

Student Discipline Procedure

Section 1 - Purpose

(1) The purpose of this Procedure is to set out the procedure for making and dealing with allegations of Misconduct by Students.

Status

(2) This Procedure is made by the Vice-Chancellor under the [Student Discipline Rules](#) and is binding on all Students, Student Organisations and Staff Members in relation to Misconduct by Students.

Commencement Date

(3) This Procedure commences on 29 February, 2016.

Dictionary of Defined Terms

(4) The dictionary at the end of this Procedure is part of this Procedure.

[Note: The dictionary defines certain terms used in this Procedure.

A definition in the dictionary applies to all of this Procedure unless a contrary intention appears.

Terms defined in the dictionary are identified in this Procedure by having an upper case first letter.]

Section 2 - Policy

(5) Nil.

Section 3 - Procedures

Part A - Summary Suspension or Banning of Students

Emergency Suspension of a Student

(6) The Registrar may Suspend a Student or ban a Student from University Premises for any period the Registrar thinks appropriate if the Registrar is satisfied that:

- a. the behaviour of the Student amounts to Misconduct; or
- b. there is an imminent threat of Misconduct by the Student;
- c. and the Registrar is satisfied that it is necessary:
 - i. to ensure the physical safety or wellbeing of the University Community or a specific person, because of the nature and seriousness of the Misconduct; or

- ii. to prevent any damage to any property of any person; or
- iii. to prevent any interference with any University Activity.

Removal of a Student for Disruptive Behaviour

(7) The Registrar may direct a Student to leave any University Premises or cease taking part in a University Activity for any period the Registrar thinks appropriate if the Registrar is satisfied that:

- a. the behaviour of the Student amounts to Misconduct; or
- b. there is an imminent threat of Misconduct by the Student; and
- c. the Student has interfered with any University Activity to a substantial extent or it is necessary to prevent any substantial interference with any University Activity.

Suspension and Banning Process

(8) The Registrar:

- a. is not required to give a hearing to the Student before making a decision under this Part A; and
- b. may inform them self in relation to any matter in any manner they think appropriate.

(9) If the Registrar decides to Suspend a Student or to ban a Student from University Premises under this Part A, the Registrar:

- a. must as soon as practicable:
 - i. notify the Student in writing of the decision; and
 - ii. give to them a Statement of Reasons for the decision; and
- b. may initiate an Investigation into the matter.

(10) A decision to Suspend a Student or ban a Student from University Premises under this Part A takes effect immediately.

(11) A Student must comply with such a decision.

(12) The Registrar may at any time revoke or vary a decision to Suspend a Student or to ban a Student from University Premises under this Part A.

(13) Any action taken under this Part A against a Student does not prevent any subsequent action against the Student in respect of any Misconduct.

Part B - Making of Misconduct Allegations and Preliminary Procedures

How to make a Misconduct Allegation

(14) Any member of the University Community may make a Misconduct Allegation against a Student under this Procedure.

(15) A Misconduct Allegation must:

- a. be made to the Designated Person; and
- b. be in writing; and
- c. contain details of the Alleged Misconduct; and

- d. contain the Notifier's name, address, email address and, if they are a Student or Staff Member, their student identification number or staff identification number.

[Note: Generally the University will not respond to anonymous allegations of misconduct but may do so at its discretion.]

(16) A Notifier must make a Misconduct Allegation which they believe relates to:

- a. Research Misconduct, to the Deputy Vice-Chancellor (Research) as the appropriate Designated Person; and
- b. other Misconduct, to the Registrar as the appropriate Designated Person.

(17) A Designated Person:

- a. may accept a Misconduct Allegation that is not in writing if the Designated Person considers it appropriate to do so; and
- b. in that event, the Designated Person must reduce the Misconduct Allegation to writing as soon as practicable.

(18) A Designated Person may, if they are satisfied that it is appropriate to do so, refer a Misconduct Allegation to the other Designated Person to be dealt with under this Procedure.

(19) A Designated Person may require the Notifier to:

- a. provide further details of the Misconduct Allegation; and
- b. verify by statutory declaration any details of the Misconduct Allegation.

(20) A Designated Person is not obliged to take any action until any required details or verification are provided.

[Note: A statutory declaration is a type of written statement that allows a person to declare something to be true.

If a person intentionally makes a false statement in a statutory declaration, that person can be charged with a criminal offence.]

(21) A Misconduct Allegation may be dealt with under this Procedure notwithstanding that:

- a. it is withdrawn by the Notifier; or
- b. does not comply with these 'How to Make a Misconduct Allegation' clauses.

Serious Student Misconduct Must Be Reported

(22) A Student or Staff Member must report to the Designated Person any Serious Student Misconduct as soon as practicable after becoming aware of it.

Dealing with a Misconduct Allegation

(23) The Designated Person may after receipt of a Misconduct Allegation decide to:

- a. take no action in relation to it under this Procedure; or
- b. Investigate it under Part C; or
- c. otherwise deal with it.

(24) The Designated Person may make preliminary inquiries for the purpose of making a decision under Clause 23.

(25) Students and Staff Members must co-operate with the Designated Person for the purpose of carrying out any preliminary inquiry.

(26) If the Designated Person decides to take no action in relation to the Misconduct Allegation, the Designated Person must notify the Notifier of their decision.

Notification of a Misconduct Allegation

(27) The Designated Person, within a reasonable time after receiving the Misconduct Allegation must:

- a. notify the Accused Student that a Misconduct Allegation has been made and the nature of it; and
- b. notify the Accused Student of the procedure for dealing with Misconduct Allegation by giving a brief description of it (including that sanctions may be imposed for the Alleged Misconduct); and
- c. notify the Accused Student that it may be dealt with under the 'Informal Handling of Misconduct Allegation' clauses 29 and 30; and
- d. invite the Accused Student to make, within the time that the Designated Person specifies in the notice, any submissions in writing to the Designated Person about the Misconduct Allegation that the Accused Student wishes to make,

unless the Designated Person has decided to take no action in relation to it.

