or written notice of suspension does not:

- a. invalidate the determination to suspend; or
- b. end any suspension made, under this Rule.

(31) A Decision-Maker (other than the Vice Chancellor) must notify the Vice Chancellor within 24 hours of any determination to impose a suspension under this Rule.

(32) The Vice Chancellor must, if a temporary suspension imposed under this Rule 9 remains in force while an Allegation or an Appeal is being considered and determined, inform the relevant Decision Maker of that fact.

Division 2 - Extending, Renewing or Expanding Suspension

Rule 10 - Procedure

(33) The Vice Chancellor may extend or renew the period of time and/or expand the scope of suspension imposed under Rule 7.

(34) The length of time for which a suspension can be extended or renewed under clause (33) is unlimited, but must be reasonable, taking into account those matters specified in clause (24).

(35) The Vice Chancellor must inform a Student of the determination to extend or expand a suspension under this Rule 10 in writing within 24 hours of making that determination. The notice must specify:

- a. that the Student's suspension is being extended or renewed and/or expanded in accordance with this Rule;
- b. the length of that suspension or, if for an unlimited period of time, that the length is unlimited, and the date from which it takes effect;

- c. a brief description of why suspension is being extended or renewed and/or expanded;
- d. the scope of that suspension (for example, if a Student is only suspended from attending particular classes or from particular parts of University premises).

Division 3 - Allowance for Academic Disadvantage

Rule 11 - Requirements

(36) If:

- a. a Student is suspended under this Rule for a period exceeding 24 hours; and
- b. no subsequent action for dealing with the Misconduct for which the Student was suspended is taken within a reasonable time after that suspension occurred; or
- c. the Student is, in relation to that Misconduct, found to be not guilty of that Misconduct in accordance with this Rule, the University must make reasonable allowance for any academic disadvantage (for example, missing an examination or inability to complete course requirements on time) suffered by that Student.

Part C - Making, Investigating and Dealing with Allegations

Division 1 - Referring Allegations

Rule 12 - Making Allegations

(37) An Allegation of Academic Misconduct must be made to the Academic Integrity Officer of the School/College or Special Research Centre responsible for the unit in which the Student is enrolled.

(38) An Allegation of Non-Academic Misconduct may be made to any member of staff of the University, who must then refer it promptly to the Senior Deputy Vice Chancellor.

(39) An Allegation involving both Academic and Non-Academic Misconduct may be made to any member of staff of the University, who must then refer it promptly to the Senior Deputy Vice Chancellor.

Rule 13 - Who May Make Allegations

(40) Any person can make an Allegation if he or she reasonably suspects actual or potential Misconduct.

(41) An Allegation of Misconduct should, where reasonably practicable, be made in writing.

Division 2 - Allegations of Academic Misconduct

Rule 14 - Investigation and Determination

(42) When an Academic Integrity Officer receives an Allegation of Academic Misconduct, he or she must cause an investigation to be carried out to establish whether the Allegation is serious enough to warrant further action.

(43) When an investigation conducted under clause (42) is complete, the Academic Integrity Officer must determine whether the Allegation is serious enough to warrant referral to the Senior Deputy Vice Chancellor, taking into account:

- a. the evidence obtained from that investigation; and
- b. the criteria for findings of Academic Misconduct as set out in the [Academic Misconduct Guidelines](#).

(44) If the Academic Integrity Officer determines that the Allegation:

- a. warrants referral to the Senior Deputy Vice Chancellor, then he or she must:

- i. refer that Allegation and any evidence obtained in relation to that Allegation to the Senior Deputy Vice Chancellor as soon as practicable to be dealt with in accordance with clause (50); and
 - ii. notify the Student in writing to that effect (giving particulars of the Allegation); or
- b. is not serious enough to warrant referral to the Senior Deputy Vice Chancellor, then the Academic Integrity Officer must follow the procedures set out at Division 4 - Decision-Maker Determines Misconduct Rule 18 and then make a determination in accordance with Division 4 - Decision-Maker Determines Misconduct Rule 19.

