

# Rules - Student Academic and Non-Academic Misconduct Rules

## Section 1 - Citation, Purpose and Scope

### Citation

(1) This Rule is made by the Council of the University, under section 30 (1) of the [Southern Cross University Act 1993](#) ('Act') for the purposes of the [Southern Cross University By-Law 2005](#) (as amended).

### Purpose

(2) This Rule defines Academic and Non-Academic Misconduct, sets out the procedures for investigating and determining Allegations of Academic and Non-Academic Misconduct, and prescribes the penalties and or orders that may be imposed and subsequent rights of appeal.

### Scope

(3) This Rule applies to all University Students in respect of any alleged Academic or Non-Academic Misconduct whilst enrolled or registered as a Student of the University, regardless of where the misconduct occurs.

(4) Nothing in this Rule precludes the University from initiating any form of legal action against a Student in connection with an Allegation of Academic or Non-Academic Misconduct.

(5) This Rule should be read in conjunction with the University's [Academic Integrity Policy](#), Academic Misconduct Guidelines and [Research Responsible Conduct Policy](#) and applies in conjunction with principles of procedural fairness, existing rules, policies and other instruments of the University dealing with Allegations of Student Academic or Non-Academic Misconduct.

## Section 2 - Definitions

(6) For the purposes of this Rule:

- a. Academic Misconduct means behaviour that contravenes the values of academic integrity. It includes, but is not limited to:
  - i. acting dishonestly in connection with academic work, including assisting, or procuring another person to do so;
  - ii. cheating - improper conduct in examinations or other assessment tasks including taking unauthorised study material and aids into an examination room, copying from another Student and sitting an examination for another Student;
  - iii. 'recycling' work that has been prepared for one unit by presenting it as original work for another unit or re-presenting work previously submitted for an incomplete or failed unit unless specific appropriate permission is given;
  - iv. collusion - presenting the product of unauthorised collaboration as independent work; or copying, or

attempting to copy, another person's work and pass it off as one's own work; or knowingly allowing work to be copied and passed off as the work of another person;

- v. plagiarism - fraudulently, deliberately or inadvertently using the work of others without due acknowledgement, and claiming it as one's own for academic or other purposes.
- b. Allegation means an Allegation of Academic or Non-Academic Misconduct.
- c. Appeal means an Appeal against the determination of the Decision-Maker.
- d. Caution means a warning about the consequences of Academic Misconduct or Non-Academic Misconduct and a clear message about penalties should the Student be found to have committed Academic Misconduct or Non-Academic Misconduct again.
- e. Chair means the person appointed as Chair of the Student Misconduct Appeals Committee.
- f. Chair of School Board means the person elected as Chair of a School or College Board.
- g. Civil Standard of Proof means that the Allegation must be proved to the satisfaction of the Decision-Maker on the balance of probabilities. Hearings and determinations under this Rule are not legal proceedings and Decision-Makers will consider evidence, to the best of their abilities, in order to determine the facts on the basis of the balance of probabilities.
- h. Decision-Maker means:
  - i. in relation to an Allegation under Section 3 - , an Academic Integrity Officer/Dean of Graduate Studies;
  - ii. in relation to an Appeal under Section 3 - , a Head of School/College Director or Deputy Vice Chancellor (Research);
  - iii. in relation to an Allegation under Section 4 - , the Deputy Vice Chancellor (Academic);
  - iv. in relation to an Appeal under Section 4 - , the Student Misconduct Appeals Committee;
  - v. in relation to suspension of a Student under Section 6 - , a person specified in Clause (62) or (71).
- i. Expulsion means the Student is permanently expelled from the University.
- j. ESOS Act means the Education Services for Overseas Students Act 2000 .
- k. Head of School means the Head/Director of a University School/College.
- l. Non-Academic Misconduct means:
  - i. discriminating against, or harassing or bullying other people, or inciting other people to do so;
  - ii. any conduct that is inconsistent with standards or practices normally expected of university Students. It includes behaviour that places the public, other Students or Staff at risk of harm or is inconsistent with the requirements of the course or with the standard, code or guideline defined by any relevant professional registration or accrediting body;
  - iii. 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;
  - iv. stealing, damaging or destroying anything that does not belong to that Student;
  - v. unreasonably disrupting a class, meeting or other University activity;
  - vi. intimidating, threatening or assaulting any one;
  - vii. attempting to access or alter any record of the University without authorisation;
  - viii. 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;
  - ix. failing to comply with any penalty imposed in accordance with this Rule;
  - x. 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;
  - xi. any other behaviour that is inconsistent with any rules or policies of the University;
  - xii. any behaviour that is inconsistent with, or otherwise prejudicial to, the good order and government of the