(28) The Designated Person may delay notifying the Accused Student of the Misconduct Allegation if the Designated Person is satisfied that it is appropriate to do so in order to avoid:

- a. any harassment or intimidation of any person; or
- b. any damage to any property of any person; or
- c. any interference with evidence.

Informal Handling of Misconduct Allegation

(29) If the Accused Student admits to the Alleged Misconduct and it is not Serious Student Misconduct, the Designated Person may, with the written agreement of the Accused Student, without an Investigation or a Hearing being conducted or completed, impose any one or more of the sanctions listed in Schedule 1: Sanctions - Informal Handling.

(30) The Accused Student must comply with any agreement made under these 'Informal Handling of Misconduct Allegation' clauses 29 and 30.

Part C - Investigation of Misconduct Allegations

Investigation by Designated Person of Misconduct Allegations

(31) The Designated Person may cause an Investigation to be undertaken into a Misconduct Allegation under this Part C and may do so on their own initiative or if a Misconduct Allegation is made.

(32) The Investigator may deal with one or more Misconduct Allegations about one or more Accused Students in an Investigation.

(33) If during an Investigation it appears to the Investigator that there is a matter in respect of which another Misconduct Allegation could have been made against the Accused Student or another Student, the Investigator may deal with that matter in its Investigation as if a Misconduct Allegation had been made about it.

(34) If the Investigator decides to deal with a matter under clause 33 as if another Misconduct Allegation had been made, the Designated Person must be promptly informed and they must give notice in writing to the Student concerned of the nature of that matter and inform the Student that the matter is being treated as a Misconduct Allegation.

(35) The Designated Person may appoint any person or panel of persons to carry out an Investigation.

(36) The Accused Student may, within a period specified by the Investigator, make submissions to the Investigator about the Misconduct Allegation.

(37) The Investigator may extend the period in which submissions may be made.

Investigation Results

(38) An Investigator must prepare an Investigation Report in respect of their Investigation and within a reasonable time of it being completed provide it to the Designated Person and to the Accused Student.

(39) The Investigation Report must contain in relation to the Investigation:

- a. a brief written statement which sets out the findings on material questions of fact referring to the evidence or other material on which those findings were based; and
- b. if recommendations are requested by the Designated Person, any recommendation of the Investigator.

(40) The Designated Person after receipt of the Investigation Report:

- a. if the Misconduct Allegation does not relate to Research Misconduct, may:
 - i. decide that no further action should be taken under this Procedure; or
 - ii. refer the Misconduct Allegation together with any Investigation Report, to a University Discipline Committee for a disciplinary finding under Part D; or
 - iii. decide that the matter be otherwise dealt with; or
- b. if it does relate to Research Misconduct, may recommend to the Vice-Chancellor that they decide that:
 - i. no further action should be taken under this Procedure; or
 - ii. the Misconduct Allegation together with any Investigation Report, be referred to a University Discipline Committee for a disciplinary finding under Part D; or
 - iii. the matter be otherwise dealt with.

(41) The Vice-Chancellor may make any of the decisions contemplated by Clause 40(b).

Power to Obtain Additional Information

(42) If the Designated Person or a Relevant Committee considers that an Investigation Report does not:

- a. contain adequate information of findings on material questions of fact; or
- b. contain an adequate reference to the evidence on which those findings were based; or
- c. contain adequate information about the reasons for any recommendation which is made; or
- d. otherwise adequately deal with the relevant Misconduct Allegation,

the Designated Person or the Relevant Committee, as the case requires, may direct the Investigator to provide to the Designated Person or the Relevant Committee, as the case requires, within a time specified in the direction, any additional information or recommendation specified in the direction.

Part D - Role of University Discipline Committee

University Discipline Committee Establishment

(43) The Registrar must establish a committee to deal with any Misconduct Allegation referred for a disciplinary finding under this Part D.

University Discipline Committee May Make Disciplinary Findings

(44) If a referral is made to a University Discipline Committee for a disciplinary finding in relation to a Misconduct Allegation, the University Discipline Committee must determine whether or not the Accused Student is guilty of Misconduct.

Sanctions May Be Imposed and Compensation Ordered

(45) If a University Discipline Committee finds that an Accused Student is guilty of Misconduct, the University Discipline Committee may impose on the Accused Student any one (1) or more of the sanctions specified in Schedule 2: Sanctions - General.

(46) A University Discipline Committee may, instead of or in addition to a sanction imposed under Clause 45:

- a. if an Accused Student is found to have damaged or destroyed any University Property, direct the Accused Student to pay to the University an amount determined by the University Discipline Committee as compensation for the damage or destruction of the property, or
- b. if an Accused Student is found to have taken or removed any University Property direct the Accused Student to do either or both of the following:
 - i. return the property to the University;
 - ii. pay to the University an amount determined by the University Discipline Committee as compensation for the taking or removal of the property.

(47) When considering what sanction should be imposed under Clause 45 the University Discipline Committee may take into consideration any previous disciplinary action taken against the Accused Student including any warning given about future behaviour.

(48) The Accused Student is not entitled to any refund of fees or other money paid to the University or to receive any other compensation from the University because of any sanction imposed on the Accused Student.

Misconduct by Student Organisations

(49) This Procedure applies, with necessary adaptations, to any allegation of Misconduct made against a Student Organisation as if a reference in this Procedure to a Student is to a Student Organisation.

(50) If a University Discipline Committee is satisfied that an Accused Student Organisation is guilty of Misconduct then the University Discipline Committee may impose on that Student Organisation any one or more of the sanctions specified in Schedule 3: Sanctions - Student Organisations.

(51) A submission may be made or evidence given at a Hearing or in writing on behalf of an Accused Student Organisation on any relevant matter, by an individual who satisfies the Registrar that they are a member of the Accused Student Organisation and are authorised by it to do so.