(45) Upon making a determination in accordance with Division 4 - Decision-Maker Determines Misconduct Rule 19, the Academic Integrity Officer must notify the Student in writing of his or her determination (giving as the case may be particulars of the Allegation or reasons for that determination) in accordance with Division 5 - Notifying the Student of Determination Rule 20.

Rule 15 - Appeal Against Determination of an Academic Integrity Officer

(46) A Student may appeal to the Head of School /Head of College or Director, Special Research Centre responsible for the unit in which the Student is enrolled against a determination made by the Academic Integrity Officer under Division 2 - Allegations of Academic Misconduct Rule 14:

- a. that the Allegation of Misconduct is established; and/or
- b. to impose a penalty.

(47) Appeals under clause (46) must be notified to the Head of School /Head of College or Director, Special Research Centre, within 14 days of the date of the Academic Integrity Officer's notification of determination being given under (45).

(48) The Head of School /Head of College or Director, Special Research Centre must determine:

- a. In relation to the Allegation:
 - i. to sustain it; or
 - ii. to dismiss it; and
- b. in relation to the penalty imposed:
 - i. to confirm it; or
 - ii. to impose a lesser or greater penalty.

(49) The determination of the Head of School /Head of College or Director, Special Research Centre in relation to an Appeal under this Rule 15 must be given within 10 days, is final and conclusive, and may not be the subject of a further Appeal under Part D or E.

Division 3 - Referral of Allegations to Senior Deputy Vice Chancellor

Rule 16 - Procedure Upon Referral

(50) If an Allegation of Academic Misconduct is referred to the Senior Deputy Vice Chancellor under clause (44)a.i, then he or she must do one of the following things:

- a. determine whether the Allegation is of such a serious nature that, if proven, it would or would be likely to result in a penalty of suspension or expulsion; and
- b. if so, refer that Allegation to the Student Misconduct Committee; or
- c. if not, proceed to hear and determine that Allegation in accordance with Rule 17 himself or herself, as a Decision-Maker; or
- d. if not, nominate a Decision-Maker to hear and determine that Allegation in accordance with Rule 17.

(51) If the Senior Deputy Vice Chancellor receives an Allegation of Non-Academic Misconduct or an Allegation involving both Academic and Non-Academic Misconduct, he or she must do one of the following things:

- a. determine whether the Allegation is of such a serious nature that, if proven, it would or would be likely to result in a penalty of suspension or expulsion; and
- b. if so, refer that Allegation to the Student Misconduct Committee; or
- c. if not, proceed to deal with the Allegation in accordance with Rule 17 himself or herself, as a Decision-Maker; or
- d. if not, nominate a Decision-Maker to do so and refer the Allegation to that person [but provided that person is not the person who made the Allegation under clause (39)].

(52) The Senior Deputy Vice Chancellor may, if appropriate, and before referring an Allegation under clause (50)b or d or (51)b or d, cause an investigation or, if appropriate, a further investigation, to be conducted. The Senior Deputy Vice Chancellor is not required to notify the Student of his or her determination to do so.

Rule 17 - Dealing with Allegations Referred Under Rule 16

(53) If a Decision-Maker receives an Allegation from the Senior Deputy Vice Chancellor under clause (50)d he or she must determine as follows:

- a. whether the Allegation involves possible Misconduct; and
- b. if he or she determines the Allegation does not involve possible Misconduct, dismiss the Allegation; or
- c. if he or she determines the Allegation involves possible Misconduct, determine whether:
 - i. the Allegation warrants further investigation;
 - ii. interim conditions (such as suspension under Division 3) should be imposed;
 - iii. to hear and determine the Allegation directly if appropriate; or
 - iv. to refer it to the Student Misconduct Committee.

(54) If a Decision-Maker makes a determination under clause (53)c, points ii, iii or iv, he or she must notify the Student in writing to that effect in accordance with (as the case may be) clause (28) or (29) or Rule 18.

(55) If a Decision-Maker determines that it is appropriate to do so, he or she may cause an investigation to occur as soon as possible after making a determination under clause (53)c, point i. The Decision-Maker is not required to notify the Student of his or her determination to do so.