University; or

- xiii. frivolous or vexatious Allegations or Allegations without substance.
- m. Reprimand means a formal censure.
- n. Staff (for the purposes of this Rule) means all persons who are academic or professional staff employees of Southern Cross University and all Adjuncts and Emeritus Professors who are engaged in supervisory and other roles on behalf of the University.
- o. Student means a person who, at the time or times the Academic or Non-Academic Misconduct is alleged to have occurred, is registered as a Student of the University, regardless of whether at that time they are currently enrolled in a course of study conducted by or within the University.
- p. Suspension means the Student is suspended:
  - i. immediately and temporarily for up to 14 days; or
  - ii. from 14 days to a maximum of 12 months.
- q. University Grounds means 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.

(7) In this Rule, unless the contrary intention appears, a reference to an officer of the University includes any person acting in that position.

## **Section 3 - Academic Misconduct**

### **Making Allegations**

(8) An Allegation of Academic Misconduct must be made to the Academic Integrity Officer of the School/College responsible for the unit in which the Student is enrolled, except for an Academic Misconduct Allegation relating to a higher degree by research candidate, which must be made to the Dean of Graduate Studies.

(9) An Allegation involving both Academic and Non-Academic Misconduct must be referred promptly to the Deputy Vice Chancellor (Academic), in accordance with Section 4 - .

### **Who May Make Allegations**

(10) Any person can make an Allegation if they reasonably suspect actual or potential Academic Misconduct.

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

### **Procedure Upon Receipt of Academic Misconduct Allegation**

(12) When an Academic Integrity Officer/Dean of Graduate Studies receives an Allegation of Academic Misconduct, they must apply the Academic Misconduct Guidelines and establish whether the Allegation involves possible misconduct; and

- a. if it is determined the Allegation does not involve possible Academic Misconduct, dismiss the Allegation; or
- b. if it is determined the Allegation does involve possible Academic Misconduct, hear and determine the Allegation directly in accordance with the procedures set out in this Section 3.

(13) No person may investigate an Academic Misconduct allegation where they have a perceived or actual conflict of interest (refer Section 9 - of this Rule).

(14) Upon making a determination to hear and determine the Allegation directly the Academic Integrity Officer/Dean of Graduate Studies must notify the Student in writing of that determination giving reasons for the determination.

(15) The Academic Integrity Officer/Dean of Graduate Studies will liaise with SCU Legal Services for advice if necessary and advise the relevant School of the alleged misconduct to allow for notification of it to any regulatory body if required.

### **Notifying the Student of the Allegation**

(16) The Academic Integrity Officer/Dean of Graduate Studies will determine an Allegation by way of a hearing or directly by means of oral and/or written submission and/or argument by sending the Student a written notice that advises:

- a. sufficient details about the Allegation known at that time;
- b. that the Academic Integrity Officer/Dean of Graduate Studies proposes to hear or 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 Academic Integrity Officer/ Dean of Graduate Studies;
- c. the place, date and time of any proposed hearing;
- d. the Student may submit a written response to the Allegation within 10 working days after the date on which the notice is sent;
- e. the Student may communicate with the Academic Integrity Officer/Dean of Graduate Studies (for example, by email) for the purposes of responding to, or generally discussing, the Allegation;
- f. the Student may bring a support person (which may be a Student Advocate) but not a legal representative, to any meeting or hearing; and
- g. the website link to this Rule.

### **Determining the Allegation**

(17) Once the deadline specified in a notice given under Clause (16) expires (and regardless of whether the Student responds to that notice or attends any proposed hearing), the Academic Integrity Officer/Dean of Graduate Studies must determine whether there is sufficient evidence to establish the Allegation, and:

- a. if not, dismiss the Allegation; or
- b. if so, determine the penalty and or order to impose in accordance with Clause (19) or (20).

### **Notifying the Student of the Determination**

(18) The Academic Integrity Officer/Dean of Graduate Studies must, within 10 working days of determining an Allegation, notify the Student of the determination, and give a statement of reasons for that determination. The notice must include the website link to these Rules and specify:

- a. whether the Allegation is established or dismissed;
- b. any penalty that the Academic Integrity Officer/Dean of Graduate Studies has determined to impose;
- c. any regulatory body report made; and
- d. that the Student has a right of Appeal against that determination by notifying in writing the Head of School/College Director or Deputy Vice Chancellor (Research) within 20 working days of the date of the determination notice.