(52) A Student Organisation must not permit a person who has been prohibited from taking part in the management of that Student Organisation to be a member of the management committee of that Student Organisation or otherwise to

be involved in its management.

Sanction Compliance by Accused Student or an Accused Student Organisation

(53) An Accused Student or an Accused Student Organisation, the subject of a sanction for Misconduct, must comply with that sanction and upon request provide evidence satisfactory to the Registrar of compliance.

(54) A University Discipline Committee may suspend any sanction imposed for Misconduct for any period and subject to any conditions that the University Discipline Committee thinks appropriate.

(55) An Accused Student whose Student Academic Award has been revoked:

- a. must immediately return the testamur, certificate, diploma or other evidence of that Student Academic Award together with any transcript or other record relating to that Student Academic Award, to the University; and
- b. must not represent to any person, whether by the use of post-nominals or otherwise, that they were awarded the revoked Student Academic Award.

Fresh Evidence

(56) An Accused Student may apply for another Hearing in respect of a University Discipline Committee Decision if Fresh Evidence has become available to the Accused Student.

(57) An application for another Hearing must:

- a. be made to the Registrar; and
- b. be in writing; and
- c. contain details of the Fresh Evidence; and
- d. contain the Accused Student's name, address, email address and their student identification number.

(58) The Registrar may require the Accused Student to:

- a. provide further details of the Fresh Evidence; and
- b. verify by statutory declaration any details of the Fresh Evidence.

(59) The Registrar may refuse to take any action until any required details or verification are provided.

(60) An application under Clause 56 must be made within twenty (20) Working Days of the Accused Student being notified of the decision.

(61) If the Registrar is satisfied that Fresh Evidence is available:

- a. they may refer the matter to the University Discipline Committee for reconsideration; and
- b. the University Discipline Committee must reconsider having regard to the Fresh Evidence.

(62) The University Discipline Committee may limit the number of times a person may apply under Clauses 56 to 62 in respect of the same Misconduct Allegation.

Part E - Appeals

University Discipline Appeals Committee Establishment

(63) The Registrar must establish a committee to deal with any appeal under this Part E against a University Discipline Committee Decision.

Grounds for Appeal

(64) An appeal under this Part E may only be made on the grounds that:

- a. the procedure for dealing with the Misconduct Allegation:
 - i. was unfair in the circumstances because one or more of the things listed in Schedule 4: Appeal Grounds occurred; and
 - ii. caused substantial injustice to the Accused Student; or
- b. a sanction imposed on the Accused Student or a direction to pay compensation made against the Accused Student, was inappropriate in the circumstances.

[Note: This provision in effect specifies that the grounds of appeal are limited to defects in the decision making process or the imposition of an inappropriate sanction].

(65) The University Discipline Committee Decision may not be appealed on the ground that the University Discipline Committee Decision was otherwise not the correct or preferable decision in the circumstances.

[Note: This provision confirms that the merits of the decision of the University Discipline Committee are not able to be reviewed under this appeal procedure.]

Appeals against a University Discipline Committee Decision

(66) An Accused Student may only appeal against a University Discipline Committee Decision if the Registrar gives permission to do so.

(67) A written request for permission to appeal must:

- a. be made within twenty (20) Working Days of the day the University Discipline Committee Decision is received by the Accused Student; and
- b. be made to the Registrar; and
- c. be in writing; and
- d. contain details of the basis for the appeal; and
- e. contain the Accused Student's name, current residential address, email address and student identification number.

(68) The Registrar may require the Accused Student to provide further details of the basis for the appeal.

(69) The Registrar may refuse to take any action until any required details are provided.

(70) The Registrar may refuse permission to appeal if the Registrar is satisfied that:

- a. the request is frivolous, vexatious, misconceived or lacking in substance; or
- b. the appeal has no reasonable prospect of success; or
- c. the request is otherwise an abuse of the disciplinary process of the University.

(71) The Registrar must, within a reasonable time of receiving the request for permission to appeal, notify the Accused Student whether or not permission to appeal is given.

(72) If the Accused Student wishes to appeal based to any material extent on the conduct of the Registrar, the Accused Student may request permission from the Vice-Chancellor to appeal in which case the 'Appeals against a

University Discipline Committee Decision' Clauses 66 to 75 will apply, with necessary adaptations, as if each reference in it to the Registrar is to the Vice-Chancellor.

(73) A University Discipline Appeals Committee must decide the appeal having regard to the material then before it.

(74) A University Discipline Appeals Committee may after hearing the appeal make any of the following decisions:

- a. in any case, affirm the University Discipline Committee Decision;
- b. in the case of an appeal upheld on the grounds contemplated by Clause 64(a), set aside the decision and refer the matter to a University Discipline Committee for reconsideration in accordance with any direction or recommendation of the University Discipline Appeals Committee;
- c. in the case of an appeal upheld on the grounds contemplated by clause 64(b), do any of the following:
 - i. suspend the sanction or direction to pay compensation appealed against, subject to any conditions the University Discipline Appeals Committee thinks appropriate; or
 - ii. set aside the sanction or direction to pay compensation appealed against and impose a new sanction or give a new direction to replace the sanction or direction set aside; or
 - iii. suspend any new sanction or direction to pay compensation imposed or given by it, subject to any conditions the University Discipline Appeals Committee thinks appropriate; or
 - iv. refer the sanction or direction to pay compensation for reconsideration by a University Discipline Committee in accordance with any direction or recommendation of the University Discipline Appeals Committee.

(75) If a matter has been referred to a University Discipline Committee for reconsideration of a University Discipline Committee Decision because the procedure for dealing with the Investigation of the Misconduct Allegation:

- a. was unfair in the circumstances because one or more of the things listed in Schedule 4: Appeal Grounds occurred; and
- b. caused substantial injustice to the Accused Student,

then the University Discipline Committee may require an Investigator to reconsider a finding or recommendation resulting from the Investigation in accordance with any direction or recommendation of the University Discipline Appeals Committee.

