Student Conduct Procedure

Section 1 - Purpose

(1) This Procedure sets out the process for making and dealing with allegations of misconduct by students within the scope of this Procedure.

Scope

(2) This Procedure applies to allegations of:

a. breaches by students of their responsibilities under the Student Code of Conduct; or
b. serious or repeated breaches by students of the requirements of the Academic Integrity Policy.

(3) Allegations of breaches by students of academic integrity will be managed in accordance with the Academic Integrity Breach Procedure, unless the matter concerns serious or repeated breaches of the Academic Integrity Policy.

(4) Alleged breaches by students of research integrity will be managed in accordance with the Macquarie University Research Code Complaints, Breaches and Investigation Procedure.

Section 2 - Policy

(5) Refer to the Student Conduct Rules and the Student Code of Conduct.

Section 3 - Principles

(6) Processes carried out under this procedure will be carried out in accordance with the requirements of procedural fairness.

(7) The standard of proof required to establish a breach is the balance of probabilities.

Section 4 - Procedures

Part A - Raising Concerns of Misconduct and Preliminary Procedures

How to report concerns

(8) Any member of the University Community or the public may raise concerns of misconduct by a student to the University.

(9) Concerns shall:

a. be raised via the University's Feedback, Complaints and Misconduct Reporting Form; and
b. be in writing; and

c. contain sufficient details of the conduct to enable the concern to be dealt with, including all available supporting information.

Concerns may also be referred through the Complaints Resolution Procedure for Students and Members of the Public and the Student Sexual Misconduct Prevention and Response Procedure.

Handling concerns about Misconduct

Assessment of reports

(10) When concerns are received, the Registrar will assess available information to determine:

a. whether the concern is within the scope of this Procedure;
b. the level of seriousness; and
c. whether the concern should be handled under an alternative policy or procedure.

(11) Following the assessment process specified in clause 10, the Registrar may do one or more of the following:

a. take no further action;
b. make further inquiries;
c. refer the matter to another process;
d. handle the concern informally with the student as set out in clauses 15 and 16;
e. refer the concern for investigation as an Allegation of Misconduct in accordance with Part B; or
f. refer the matter to the Student Conduct Committee as an Allegation of Misconduct to be dealt with in accordance with Part C.

(12) If the Registrar decides to take no further action, the person raising the concern may be notified of the decision.

Notification of a Misconduct Report

(13) If the Registrar determines to deal with the matter as an Allegation of Misconduct under clause 11(e)-(f), they must:

a. notify the student of the Misconduct Allegation;
b. provide details outlining the basis for the concerns and available evidence where practicable;
c. inform the student of the procedure for handling the Allegation (including any potential penalties that may be applied); and
d. invite the student to make submissions in writing in response to the Allegation, including any submission as to outcome, within the time frame specified in the notice.

(14) The Registrar may delay notifying a student of the Allegation if they consider that it is appropriate to do so.

Informal Handling of Misconduct Report

(15) Following receipt of any response provided by the student under clause 13(d) or following expiration of the time allowed for a response, the Registrar may:

a. dismiss the concern; or
b. if the student admits to the behaviour that is the subject of the concern:
    i. where the Registrar considers that the concern may result in an outcome of suspension or exclusion from studies, refer the matter to a Student Conduct Committee for a decision; or
    ii. apply any of the outcomes listed in clause 29(a)-(j) of this Procedure; or

c. if the student does not admit to the behaviour which is the subject of the concern, refer the matter for investigation under Part B.

(16) When considering what outcomes should be applied under clause 15(b)(i), the Registrar will take into consideration any previous relevant disciplinary action taken against the student including any warnings given relating to similar behaviour, as well as any mitigating or aggravating circumstances.

Part B - Investigation of Misconduct Allegations

Investigation of Misconduct Allegations

(17) Where an investigation is initiated under Part A, the Registrar will appoint an investigator.

(18) The investigator will:

a. inform the student that the concern will be managed as a Misconduct Allegation; and
b. invite the student within a reasonable specified period to make submissions and to provide any evidence about the Allegation.