### **Penalties or Orders that May Be Imposed by the Academic Integrity Officer/ Dean of**

## Graduate Studies

(19) The Academic Integrity Officer who determines an Allegation of Academic Misconduct will refer to the [Academic Integrity Policy](#), Academic Misconduct Guidelines and [Research Responsible Conduct Policy](#) in determining to impose one or more of the following penalties:

- a. a caution;
- b. a reprimand;
- c. an opportunity for resubmit for a maximum of a pass mark for the assessment item;
- d. an alternative assessment or special examination (if applicable) for a maximum of a pass mark for the assessment item;
- e. a mark of zero or a reduced mark for an examination or other assessable item of a unit of study;
- f. a fail for a unit of study; or
- g. a recommendation to the Chair of Academic Board that he or she should recommend Council revoke and require the surrender of an award.

(20) The Dean of Graduate Studies in determining Academic Misconduct Allegations relating to higher degree by research candidates will refer to the [Academic Integrity Policy](#), Academic Misconduct Guidelines and [Research Responsible Conduct Policy](#) in determining to impose one of the following penalties:

- a. a caution and recommendations for making revisions to the assessment item concerned;
- b. termination of candidature; or
- c. a recommendation to the Chair of Academic Board that he or she should recommend Council revoke and require the surrender of an award.

## Appeal Against Determination made by the Academic Integrity Officer/Dean of Graduate Studies

(21) A Student may Appeal to the Head of School/College Director responsible for the unit in which the Student is enrolled, or to the Deputy Vice Chancellor (Research) in respect of research higher degree candidates, against a determination made by the Academic Integrity Officer/Dean of Graduate Studies on 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; or
- b. that particular evidence should have been considered as relevant to the determination made;
- c. that particular evidence that was considered relevant to the determination made was irrelevant;
- d. that a particular provision of this Rule was misinterpreted or not followed, which resulted in a substantial miscarriage of justice;
- e. a failure to observe procedural fairness;
- f. that any penalty imposed or order made was excessive or inappropriate taking into account all the circumstances of the case.

(22) No person may hear an appeal where they have a perceived or actual conflict of interest (refer Section 9 - of this Rule).

(23) The Head of School/College Director or Deputy Vice Chancellor (Research) will hear, consider and determine an Appeal against a determination made by the Academic Integrity Officer or Dean of Graduate Studies subject to that Appeal being received within 20 working days of the date of the Academic Integrity Officer/Dean of Graduate Studies determination notice and subject to the grounds of Appeal at Clause (21).

(24) The process of determining any Appeal must commence within 10 working days of the formal lodgement of the Appeal and all reasonable measures should be taken to finalise the process as soon as practicable.

(25) The Head of School/College Director or Deputy Vice Chancellor (Research) 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.

(26) The Head of School/College Director or Deputy Vice Chancellor (Research) must, once a determination is made in relation to an Appeal, notify the Student within 10 working days. The notice must advise:

- a. the determination is final and conclusive, and may not be the subject of a further Appeal within the University;
- b. that the Student does however have the right to access an external Appeals process through the relevant State and Commonwealth Ombudsman's Office if not satisfied with the result or conduct of the Appeals process as described.

## **Section 4 - Non-Academic Misconduct**

### **Making Allegations of Non-Academic Misconduct**

(27) An Allegation of Non-Academic Misconduct or an Allegation involving both Academic and Non-Academic Misconduct must be referred promptly to the Deputy Vice Chancellor (Academic).

### **Who May Make Allegations of Non-Academic Misconduct**

(28) Any person can make an Allegation if they reasonably suspect actual or potential Non-Academic Misconduct.

(29) An Allegation of Non-Academic Misconduct should, where reasonably practicable, be made in writing.

### **Procedure Upon Receipt of Non-Academic Misconduct Allegation**

(30) No person may investigate an Non-Academic Misconduct Allegation where they have a perceived or actual conflict of interest (refer Section 9 - of this Rule).