Non-appearance Before University Discipline Appeals Committee

(76) If an Accused Student has been given permission to appeal under 'Appeals against a University Discipline Committee Decision' Clauses 66 to 75 and the Accused Student without reasonable excuse:

- a. does not appear in person at the Hearing of the appeal; or
- b. does not make a written submission to the University Discipline Appeals Committee for consideration at the Hearing of the appeal,

the appeal lapses and the University Discipline Committee Decision stands.

Effect of University Discipline Committee Decision Pending Appeal

(77) An appeal of a University Discipline Committee Decision does not affect the operation of that decision or prevent the taking of action to implement that decision unless the Registrar suspends the operation of the decision.

[Note: A person in respect of whom a disciplinary decision has been made may make a complaint about

Part F - Committee and Investigation Procedures

Hearings

(78) A Relevant Committee or Investigator may conduct any Hearing it thinks appropriate.

(79) At a Hearing, a Relevant Committee:

- a. may inform itself on any matter in any manner that it thinks appropriate; and
- b. must proceed with as little formality and as quickly as the requirements of this Procedure and the proper consideration of the Misconduct Allegation permit; and
- c. is not bound by the rules of evidence; and
- d. may limit the questions of fact and the evidence that it considers; and
- e. may use any technology that gives the members of the Relevant Committee or any other relevant persons who are situated in different locations a reasonable opportunity to participate; and
- f. may deal with the Misconduct Allegation notwithstanding that the Accused Student or a witness has not for any reason made submissions, provided evidence or otherwise participated or co-operated in an Investigation or the Hearing; and
- g. may proceed in the absence of any Accused Student, any support person or any witness, who the Relevant Committee is satisfied has had reasonable notice of the Hearing.

(80) At a Hearing the Accused Student may:

- a. be present (unless the presiding member of the Relevant Committee is satisfied that the Accused Student may attempt to disrupt the Hearing); and
- b. be accompanied by a support person (but not an advocate) approved by the Registrar; and
- c. provide to the Relevant Committee oral or written submissions; and
- d. provide evidence to the Relevant Committee; and
- e. inspect anything to which the Relevant Committee proposes to have regard in reaching a decision about the Misconduct Allegation and make submissions about any such thing; and
- f. if the Relevant Committee consents, have witnesses provide evidence,

but may not examine or cross examine any witness.

(81) A Hearing of a Relevant Committee may be adjourned from time to time by the Relevant Committee for any reason.

(82) The Registrar may appoint a person (who must not be a member of the Relevant Committee) to be the secretary to the Relevant Committee.

(83) The Registrar may appoint a person (who must not be a member of the Relevant Committee) to assist the Relevant Committee with matters of procedure, the presentation of evidence, the calling and questioning of witnesses and the making of submissions to the Relevant Committee.

(84) Unless the presiding member of the Relevant Committee directs to the contrary, a person is not entitled to be present at a Hearing unless the person is:

- a. a member of the Relevant Committee; or
- b. the Accused Student or their support person contemplated by Clause 80(b); or
- c. the secretary to the Relevant Committee; or
- d. a person giving evidence to the Relevant Committee; or
- e. a person appointed under Clause 83.

(85) If:

- a. the Relevant Committee is satisfied that a Misconduct allegation can be adequately determined in the absence of the Accused Student; and
- b. the Accused Student consents to the matter being determined without a hearing,

the Relevant Committee may make a determination about the Misconduct Allegation by considering the evidence provided to the Relevant Committee and without holding a hearing.

Conduct at Hearing

(86) All persons appearing before or present at a Hearing must conduct themselves in a proper and orderly manner and in particular must not:

- a. insult a member of a Relevant Committee in or in relation to the exercise of their functions as a member; or
- b. disrupt the proceedings of a Relevant Committee; or
- c. create or continue a disturbance in or near a place where the Relevant Committee is sitting.

(87) If a person does not comply with Clause 86:

- a. the presiding member of the Relevant Committee must, if the person is a Staff Member, notify the Vice-Chancellor of the failure; and
- b. the presiding member of the Relevant Committee may direct the person to leave the Hearing and the Hearing may continue.

(88) The Hearing may continue in the absence of the Accused Student if the Accused Student was required to leave the Hearing because of conduct which disrupted the Hearing or because the Accused Student continued to conduct them self in an improper or disorderly manner after being requested by the presiding member to stop.

Matters Relating to Evidence and Information

(89) The Registrar, an Investigator or the presiding member of a Relevant Committee may:

- a. direct a Student or Staff Member to do any one or more of the following:
 - i. fully and truthfully answer any question asked in relation to a Misconduct Allegation;
 - ii. verify by statutory declaration any evidence provided by that Student or Staff Member;
 - iii. appear personally before the Registrar, an Investigator or a Relevant Committee at a time and place specified in the direction;
 - iv. provide to the Registrar any evidence that is in that person's custody or under that person's control, within the time specified in the direction; or
 - v. do anything necessary to enable the Registrar to obtain any evidence in the custody or under the control of any other person, within the time specified in the direction; and
 - vi. otherwise co-operate in any Investigation, Hearing or other matter relating to a Misconduct Allegation;
- b. limit the number of witnesses who may be called to give evidence (either generally or on a specified matter) at

- a Hearing; and
- c. require witnesses to give evidence at the same Hearing; and
- d. limit the time for giving evidence or making oral submissions at a Hearing; and
- e. limit the length of written submissions.

(90) The Registrar may:

- a. retain any evidence provided under 'Matters Relating to Evidence and Information' Clauses 89 to 94 for any period that the Registrar thinks necessary; and
- b. make and retain copies of it.