(56) Once an investigation under clause (55) is completed, the Decision-Maker must determine whether to:

- a. dismiss the Allegation; or
- b. hear and determine the Allegation himself or herself and if so, whether to hear the Allegation in person or by means of written submissions; or
- c. refer the Allegation to a Student Misconduct Committee, and notify the Student in writing to that effect in accordance with Rule 18.

Division 4 - Decision-Maker Determines Misconduct

Rule 18 - Notifying the Student

(57) If a Decision-Maker determines to hear and determine an Allegation directly [regardless of whether there has first been an investigation under clause (55)], he or she must send a notice to the Student that:

- a. provides sufficient details about the Allegation known at that time;
- b. informs the Student:

- i. that the Decision-Maker proposes to hear and determine the Allegation directly, even if the Student does not respond to the notice or the Allegation, or is absent from any meeting or hearing convened by the Decision-Maker;
 - ii. whether the Decision-Maker intends to conduct a hearing in person or determine the Allegation on the basis of written evidence or argument; and
 - iii. the time and date when:
 - the Decision-Maker proposes to hear the matter in person; or
 - the Student must respond under clause (57)c;
- c. invites the Student to, within a reasonable period of time (which must be no less than 7 days after the date on which the notice is sent):
- i. meet with the Decision-Maker or communicate by other means (for example, by telephone) for the purposes of responding to, or generally discussing, the Allegation;
 - ii. bring a friend or support person with him or her to any meeting under clause (57)c, point i;
 - iii. submit a written response to the Allegation;
 - iv. inspect relevant documents held by the Decision-Maker in relation to the Allegation; and
- d. encloses a copy of this Rule.

Rule 19 - Determination

(58) Once the deadline specified in a notice given under Rule 18 expires (and regardless of whether the Student responds to that notice), the Decision-Maker must determine whether there is sufficient evidence to establish the Allegation, and:

- a. if not, dismiss the Allegation; or
- b. if he or she determines there is sufficient evidence to prove the Allegation, determine whether to impose a penalty in accordance with Rule 27.

Division 5 - Notifying the Student of Determination

Rule 20 - Requirements

(59) A Decision-Maker must, within seven (7) days of determining an Allegation, notify the Student of his or her determination, and give a statement of reasons for that determination. The notice must specify:

- a. whether the Allegation is established or dismissed;
- b. any penalty that the Decision-Maker has determined to impose; and
- c. that the Student has a right of appeal against that determination by notifying the Senior Deputy Vice Chancellor within 14 days of the date of the Decision-Maker's notice (or a longer time specified in that notice if 14 days is not a reasonable time).

(60) A notice given under clause (59) must also include either a copy of this Rule or a description of the relevant Appeal procedures in (as the case may be) Part D or E.

Part D - Student Misconduct Committee

Division 1 - Preliminary

Rule 21 - Appointment

(61) A Student Misconduct Committee shall consist of the following persons appointed by the Senior Deputy Vice

Chancellor for any particular matter:

- a. three (3) staff members of the University:
 - i. where practicable, at least one of whom must be a female and a male; and
 - ii. one of whom shall be appointed to act as Chair;
- b. one female student and one male student (who must not be full-time members of staff of the University).

(62) A quorum for the Student Misconduct Committee is three (3) members, one of whom must be a student and one of whom must be the Chair.

(63) If a member of a Student Misconduct Committee dies, becomes ineligible to be a member of the Student Misconduct Committee, or is otherwise unavailable to attend a hearing for any reason:

- a. after the hearing of an Allegation has commenced under Division 2,
- b. but has not yet been determined, then the remaining members of the Student Misconduct Committee shall proceed to complete the hearing and determine the Allegation.

(64) The Chair shall determine:

- a. the manner and order of proceedings for any hearing;
- b. any points of order or interpretation that may arise;
- c. whether any objection to a question should be upheld or overruled;
- d. whether any legal advice should be sought by the Committee in relation to any procedural matter; and
- e. who may be present during any part of the hearing.

(65) Any determination of the Student Misconduct Committee [not being a determination required to be made by the Chair under clause (64)] shall be determined at least by a majority of the Student Misconduct Committee. If there is an equality of votes, then the Chair has a casting vote.