(31) When the Deputy Vice Chancellor (Academic) receives an Allegation of Non-Academic Misconduct or an Allegation involving both Academic and Non-Academic Misconduct they must cause an investigation to be carried out to establish whether the Allegation involves possible misconduct; and:

- a. if it is determined the Allegation does not involve possible misconduct, dismiss the Allegation; or
- b. if it is determined the Allegation does involve possible misconduct, hear and determine the Allegation directly in accordance with the procedures set out in this Section 4.

(32) Upon making a determination to dismiss or hear and determine the Allegation directly the Deputy Vice Chancellor (Academic) must notify the Student in writing of that determination giving reasons for the determination.

(33) The Deputy Vice Chancellor (Academic) may, if appropriate, and before dismissing an Allegation or hearing and determining an Allegation:

- a. impose interim conditions such as suspension under Clause (61) to prevent the public being placed at risk or harm. Upon making a determination to impose interim conditions the Deputy Vice Chancellor (Academic) must notify the Student in writing giving a statement of reasons for the determination;
- b. cause an internal or external investigation to be conducted. The Deputy Vice Chancellor (Academic) is required to notify the Student regarding a determination to undertake an internal or external investigation and will do so, normally within 10 working days of receipt of the Allegation.

(34) The Deputy Vice Chancellor (Academic) will liaise with SCU Legal Services if necessary and advise the relevant School of the alleged misconduct to allow for notification of it to any regulatory body if required.

### **Notifying the Student of a Non-Academic Misconduct Allegation**

(35) The Deputy Vice Chancellor (Academic) may determine an Allegation by way of a hearing or directly by means of oral and/or written submission and/or argument, by sending the Student a written notice that advises:

- a. sufficient details about the Allegation known at that time;
- b. that the Deputy Vice Chancellor (Academic) proposes to hear or 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 Deputy Vice Chancellor (Academic);
- c. the place, date and time of any proposed hearing;
- d. the Student may submit a written response to the Allegation within 10 working days after the date on which the notice is sent; or
- e. the Student may communicate with the Deputy Vice Chancellor (Academic) (for example, by email) for the purposes of responding to, or generally discussing, the Allegation;
- f. the Student may bring a support person which may be a Student Advocate (but not a legal representative) to any meeting or hearing; and
- g. the website link to this Rule.

### **Determining the Non-Academic Misconduct Determination**

(36) Once the deadline specified in the Allegation notice given under Clause (35) expires (and regardless of whether the Student responds to that notice or attends any proposed hearing), the Deputy Vice Chancellor (Academic) must determine whether there is sufficient evidence to establish the Allegation, and:

- a. if not, dismiss the Allegation; or
- b. if so, determine the penalty to impose in accordance with Clause (38).

### **Notifying the Student of a Non-Academic Misconduct Determination**

(37) The Deputy Vice Chancellor (Academic) must, within 10 working days of determining an Allegation, notify the Student of the determination, and give a statement of reasons for that determination. The notice must include the website link to these Rules and specify:

- a. whether the Allegation is established or dismissed;
- b. any penalty that the Deputy Vice Chancellor (Academic) has determined to impose,
- c. any regulatory body report made; and
- d. that the Student has a right of Appeal against the determination by notifying in writing the Student Misconduct Appeals Committee within 20 working days of the date of the determination notice, by sending the Student Misconduct Appeals Committee a written notice (by email) to that effect.

## **Penalties or Orders that May Be Imposed by the Deputy Vice Chancellor (Academic)**

(38) The Deputy Vice Chancellor (Academic) in determining an Allegation of Non-Academic Misconduct or an Allegation involving both Academic and Non-Academic Misconduct may impose one or more of the following penalties or orders:

- a. a caution;
- b. a reprimand;
- c. an opportunity for resubmit for a maximum of a pass mark for the assessment item;
- d. an alternative assessment or special examination (if applicable) for a maximum of a pass mark for the assessment item;
- e. a mark of zero or a reduced mark for an examination or other assessable activity of a unit of study;
- f. the award of a result of fail for a unit of study;
- g. termination of candidature;
- h. a recommendation to the Chair of Academic Board that he or she should recommend Council revoke and require the surrender of an award;
- i. conditions on that Student's enrolment or participation in activities of the University (including medical leave for the purposes of assessment or treatment);
- j. immediate and temporary suspension up to 14 days from any one or more of:
  - i. any part or all of the University grounds;
  - ii. attending any University classes, meetings or other activities;
  - iii. using any facilities or services of the University.
- k. suspension from 14 days to a maximum of 12 months from any one or more of:
  - i. any part or all of the University grounds;
  - ii. attending any University classes, meetings or other activities;
  - iii. using any facilities or services of the University.
- l. permanent expulsion from the University;
- m. a fine payable to the University within a specified period of time;
- n. payment to the University by way of restitution within a specified period of time;
- o. any other penalty or order considered reasonable and appropriate taking into account all the circumstances of the case, including the seriousness of the misconduct.