(91) The Registrar, an Investigator or a Relevant Committee may obtain expert advice or other assistance on any matter from any person and rely upon that advice or other assistance.

(92) Nothing in this Procedure prevents the disclosure of any evidence to an officer or a member of the staff of the University in the course of the performance of their functions or duties as an officer or a member of the staff of the University.

(93) A person must not refuse or fail to comply with a requirement to do anything in relation to a Misconduct Allegation on the ground that to do so may tend to incriminate that person or may make that person liable to a civil penalty, unless:

- a. the person objects to complying with that requirement at the time because it would have that tendency or effect; and
- b. the person satisfies the Registrar that:
 - i. legal proceedings against that person have commenced or are likely in respect of the subject matter of the requirement; or
 - ii. would be likely if the requirement was complied with; and
- c. those legal proceedings are likely to expose that person to conviction for a crime or liability for a civil penalty.

(94) The person must not refuse or fail to comply with the requirement on the ground that to do so may make that person liable to a sanction imposed by the University or to otherwise expose that person to any other detriment.

Notification of Decisions of a Relevant Committee

(95) A Relevant Committee must within ten (10) Working Days of the Relevant Committee making its decision:

- a. notify the Accused Student in writing:
 - i. of the decision; and
 - ii. in the case of a decision of a University Discipline Committee, that the Accused Student may request permission from the Registrar to appeal; and
- b. give to them a Statement of Reasons for its decision.

Procedures for Hearings

(96) A Relevant Committee may, subject to this Procedure, conduct its Hearing as it thinks appropriate.

(97) The Registrar may call the first Hearing of a Relevant Committee as the Registrar thinks appropriate and a Relevant Committee may, subject to this Procedure, call and adjourn subsequent Hearings as it thinks appropriate.

(98) The quorum for a Hearing of a Relevant Committee is three (3) members, including its presiding member.

(99) The decision of a majority of the members of a Relevant Committee is a decision of the Relevant Committee and, in the event of an equality of votes, the presiding member has a second or casting vote.

(100) A Relevant Committee must decide whether an Accused Student is guilty of Misconduct on the balance of probabilities.

(101) A Relevant Committee may combine the Hearings of one or more Misconduct Allegations made against one or more Accused Students.

Part G - Miscellaneous

Publicising Disciplinary Action

(102) Subject to 'Publicising Disciplinary Action' Clauses 102 and 103 and 'Records of Disciplinary Action' Clauses 104 to 108, disciplinary action taken against an Accused Student must not be publicised without the approval of the Vice-Chancellor.

(103) The Vice-Chancellor may publicise disciplinary action taken against an Accused Student in any manner the Vice-Chancellor is satisfied is in the public interest or in the interests of the University, to do so.

Records of Disciplinary Action

(104) The Registrar must keep a record of disciplinary action taken against an Accused Student.

(105) The Registrar may, on request, provide to an Accused Student or to anybody authorised in writing by that Accused Student to receive it, any information about or record of disciplinary action taken against that Accused Student.

(106) The Registrar may provide any information about or record of disciplinary action taken against an Accused Student to any person whose function includes determining who is a fit and proper person or otherwise is competent, qualified or suitable, to pursue any occupation or hold any office.

(107) The Registrar may correct any record of disciplinary action if they are satisfied that it is incorrect.

(108) No record of any disciplinary action against an Accused Student may be included in the academic transcript of that Accused Student provided by the University to any person unless directed by the Vice-Chancellor.

Recording and Filming

(109) Any meeting or conversation in the course of any Investigation, Hearing or other proceeding relating to any Misconduct Allegation may be recorded or filmed by the University and copyright in the recording or film will belong to the University.

Procedural Matters

(110) The Registrar may, extend or shorten any time fixed by this Procedure or by any decision of a Relevant Committee and may do so as many times as the Registrar thinks appropriate.

(111) The Registrar may extend any such time before or after the time expires whether or not an application for the extension is made before the time expires.

(112) If no time is fixed by this Procedure for the doing of anything in or relating to any proceeding before a Relevant

Committee, the Deputy Vice-Chancellor (Academic) and Registrar may fix the time within which that thing must be done.

(113) Any act or proceeding of a Relevant Committee may not be called into question merely because of:

- a. the absence of a quorum; or
- b. any vacancies in the membership of the Relevant Committee; or
- c. any defects in the appointment of any member of the Relevant Committee; or
- d. any irregularity in the manner in which any meeting of the Relevant Committee has been convened or conducted; or
- e. the presence or participation at any meeting of the Relevant Committee of any person not entitled to be present or to participate at those meetings.

Hearings by Investigators

(114) The provisions of this Procedure relating to Hearings and procedural matters applicable to a Relevant Committee apply, with necessary adaptations, to any hearing conducted by an Investigator or procedural matter relating to an Investigation.

Service of Notices or Other Communications

(115) Any written communication relating to this Procedure must be legible and in the English language.

(116) Any communication relating to this Procedure to the University, the Vice-Chancellor, the Deputy Vice-Chancellor (Research) or the Registrar may be given by being:

- a. delivered personally to the Registrar; or
- b. left at the office of the Registrar or sent by prepaid post or courier to the University, addressed to the Registrar;
or
- c. sent to the Registrar by email or other electronic means to any email address that is published by the University as the email address of the Registrar.

(117) Any communication relating to this Procedure to a Student or Staff Member may be given by being:

- a. delivered personally to that person;
- b. left at or sent by post to:
 - i. the most recent address of that person as it appears on the records of the University; or
 - ii. such other address of that person as appears to the sender to be an address where that person resides or works; or
- c. sent to the University email address of that person or to another email address that has been given by that person for the purpose of receiving communications.

(118) Any communication to a Student Organisation may be given to a person who the Registrar believes to be an officeholder of that Student Organisation.

(119) If an officeholder of a Student Organisation receives, on behalf of a Student Organisation, a communication under this Procedure, they must use their best endeavours to promptly notify each other officeholder of its receipt and contents.