Rule 22 - What Can Be Dealt With by the Student Misconduct Committee

(66) The Student Misconduct Committee shall hear, consider and determine:

- a. an Allegation of Academic Misconduct referred to it under Rule 14, Rule 16 or Rule 17.
- b. an Allegation of Non-Academic Misconduct or involving both Academic and Non-Academic Misconduct referred to it under clause (51)b or (53)c, point iv;
- c. an Appeal against a determination made under Rule 19.

(67) A Student must lodge an Appeal under clause (66)c by sending the Senior Deputy Vice Chancellor a notice to that effect within fourteen (14) days of the date on which the relevant Decision-Maker notifies the Student of that determination.

(68) An Appeal may be made:

- a. against a finding of Academic Misconduct;
- b. against the type or severity of the penalty imposed; and
- c. on any one or more of the grounds specified in Rule 29.

Rule 23 - Secretary

(69) The Senior Deputy Vice Chancellor must appoint a person to act as secretary and provide administrative support

to the Student Misconduct Committee and the Council Appeals Committee.

(70) The Secretary may, for and on behalf of the Student Misconduct Committee or the Council Appeals Committee (as the case may be), issue notices or other communications [including any summons issued under clause (15)a] as and when directed by the Chair of the relevant Committee.

Rule 24 - Presentation of Evidence on Behalf of University

(71) The Senior Deputy Vice Chancellor must designate a person to present evidence or submissions about an Allegation at its hearing under Division 2. That person may at that hearing:

- a. question any witness;
- b. present any witnesses and any evidence;
- c. address the Chair or a Committee or make submissions about any issue before them.

Division 2 - Procedures of Student Misconduct Committee

Rule 25 - Preliminary Issues to be Determined

(72) A Student Misconduct Committee must convene a meeting as soon as possible (normally within three weeks) after an Allegation or an Appeal has been referred to it, and:

- a. ensure that the Student and any witnesses have been correctly identified;
- b. ensure that the Student has been given notice in accordance with (as the case may be) clause (56) or (59);
- c. give the Student a reasonable opportunity to make written or oral submissions as to whether he or she has a case to answer;
- d. determine whether, on the evidence available, the Student has a case to answer and, if not, dismiss the Allegation without requiring the Student to answer it;
- e. if the Student Misconduct Committee determines the Student has a case to answer, then the Chair shall determine:
 - i. whether any members of that Committee should be disqualified from hearing and deciding the Allegation because of any conflict of interest;
 - ii. how the Committee will proceed to hear and determine the matter; and
 - iii. when the matter is to be heard, which must be a date no less than 14 days after the Student Misconduct Committee makes that determination.

(73) The Student Misconduct Committee may, subject to this Rule make any procedural directions at a meeting convened under clause (72).

(74) The Student Misconduct Committee must notify the Student of any decisions made under clause (72) within seven (7) days of making those decisions.

Rule 26 - Procedure for Hearing and Deciding Allegations and Appeals

(75) The Student Misconduct Committee must, in accordance with this Rule, proceed as soon as practicable (normally within three weeks) to hear and determine an Allegation or an Appeal.

(76) In relation to an Allegation, the Student Misconduct Committee may determine:

- a. to dismiss the Allegation;
- b. make a finding that the Allegation is proved, and if so
 - i. determine that no penalty should be imposed; or

- ii. impose a penalty in accordance with Rule 27.

(77) Procedures relating to the hearing and determination of Appeals under Rules 31 and 32 apply to Appeals against a determination under Rule 19 with the exception that such Appeals are to be heard and determined by the Student Misconduct Committee.

(78) The Student Misconduct Committee must notify the Student of its determination and give a statement of its reasons within 7 days of making that determination.

(79) The Student Misconduct Committee must give a copy of its determination and statement of reasons to the Senior Deputy Vice Chancellor within 7 days of making that determination.

(80) The Chair of the Committee may advise relevant staff of the outcome of the hearing of an Allegation or Appeal, and may provide advice or suggestions for procedural improvements on behalf of the Committee to the Senior Deputy Vice Chancellor.