(39) If imposing suspension or permanent expulsion for onshore international Students the Decision-Maker must apply the Enrolment, Deferment, Suspension and Cancellation Procedures - International Students.

## **Appeal Against Non-Academic Misconduct Determination or Determination involving both Non-Academic and Academic Misconduct made by the Deputy Vice Chancellor (Academic)**

(40) A Student may Appeal to the Student Misconduct Appeals Committee on the following grounds, against a determination made by the Deputy Vice Chancellor (Academic) subject to that Appeal being received by written notice within 20 working days of the determination notice:

- 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 particular evidence should have been considered as relevant to the determination made;
- c. that particular evidence that was considered relevant to the determination made was irrelevant;
- d. that a particular provision of this Rule was misinterpreted or not followed, which resulted in a substantial miscarriage of justice;



- e. a failure to observe procedural fairness; or
- f. that any penalty imposed or order made was excessive or inappropriate taking into account all the circumstances of the case.

## **Section 5 - Appeals to the Student Misconduct Appeals Committee**

### **What Can Be Dealt With by the Student Misconduct Appeals Committee**

(41) The Student Misconduct Appeals Committee will hear, consider and determine:

- a. an Appeal against a Non-Academic Misconduct determination made by the Deputy Vice Chancellor (Academic), subject to that Appeal being received within 20 working days of the date of the determination notice and subject to the grounds of Appeal at Clause (40); or
- b. an Appeal against a determination involving both Non-Academic Misconduct and Academic Misconduct made by the Deputy Vice Chancellor (Academic), subject to that Appeal being received within 20 working days of the date of the determination notice and subject to the grounds of Appeal at Clause (40).

### **Appointment of the Student Misconduct Appeals Committee**

(42) A Student Misconduct Appeals Committee will consist of the following members, of which at least one member must be male and one must be female:

- a. a Chair, (being a full-time academic member of Staff) appointed to the role of Chair for a two-year term by the Vice Chancellor; and
- b. two (2) Staff members appointed by the Chair on an as-needs basis from relevant discipline areas of the University; and
- c. a Student (who does not hold a continuing or fixed-term appointment with the University).

(43) No person may sit on the Student Misconduct Appeals Committee to determine a matter in which they have a perceived or actual conflict of interest (refer Section 9 - of this Rule).

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

(45) If, after the hearing of an Appeal has commenced but the Appeal has not yet been determined, a member of the Student Misconduct Appeals Committee:

- a. dies;
- b. becomes ineligible to be a member of the Student Misconduct Appeals Committee; or
- c. is otherwise unavailable to attend a hearing for any reason,

the remaining members of the Student Misconduct Appeals Committee shall proceed to complete the hearing and determine the Appeal, provided there is a quorum.

(46) 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.

(47) Any determination of the Student Misconduct Appeals Committee (except for a determination made by the Chair under clause (46)) shall be determined by at least a majority of the Student Misconduct Appeals Committee. If there is an equality of votes, then the Chair shall have a second or casting vote.

### **Presentation of Evidence on Behalf of University**

(48) The Student Misconduct Appeals Committee may designate a University staff member, such as the Academic Integrity Support Officer (but not a legal representative or the student's advocacy officer) to assist with any investigation or present evidence or submissions about an Appeal. 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.

### **Procedure Upon Receipt of Appeal**

(49) The process of determining any Appeal must commence within 10 working days of the formal lodgement of the Appeal and all reasonable measures should be taken to finalise the process as soon as practicable.

(50) When the Student Misconduct Appeals Committee receives an Appeal against a Non-Academic Misconduct determination or an Appeal against a determination involving both Academic and Non-Academic Misconduct it must:

- a. allow an Appeal if the grounds of Appeal relied upon by the Student meet any one or more of the grounds of Appeal listed at Clause; (40) or
- b. dismiss an Appeal and affirm the original determination (including any penalty) if it determines that the grounds of Appeal relied upon by the Student do not meet any one or more of the grounds of Appeal listed at Clause (40).