(120) Any communication will be taken to have been given:

- a. in the case of sending by prepaid post or courier - if posted or couriered in the Commonwealth of Australia to an address in the Commonwealth of Australia, within three (3) Working Days of posting or being given to the courier and in any other case within five (5) Working Days after posting by airmail or being given to the courier; and
- b. in the case of sending by email – at 9:00 am Sydney time on the next Working Day after it is sent.

Communications to Vulnerable Persons

(121) If the Registrar is satisfied that giving a person a notification, information or anything else contemplated by this Procedure may adversely affect the physical or mental health of that person, the Registrar is not obliged to give it to that person directly but may give it to a medical practitioner who is nominated by that person and approved by the Registrar.

(122) If requested by the Registrar the relevant person must promptly nominate a medical practitioner by notifying the Registrar in writing of the name, address, phone number and email address of that medical practitioner.

(123) The 'Communications to Vulnerable Persons' Clauses 121 to 123 apply notwithstanding any other provision of this Procedure.

Replacement of a Committee Member

(124) If a member of a Relevant Committee, for the purposes of a particular Hearing:

- a. stops being a member of the Relevant Committee; or
- b. is unwilling or unable to complete the Hearing or to participate in making a decision of the Relevant Committee,

the Registrar may either:

- c. direct that the Relevant Committee must be constituted, for the purpose of finishing the Hearing and making the decision, by the remaining members of it; or
- d. direct that the Relevant Committee must be constituted for that purpose by the remaining members together with another person appointed by the Registrar.

(125) The Vice-Chancellor may by notice to a member of a Relevant Committee remove that member from office.

Delegation of Functions

(126) A Relevant Officer may delegate their functions and powers under this Procedure to any person or otherwise authorise any person to carry out those functions or powers.

(127) If:

- a. the exercise of a function or power by a Relevant Officer is dependent on the opinion, belief or state of mind of the Relevant Officer in relation to any matter; and
- b. the Relevant Officer has delegated the function or power to some other person or otherwise authorised some other person to carry out the function or power,

the function or power may be exercised by that other person on the opinion, belief or state of mind of that other person in relation to any such matter.

[Note: The Vice-Chancellor, Deputy Vice-Chancellor (Research) or Registrar need not personally do anything contemplated by this Procedure but they may authorise others to do so on their behalf.]

Vexatious and Frivolous Allegations are Prohibited

(128) A Prohibited Allegation must not be made.

[Note: Examples are allegations made to harass or embarrass a person, groundless allegations and allegations made for an ulterior or improper purpose].

(129) The Designated Person may decide not to Investigate or terminate any Investigation which has commenced and the presiding member of any Relevant Committee may decide not to commence or to terminate any Hearing which has commenced, at any time if they are satisfied that the relevant Misconduct Allegation is a Prohibited Allegation.

(130) The Registrar may direct any person not to make a Misconduct Allegation without the Registrar's consent if the Registrar is satisfied that the person has previously made a Prohibited Allegation.

Statement of Reasons

(131) A Statement of Reasons need not include any information or matter that it would be unlawful to disclose.

(132) If a Statement of Reasons would be false or misleading if it did not include any information or matter which it would be unlawful to disclose, the Relevant Committee must inform the person who requested the statement of that fact and must not give the statement to the person.

The Registrar May Withhold Awards and Records

(133) The Registrar may do either or both of the following:

- a. delay the awarding to the Accused Student of any Student Academic Award or Non-Academic Award;
- b. withhold from the Accused Student any testamur, academic transcript or other record,

until the later of:

- c. the end of a Suspension or banning under Part A; or
- d. the completion of any Investigation; or
- e. a decision by a University Discipline Committee; or
- f. a decision by an University Discipline Appeals Committee; or
- g. compliance with or expiration of any sanction imposed on the Accused Student.

(134) The Registrar may vary or revoke any decision made under Clause 133.

Compliance with Directions

(135) A Student or Staff Member given a direction by the Registrar, Vice-Chancellor or the presiding member of a Relevant Committee, contemplated by this Procedure must promptly comply with it.

Joint and Related Investigations

(136) The University may:

- a. carry out an investigation into a Misconduct Allegation and related matters jointly or in collaboration with another person; and
- b. co-operate with another person who is carrying out an investigation into such matters or related or similar matters.

(137) The University may disclose to, receive from and exchange information with, any such other person except to the extent that it would be unlawful to do so.

(138) A Relevant Committee may in making a decision rely upon any information resulting from any such investigation or received by the University from any such person.

(139) The provisions of this Procedure will apply, with necessary adaptations, to any such investigation.

Part H - Dictionary and Interpretation

Dictionary

(140) In this Procedure:

- a. "Academic Exercise" means:
 - i. an examination, that is, a time limited assessment task conducted under invigilation including tests, practical assessments and final examinations; and
 - ii. the submission and assessment of a thesis, dissertation, essay, practical work or other coursework and any other exercise (including in the case of graduate students transfer and confirmation of status exercises) which is not undertaken in formal examination conditions but counts towards or constitutes the work for a Student Academic Award or for admission to the University or enrolment in any unit or program of study or research at the University and includes related research;
- b. "Academic Misconduct" means any Misconduct relating to an Academic Exercise;
- c. "Accused Student" means a Student who is the subject of a Misconduct Allegation;
- d. "Accused Student Organisation" means a Student Organisation which is the subject of a Misconduct Allegation;
- e. "Alleged Misconduct" means Misconduct which is the subject of a Misconduct Allegation;
- f. "Appeal Committee" means the University Discipline Appeals Committee established to deal with an appeal against a decision of a University Discipline Committee;
- g. "Deputy Vice-Chancellor (Research)" means the Deputy Vice-Chancellor (Research) of the University;
- h. "Designated Person" means in the case of a Misconduct Allegation relating to:
 - i. Research Misconduct, the Deputy Vice-Chancellor (Research); and
 - ii. other Misconduct, the Registrar;
- i. "Fresh Evidence" means in respect of any University Discipline Committee Decision, evidence that:
 - i. relates to the University Discipline Committee Decision; and
 - ii. was not available or not known to the Accused Student at the time the University Discipline Committee Decision was made; and
 - iii. was not considered by the University Discipline Committee; and
 - iv. is compelling evidence which was likely to have substantially affected the University Discipline Committee Decision to the advantage of the Accused Student;
- j. "Hearing" means a hearing by a Relevant Committee contemplated by this Procedure;
- k. "Discipline Committee" means the University Discipline Committee established to deal with a Misconduct Allegation;
- l. "Discipline Committee Decision" means a decision of a University Discipline Committee in connection with a Misconduct Allegation;
- m. "Investigation" means an investigation pursuant to Part C;
- n. "Investigation Report" means a written report by an Investigator of their findings and includes any recommendations made by the Investigator;
- o. "Investigator" means a person who carries out an Investigation and includes any panel established to carry out