(81) A determination by the Student Misconduct Committee of an Appeal made under clause (67) is final and conclusive and may not be the subject of a further Appeal under Part E.

Division 3 - Penalties

Rule 27 - Penalties or Orders that May Be Imposed

(82) Subject to clauses (83) and (84), any one or more of the following penalties or orders may be imposed by a Decision-Maker who determines an Allegation or an Appeal:

- a. a reprimand;
- b. a caution;
- c. conditions on that Student's enrolment or participation in activities of the University;
- d. the award of a mark of zero or a reduced mark for an examination or other assessable activity of a unit of study;
- e. the award of a result of fail for a unit of study;
- f. exclusion from a unit of study or a course for a study period (up to a trimester or session);
- g. a fine payable within a specified period of time;
- h. payment by way of restitution within a specified period of time;
- i. suspension (in accordance with the provisions of Division 3) for a specified period of time from any one or more of:
 - i. any part or all of the University grounds;
 - ii. attending any classes, meetings or other activities; or
 - iii. using any facilities or services of the University;
- j. expulsion from the University;
- k. any other penalty or order considered reasonable and appropriate by the Decision-Maker, taking into account all the circumstances of the case, including the seriousness of the Misconduct.

(83) A determination to exclude or suspend a student for longer than one formal study period (trimester or session) or to expel a student from the University under clause (82)j) may only be made by:

- a. the Student Misconduct Committee; or
- b. the Vice Chancellor; or
- c. the Council Appeals Committee.

(84) Academic Integrity Officers, Heads of School/Head of College or Directors of Special Research Centres are not empowered to impose penalties (82)e, (82)f, (82)g, (82)h, (82)i, (82)j, and (82)k.

(85) When imposing a penalty or an order under clause (82), a Decision-Maker must ensure that penalty or order:

- a. is reasonable and appropriate, having regard to the seriousness of the Misconduct and whether it is Academic Misconduct or Non-Academic Misconduct; and
- b. takes into account any temporary suspension already imposed on the Student under Part C, Division 5;

(86) A Decision-Maker may, when imposing a penalty under this Rule, suspend its operation on such conditions as that Decision-Maker considers appropriate and reasonable in the circumstances.

(87) If a Student lodges an Appeal, the operation of a penalty imposed under this Rule 27 (except a determination to suspend that Student under Part D Division 3) is suspended pending the outcome or withdrawal of that Appeal.

Part E - Appeals to Council Appeals Committee

Division 1 - Lodgement and Grounds

Rule 28 - Lodging an Appeal

(88) Subject to clause (89), a Student may appeal to the Council Appeals Committee against a determination of:

- a. the Student Misconduct Committee in accordance with clause (76), but subject to clause (89);

by sending the Senior Deputy Vice Chancellor a written notice (which may be in electronic form) to that effect within fourteen (14) days of the date on which the relevant Decision-Maker notifies the Student of that determination.

(89) A Student cannot appeal against a determination made under Rule 19 if that determination has previously been determined by the Student Misconduct Committee under clause (66)c. For the avoidance of doubt, a Student may only appeal against a determination of the Student Misconduct Committee under clause (66)a or (66)b.

(90) A notice given by a Student under clause (88) must set out the relevant grounds (which are set out in Rule 29) and full particulars of the appeal.

Rule 29 - Grounds of Appeal

(91) An Appeal may be made on any one or more of the following grounds:

- a. that the determination is unreasonable or cannot be supported on the basis of the evidence available at the time the determination was made;
- b. that a particular provision of this Rule was misinterpreted or not followed, which resulted in a substantial miscarriage of justice;
- c. that particular evidence should have been considered as relevant to the determination made;
- d. that particular evidence that was considered relevant to the determination made was irrelevant;
- e. a failure to observe procedural fairness;
- f. that fresh relevant evidence has become available to the Student which was not available or not known to the Student at the time of the hearing or considering of the determination;
- g. that any penalty imposed or order made was excessive or inappropriate taking into account all the circumstances of the case.