(51) If the Student Misconduct Appeals Committee determines to dismiss an Appeal it must within 10 working days of determining that, notify the Student of the determination. The notice must include the website link to these Rules, and specify:

- a. a statement of reasons for that determination;
- b. that the determination to dismiss the Appeal is final and conclusive, and may not be the subject of a further Appeal within the University;
- c. that the Student does however have the right to access an external Appeals process through the relevant State and Commonwealth Ombudsman's Office if not satisfied with the result or conduct of the Appeals process as described.

(52) If the Student Misconduct Appeals Committee determines to hear an Appeal by way of oral or written submission it must, within 10 working days of determining that, notify the Student in accordance with Clause (57) or (58).

(53) The Student Misconduct Appeals Committee may, if appropriate, and before dismissing or hearing and determining an Appeal cause an internal or external investigation to be conducted. The Student Misconduct Appeals Committee is required to notify the Student regarding a determination to undertake an internal or external investigation and will do so, normally within 10 working days of receipt of the Allegation.

## **Procedure for Student Misconduct Appeals Committee Determining an Appeal**

(54) In allowing an Appeal under Clause (50), the Student Misconduct Appeals Committee will determine any one or more of the following:

- a. order that the original determination be set aside and reheard by the original Decision-Maker;
- b. order that the original determination be set aside and substitute a new determination and penalty or order;
- c. order that the original determination be sustained but substitute a different penalty or order.

(55) The Student Misconduct Appeals Committee must, within 10 working days of determining an Appeal, notify the Student and the Decision-Maker of that determination. The notice must include the website link to these Rules, and specify:

- a. a statement of reasons for that determination;
- b. that the determination is final and conclusive, and may not be the subject of a further Appeal within the University;
- c. that the Student does however have the right to access an external Appeals process through the relevant State and Commonwealth Ombudsman's Office if not satisfied with the result or conduct of the Appeals process as described.

## **Procedure for Student Misconduct Appeals Committee Hearing an Appeal**

(56) The Student Misconduct Appeals Committee will hear the Appeal by means of oral or written submissions and/or argument.

(57) If an Appeal is to be conducted by way of oral submissions or argument then the Student Misconduct Appeals Committee must notify the Student. The notice must include the website link to these Rules and specify:

- a. the date, time and place where the Appeal is to be heard;
- b. that the Student may make oral submissions in person or have another person such as a Student Advocate (but not a legal representative) do so on their behalf;
- c. that if the Student or their representative does not attend the hearing, the Student Misconduct Appeals Committee will determine the Appeal in their absence;
- d. that the determination in relation to the Appeal is final and conclusive, and may not be the subject of a further Appeal within the University;
- e. that the Student does however have the right to access an external Appeals process through the relevant State and Commonwealth Ombudsman's Office if not satisfied with the result or conduct of the Appeals process as described.

(58) If an Appeal is to be conducted by way of written submissions or argument, then the Student Misconduct Appeals Committee must notify the Student. The notice must include the website link to these Rules and specify:

- a. the deadline and address 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, the Student Misconduct Appeals Committee will determine the Appeal in the absence of any such submissions or argument;
- c. that the determination is final and conclusive, and may not be the subject of a further Appeal within the University; and
- d. that the Student does however have the right to access an external Appeals process through the relevant State and Commonwealth Ombudsman's Office if not satisfied with the result or conduct of the Appeals process as

described.

## **Penalties or Orders that may be Imposed by the Student Misconduct Appeals Committee**

(59) The Student Misconduct Appeals Committee in determining an Appeal may impose any one or more of the following penalties or orders:

- a. a caution;
- b. a reprimand;
- c. an opportunity for resubmit for a maximum of a pass mark for the assessment item;
- d. an alternative assessment or special examination (if applicable) for a maximum of a pass mark for the assessment item
- e. a mark of zero or a reduced mark for an examination or other assessable activity of a unit of study;
- f. the award of a result of fail for a unit of study;
- g. termination of candidature;
- h. a recommendation to the Chair of Academic Board that he or she should recommend Council revoke and require the surrender of an award;
- i. conditions on that Student's enrolment or participation in activities of the University (including medical leave for the purposes of assessment or treatment);
- j. immediate and temporary suspension up to 14 days from any one or more of:
  - i. any part or all of the University grounds;
  - ii. attending any University classes, meetings or other activities;
  - iii. using any facilities or services of the University.
- k. suspension from the University from 14 days to a maximum of 12 months from any one or more of:
  - i. any part or all of the University grounds;
  - ii. attending any University classes, meetings or other activities;
  - iii. using any facilities or services of the University.
- l. a fine payable to the University within a specified period of time;
- m. payment to the University by way of restitution within a specified period of time;
- n. any other penalty or order considered reasonable and appropriate taking into account all the circumstances of the case, including the seriousness of the misconduct;
- o. permanent expulsion from the University.