- an Investigation;
- p. "Misconduct" means:
- i. conduct prohibited by any University Regulation; and
 - ii. any corrupt conduct in connection with the University;
- q. "Misconduct Allegation" means an allegation against:
- i. a Student Organisation of Misconduct or that:
 - the Student Organisation; or
 - the management committee of a Student Organisation; or
 - other leaders or spokespersons of a Student Organisation,approved, encouraged or condoned (either before or after the Misconduct occurs and either tacitly or expressly) any members of the Student Organisation and others associated with it, engaging in Misconduct; or
 - ii. a Student of Misconduct;
- r. "Non-Academic Award" means any award or other distinction awarded by the University, either solely or jointly with another institution, on a Student which does not relate to academic achievement or activity of that Student;
- s. "Notifier" means a person who makes a Misconduct Allegation;
- t. "Prohibited Allegation" means a Misconduct Allegation which is vexatious, frivolous, lacking in substance, made in bad faith or otherwise an abuse of the disciplinary process of the University;
- u. "Procedure" means this document including its schedules;
- v. "Procedure Commencement Date" means the date specified in clause 3;
- w. "Registrar" means the Registrar of the University;
- x. "Relevant Committee" means a University Discipline Committee or a University Discipline Appeals Committee, as the case requires;
- y. "Relevant Officer" means the Vice-Chancellor, the Deputy Vice-Chancellor (Research) or the Registrar;
- z. "Research Misconduct" means Misconduct which materially relates to research undertaken by a Student as part of a unit or program of supervised research at or offered by the University or an educational or research institution affiliated with the University;
- aa. "Residential College" means any:
- i. residential college of the University;
 - ii. residential premises of the University; or
 - iii. residential premises primarily intended to be used as Student residences (including Macquarie University Village or any similar premises) whether or not they are owned, operated or managed by the University;
- ab. "Serious Student Misconduct" means:
- i. any Misconduct which involves substantial harm or threat of substantial harm to the health of or safety of any person;
 - ii. any Misconduct which involves substantial damage or threat of substantial damage to the property of any person; or
 - iii. any Misconduct which has or may have a substantial adverse effect upon the reputation of the University; or
 - iv. repeated Misconduct, which indicates an unwillingness to comply with University Regulations generally or with a particular University Regulation.
- ac. "Staff Member" means any staff member of the University and includes officers, employees and contractors of the University and the appointees to conjoint, adjunct, emeritus, honorary, clinical and visiting academic positions at the University;

- ad. "Statement of Reasons" means, in relation to a decision, a brief written statement which sets out the findings on material questions of fact referring to the evidence or other material on which those findings were based and giving the reasons for the decision;
- ae. "Student" includes:
- i. a person who has been admitted as a student of the University but who has not yet enrolled in any program or unit of study or research; and
 - ii. a person who is enrolled in or auditing a program or unit of study or research provided by the University; and
 - iii. a person who is enrolled in a program or unit of study or research at or offered by an educational institution affiliated with the University which is approved as an award program or a unit of study or research by the University; and
 - iv. a person who has completed a program or unit of study or research at the University but has not yet been awarded the applicable Student Academic Award; and
 - v. a person who became admitted or enrolled as a student of the University because of misleading or dishonest conduct by any person; and
 - vi. a person who is awarded an academic or non-academic award by the University because of misleading or dishonest conduct by any person; and
 - vii. any person who has been suspended from a program or unit of study or research at the University; and
 - viii. a person who is on leave of absence from or who has deferred enrolment in a program or unit of study or research offered by the University or by an affiliated educational institution which is approved as an award program or unit of study or research by the University; and
 - ix. any person who undertakes any examination or other academic assessment task which is part of a program or unit of study or research provided, supervised or assessed by the University,
- and includes a former Student;
- af. "Student Academic Award" means any degree, diploma, certificate or other academic award or distinction, awarded by the University (either alone or jointly with another institution) to persons:
- i. who complete an appropriate course of study and satisfy an appropriate assessment; or
 - ii. who complete an appropriate programme of supervised research and satisfy an appropriate assessment;
- ag. "Student Organisation" means any incorporated or unincorporated association or group of persons, the majority of whom are Students, which is affiliated with or otherwise associated with the University;
- ah. "Suspension" means:
- i. in the case of a Student - suspension of the Accused Student's rights as a Student, including their right to be on University Premises, participate in University Activities and use University Property; and
 - ii. in the case of an Accused Student Organisation - suspension of the Accused Student Organisation's rights as a Student Organisation, including its affiliation with the University, any right to hold itself out as being connected with the University (including by using the name, trademarks and logos of the University), any right to use any University Property, any right to receive any funding or resources from the University and any right to participate in University Activities;
- ai. "University" means Macquarie University and, where the context permits, includes any one or more of the following:
- i. its controlled entities; and
 - ii. any institution affiliated with Macquarie University or any of its controlled entities; and
 - iii. any Residential College; and
 - iv. any educational institution located on premises of the University;
- aj. "University Activities" means the activities of the University and the University Community including:

- i. teaching, study and research at the University; and
 - ii. the conduct of any Academic Exercise; and
 - iii. recreational, commercial, disciplinary or ceremonial activities of the University or the University Community; and
 - iv. any clinical, professional or practical work, research, workshops, camps or field or vocational placements and any other activities arranged, sponsored, controlled or supervised by the University, whether or not it is part of a program or unit of study at the University; and
 - v. the provision by the University of services to the general community; and
 - vi. the use or enjoyment of any University Property by any person authorised by the University; and
 - vii. the management or administration of the University; and
 - viii. anything incidental to any activities of the University or the University Community;
- ak. “University Community” means the:
- i. members of the University’s Council and Staff Members of the University; and
 - ii. Students; and
 - iii. Student Organisations; and
 - iv. tenants and licensees of University Premises and their officers and staff; and
 - v. persons conducting an authorised business or other activity upon University Premises; and
 - vi. persons otherwise involved in University Activities;
- al. “University Premises” means
- i. any premises owned, operated, supervised, occupied or controlled by the University, including premises of which the University is the landlord; and
 - ii. any premises on which University Activities take place; and
 - iii. any Residential College premises;
- am. “University Property” means any facility, resource or property which is:
- i. owned by the University or in which the University has an interest or right; or
 - ii. in the custody or control of the University; or
 - iii. provided by the University; or
 - iv. on University Premises,
- and includes any University Premises;
- an. “University Regulations” means the by-laws, rules, codes of conduct, policies and directions from time to time of the University and includes this Procedure;
- ao. “Vice-Chancellor” means the Vice-Chancellor of the University;
- ap. “Working Days” means any day other than:
- i. a Saturday, a Sunday or a public holiday; or
 - ii. 27, 28, 29, 30 or 31 December,
- in Sydney.

Interpretation

(141) In this Procedure a reference to:

- a. a Relevant Officer includes any person deriving any function or power directly or indirectly by delegation or authorisation from that Relevant Officer; and
- b. any person holding or occupying a particular office or position includes each person who from time to time

- occupies or is acting in that office or position; and
- c. a person whose functions are assumed by another person because it ceases to exist, or otherwise includes the person who assumes all or substantially all of those functions and any related powers; and
 - d. a person includes an individual, a corporation, an unincorporated association, a body politic and the trustee of a trust; and
 - e. property includes moneys and information; and
 - f. a document means any record of information and includes:
 - i. anything on which there is writing; or
 - ii. anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; or
 - iii. anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or
 - iv. a map, plan, drawing or photograph; and
 - g. premises means any:
 - i. structure, building, aircraft, vehicle or vessel; or
 - ii. land or place (whether or not it is enclosed, built on or covered by water); and
 - h. anything being published by the University includes the University causing it to appear on the University's website; and
 - i. evidence includes any information, statement, document or other thing relating to a Misconduct Allegation; and
 - j. a sanction means any sanction imposed on an Accused Student or Accused Student Organisation found guilty of Misconduct; and
 - k. University Regulations means the present and future University Regulations and includes consolidations, amendments and replacements of them; and
 - l. a Student Organisation means a present or future Student Organisation and, in the case of a Student Organisation which is unincorporated, includes its members, its management committee and any person who holds property upon trust for any of its members or past members; and
 - m. the management committee of a Student Organisation means the governing body of that Student Organisation (regardless of the name given to it) or, if there is no governing body, the members of that Student Organisation; and
 - n. disciplinary action is to any action taken by the University under this Procedure in respect of Misconduct including the imposition of a sanction; and
 - o. a witness includes a person who is able to provide evidence; and
 - p. the variation, withholding or revocation of a Student Academic Award or a Non-Academic Award, in the case of any such thing having been awarded jointly with another institution, is to any of those things being done jointly with that other institution; and
 - q. awarding a Student Academic Award or Non-Academic Award includes conferring such a thing; and
 - r. dishonesty by a person is to behaviour which is dishonest or unethical according to the standards of ordinary people in Australia; and
 - s. assessment includes an examination or test; and
 - t. co-operating with a person includes assisting that person; and
 - u. carrying out an Investigation includes making findings and recommendations by the Investigator.

(142) In this Procedure:

- a. the mention of anything after the word "include" or any derivative of it does not limit the nature or class of things included; and

- b. a reference to anything includes a part of it; and
- c. a word or expression that indicates a particular gender will be taken to indicate every other gender; and
- d. a reference to a word or expression in the singular form includes a reference to the word or expression in the plural form and vice versa.

(143) This Procedure must be interpreted broadly and as operating to the full extent of, but so as not to exceed, the powers of the University.

(144) If any part of this Procedure or the application of any part to any person, subject matter or circumstance, would, but for this provision, be interpreted as exceeding the powers of the University:

- a. it will be a valid provision to the extent to which it does not exceed that power; and
- b. the remainder of this Procedure and the application of the provision to other persons, subject matters or circumstances, will not be affected.

(145) If this Procedure defines a word or expression, other parts of speech and grammatical forms of the word or expression have corresponding meanings.

(146) Headings in this Procedure are not part of it and must be ignored in interpreting it.

(147) A note included in this Procedure is not part of it and must be ignored in interpreting it.

(148) If there is an inconsistency between this Procedure and the [Macquarie University Code for the Responsible Conduct of Research](#), then this Procedure will prevail to the extent of the inconsistency.

Status and Details

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Effective Date	22nd February 2021
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Responsible Executive	Rorden Wilkinson Deputy Vice-Chancellor (Academic)
Responsible Officer	Leanne Piggott Dean of Students
Enquiries Contact	Kane Murdoch Manager, Complaints, Appeals and Misconduct