Division 2 - Council Appeals Committee

Rule 30 - Constitution

(92) There shall be an Council Appeals Committee, appointed by resolution of the Council on the nomination of the Chancellor:

- a. consisting of not less than three (3) and not more than (5) members of the Council:
 - i. at least one of whom must be a student member of Council; and
 - ii. one of whom shall be appointed by the Council to chair the Appeals Committee;
- b. for a period not exceeding two (2) years.

(93) Subject to clause (94), the quorum for the Council Appeals Committee is three (3).

(94) If a member of the Council Appeals Committee dies, ceases to be a Council member, or is unavailable to consider or determine an Appeal for any reason:

- a. after the consideration of the Appeal has commenced under Rule 31,
- b. but has not yet been determined in accordance with Rule 32,

then the remaining members of the Council Appeals Committee shall proceed to complete the hearing and determine the Appeal.

(95) The Council Appeals Committee may determine any matter before it unanimously or by majority. If there is an equality of votes, then the Chair has a casting vote.

31 - Hearing an Appeal

(96) The Council Appeals Committee may hear the Appeal by means of oral and/or written submissions and/or argument.

(97) If an Appeal is to be conducted by way of oral submissions or argument then the Council Appeals Committee must send a notice to the Student that tells him or her:

- a. the date, time and place where the Appeal is to be heard;
- b. that he or she may make submissions in person or have another person do so on his or her behalf; and
- c. that if the Student or his or her representative does not attend the hearing, then the Council Appeals Committee will determine the Appeal in his or her absence.

(98) If an Appeal is to be conducted by way of written submissions or argument, then the Council Appeals Committee must send a notice to the Student that tells him or her:

- a. the deadline and place where any written submissions or argument must be sent; and
- b. that if the Student does not make any written submissions or argument by the deadline specified in the notice, then the Council Appeals Committee will determine the Appeal in the absence of any such submissions or argument.

Rule 32 - Determining an Appeal

(99) Except for an Appeal made on the ground specified in clause (91)f, the Council Appeals Committee must determine an Appeal only on the basis of the record of evidence taken at the time the original determination was made.

(100) The Council Appeals Committee must:

- a. allow an Appeal if it determines that the determination should be set aside on any one or more of the grounds of appeal relied upon by the Student in his or her Appeal; or
- b. dismiss an Appeal and affirm the original determination (including any penalty) if it determines that:
 - i. the determination should not be set aside on any of the grounds of appeal relied upon by the Student in his or her Appeal; or
 - ii. no substantial miscarriage of justice has occurred even though the determination is capable of being set aside on any one or more of the grounds of appeal relied upon by the Student in his or her Appeal.

(101) In allowing an Appeal under clause (100)a, the Council Appeals Committee may do any one or more of the following:

- a. order that the original determination should be quashed;
- b. order that the original determination should be set aside and reheard by the original Decision-Maker;
- c. order that the original determination should be set aside and substitute its own determination;
- d. substitute a different penalty for the one imposed in the original determination, or set aside that penalty.

(102) The Council Appeals Committee must notify the Student of its determination within seven (7) days of making it, and include with that notice a statement of its reasons for the determination.

(103) A determination made under this Rule 32 is final and conclusive.

Part F - Miscellaneous Provisions

Rule 33 - Savings and Transitional

(104) If, before this Rule comes into effect, a person or committee of persons has commenced the hearing or consideration of an:

- a. Allegation; or
- b. Appeal, but has not yet made a determination in relation to that matter, then that person or group of persons:
 - i. are taken to be appointed as a Decision-Maker for the purpose of this Rule; and
 - ii. shall continue to hear or consider and determine that matter in accordance with this Rule as if the initial proceedings has been commenced under or conducted pursuant to this Rule.

(105) Any act, matter or thing that immediately before this Rule came into effect had effect pursuant to any by-law, rule, resolution or other instrument of the University is taken to have effect under this Rule.

Rule 34 - Review

(106) The Vice Chancellor may at any time nominate a person or establish a committee or working party to review this Rule and report to him, and the Vice Chancellor may recommend any necessary changes for consideration and approval by the Council.

Status and Details

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