(60) If imposing suspension or permanent expulsion for onshore international Students the Decision-Maker must apply the Enrolment, Deferment, Suspension and Cancellation Procedures - International Students.

## **Section 6 - Suspension of Students**

### **When Suspension Can Occur**

(61) A Decision-Maker (under Clause (62)) may immediately and temporarily suspend a Student in circumstances where:

- a. the Student's behaviour amounts to Non-Academic 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 Non-Academic Misconduct by, or an Allegation of Non-Academic Misconduct against, a Student and it is reasonable in the circumstances to suspend that Student in order to:

- i. attempt to prevent that Non-Academic 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.

## **Who May Immediately and Temporarily Suspend a Student**

(62) A determination to suspend a Student immediately and temporarily in respect of any misconduct may only be made by:

- a. The Vice Chancellor;
- b. Deputy Vice Chancellor (Academic);
- c. (Academic) Director Student Administration Services; or
- d. Head of Campus.

## **Immediate and Temporary Suspension Orders**

(63) The Decision-Maker in determining an immediate and temporary suspension may impose:

- a. immediate and temporary suspension up to 14 days from any one or more of:
  - i. any part or all of the University grounds;
  - ii. attending any University classes, meetings or other activities;
  - iii. using any facilities or services of the University.

(64) If imposing immediate and temporary suspension for onshore international Students the Decision-Maker must apply the Enrolment, Deferment, Suspension and Cancellation Procedures - International Students.

## **Procedure for Immediate and Temporary Suspension of a Student**

(65) If a Decision-Maker determines to suspend a Student immediately and temporarily they must notify 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 immediately and 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;
- 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); and
- e. that the imminent threat or likelihood of Non-Academic misconduct, or Allegation of Non-Academic Misconduct is referred to the Deputy Vice Chancellor (Academic) to be dealt with in accordance with Section 4 - of this Rule.

(66) If a Decision-Maker notifies a Student of suspension orally, that Decision-Maker must also send the Student a notice in writing to that effect in accordance with clause (65) within 24 hours of suspending that Student.

(67) 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.

(68) A Decision-Maker must immediately notify the Director, Student Administration Services, Deputy Vice Chancellor (Academic) and Security of any determination to impose immediate and temporary suspension under this Rule.

(69) A Decision-Maker (other than the Vice Chancellor or Deputy Vice Chancellor (Academic)) must also notify the Vice Chancellor within 24 hours of any determination to impose an immediate and temporary suspension under this Rule.

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

### **Who May Extend, Renew or Expand Suspension and Impose Permanent Expulsion**

(71) A determination to extend, renew or expand an immediate and temporary suspension or impose permanent expulsion may only be made by:

- a. The Vice Chancellor;
- b. Deputy Vice Chancellor (Academic);
- c. Student Misconduct Appeals Committee.

### **Extending, Renewing or Expanding Suspension Orders**

(72) The Decision-Maker in determining to extend, renew or expand suspension may impose:

- a. suspension from 14 days to a maximum of 12 months from any one or more of:
  - i. any part or all of the University grounds;
  - ii. attending any University classes, meetings or other activities;
  - iii. using any facilities or services of the University.
- b. permanent expulsion from the University.

(73) If imposing suspension or permanent expulsion for onshore international Students the Decision-Maker must apply the Enrolment, Deferment, Suspension and Cancellation Procedures - International Students.

### **Procedure for Extending, Renewing or Expanding Suspension or imposing Permanent Expulsion**

(74) If a Decision-Maker determines to extend, renew or expand suspension or impose permanent expulsion they must notify 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's suspension is extended, renewed or expanded or permanent expulsion is imposed in accordance with this Rule;
- b. the length of any further suspension (including from when it takes effect);
- c. a brief description of why further suspension or permanent expulsion is being imposed;
- d. the scope of that further suspension (for example, if a Student is only suspended from attending particular University classes or from particular parts of University premises).

(75) If a Decision-Maker notifies a Student of his or her further suspension or permanent expulsion orally, that Decision-Maker must also send the Student a notice in writing to that effect in accordance with Clause (74) within 24 hours of further suspending that Student.

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

- a. invalidate the determination to further suspend or permanently expel; or
- b. end any further suspension or permanent expulsion made, under this Rule.

(77) A Decision-Maker (other than the Vice Chancellor or Deputy Vice Chancellor (Academic)) must notify the Vice Chancellor within 24 hours of any determination to extend, renew or expand suspension or impose permanent expulsion under this Rule.

(78) The Vice Chancellor or Deputy Vice Chancellor (Academic) must, if a further suspension or permanent expulsion is imposed under this Rule remains in force while an Allegation or an Appeal is being considered and determined, inform the relevant Decision-Maker of that fact.

## **Allowance for Academic Disadvantage**

(79) If:

- a. a Student is suspended under this Rule for a period exceeding 24 hours; and
- b. the Student is, in relation to that Allegation, found to be not guilty 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.

# **Section 7 - Responsibilities and Powers of Decision-Makers**

## **Responsibilities and Powers of Decision-Makers**

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

- 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 their 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.

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

(82) Frivolous or vexatious Allegations or Allegations without substance will not proceed beyond preliminary investigation. Any person making frivolous or vexatious Allegations may be subject to an action under these Rules.

(83) 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 and to provide a report).

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

(85) 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.

(86) 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.

## **Section 8 - Rights and Responsibilities of Students**

### **Rights and Responsibilities of Students**

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

(88) Procedural fairness includes:

- 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 support person (which may be a student advocate) but not a legal representative, at any hearing to answer any Allegation;
- d. the Student being given normally not less than 14 working 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 support person (which may be a student advocate) but not a legal representative 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 Decision-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-Maker basing their determination on the evidence before them at the time that determination is made; and
- k. the Decision-Maker giving a statement of reasons for their determination.

(89) 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. They are to observe the processes in place (including those about confidentiality) and to behave in a courteous and reasonable manner towards University Staff who investigate or decide those Allegations.

(90) If a Student disrupts or prejudices any hearing or determination of an Allegation or an Appeal, the relevant Decision-Maker will have the power to require them to leave and to continue hearing or determining the Allegation or Appeal in the absence of the Student.

(91) Clause (89) and (90) applies to any support person (which may be a student advocate) chosen by the Student.

## **Section 9 - Conflicts of Interest or Bias**

### **Conflicts of Interest or Bias**

(92) 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:

- 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.

(93) If a Decision-Maker or a member of the Student Misconduct Appeals Committee has a conflict of interest or there is a reasonable perception of bias, then the Deputy Vice Chancellor (Academic) (or Vice Chancellor if it relates to the Student Misconduct Appeals Committee) must appoint another person to replace that Decision-Maker or member.

## **Section 10 - Miscellaneous Provisions**

### **Transitional**

(94) If, before this Rule comes into effect, a person or committee of persons has commenced the hearing or consideration of an Allegation or an Appeal but has not yet made a determination in relation to that matter, that person or committee of persons:

- a. are taken to be appointed as a Decision-Maker for the purpose of this Rule; and
- b. 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:

(95) Any act, matter or instrument 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.

### **Suspension of Penalties**

(96) A Decision-Maker may, when imposing a penalty or order under this Rule, suspend its operation on such

conditions as that Decision-Maker considers appropriate and reasonable in the circumstances.

(97) If a Student lodges an Appeal, the operation of a penalty or order imposed under this Rule (except a determination to suspend that Student) is placed on hold pending the outcome or withdrawal of that Appeal.

## **Review**

(98) 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 University Council.

## **Guidelines**

(99) Decision-Makers will refer to the University's [Academic Integrity Policy](#), Academic Misconduct Guidelines and [Research Responsible Conduct Policy](#) for guidance in determining the penalty or order that can be imposed according to this Rule.

## **Procedures**

(100) Decision-Makers will refer to the Academic Misconduct Procedures which prescribe the University's standard and required practice in implementing and complying with this Rule.

## Status and Details

<b>Status</b>	Historic
<b>Effective Date</b>	28th November 2016
<b>Review Date</b>	28th July 2019
<b>Approval Authority</b>	University Council
<b>Approval Date</b>	28th November 2016
<b>Expiry Date</b>	8th October 2017
<b>Head of Work Unit</b>	Thomas Roche Pro Vice Chancellor (Academic Quality) +61 2 66269148
<b>Enquiries Contact</b>	Office of the Deputy Vice Chancellor