(19) The investigator may seek information or documentation about the Allegation, in writing or in person, from any person they consider may have information or documentation relevant to the Allegation.

(20) If additional information, documentation or concerns arise in the course of the investigation, the investigator will inform the student in writing of the nature of the additional information, documentation or concerns and invite submissions and/or evidence about them where required for procedural fairness.

Investigation Report

(21) The investigator will prepare a written report of their investigation and provide it to the Registrar.

(22) The investigation report will contain:

a. findings of fact with reference to the Allegation, evidence and any other material on which those findings were based; and
b. any recommendations of the investigator

(23) After receipt of the investigation report, the Registrar may:

a. dismiss the Misconduct Allegation; or
b. determine that the Misconduct Allegation is substantiated and determine the penalty to be applied; or
c. where the Registrar considers that the matter may result in suspension or exclusion, refer the Misconduct Allegation, together with the investigation report, to a Student Conduct Committee for consideration and decision under Part C.

Part C - Student Conduct Committee

Establishment and findings

(24) The Registrar will convene a Student Conduct Committee to deal with a Misconduct Allegation referred to the Committee.

(25) The Student Conduct Committee will decide whether the findings of fact contained in the investigation report, or

facts admitted by the Student under Part A constitute a breach of the Student Code of Conduct or Academic Integrity Policy and, if so, what penalties should apply.

(26) Before making its decision, the Student Conduct Committee will invite the student to make a submission verbally or in writing and may seek such further information as it considers necessary from the investigator or any other person.

(27) The Student Conduct Committee will notify the student of its decision within ten (10) business days of making the decision.

(28) In the event of a finding that a breach of a requirement of the Student Code of Conduct or Academic Integrity Policy has occurred, the student will be offered the opportunity to provide a submission regarding the penalty outcome.

Misconduct outcomes

(29) If a Student Conduct Committee reaches a finding of misconduct against a student, the Committee may apply an outcome which may include (without limitation):

a. a formal warning;
b. restriction from specified University premises for 30 days;
c. community service to the University;
d. mandated training and/or counselling;
e. financial restitution to the University and/or students/staff affected;
f. removal or restriction from any role in a student organisation;
g. completion of an online educational module;
h. probation;
i. a mark of zero (0) for an assessment item;
j. a mark of zero (0) and a fail grade for a unit;
k. suspension from studies for a period of up to a year;
l. permanent exclusion from the University.

(30) When considering what outcomes should be applied under clause 29 the Student Conduct Committee will take into consideration any previous relevant disciplinary action taken against the student including any warnings given relating to similar behaviour, and any mitigating or aggravating circumstances.

(31) Failure by a student to comply with a misconduct outcome whether that outcome is under this Part or otherwise may be misconduct.

(32) If an international student is suspended or excluded from studies the University will notify the Department of Home Affairs of the suspension or exclusion from studies as required by the Education Services for Overseas Students Act 2000, and will inform the student that they should seek the advice of the Department of Home Affairs on the potential impact of suspension or exclusion on their visa status.

Part D - Appeals

Student Conduct Appeal Committee

(33) A student may appeal against a decision of the Student Conduct Committee or a decision of the Registrar under clause 23(b) on the following grounds:

a. the student in relation to an investigation was not given a reasonable opportunity to provide a response to a Misconduct Allegation;
b. an investigator in carrying out an investigation, or the decision maker in making the decision, was biased or there was a reasonable apprehension of bias against the student;
c. an investigator in making a finding or recommendation, or the decision maker in making the decision, took an irrelevant consideration into account;
d. an investigator in making a finding or recommendation, or the decision maker in making the decision, failed to take a relevant consideration into account;
e. there was no evidence to justify a finding or recommendation made by an investigator or the making of the decision by the decision maker;
f. a finding or recommendation of an investigator, or the decision maker, was made without regard to the merits of the particular case;
g. an investigator in making a finding or recommendation, or the decision maker in making the decision, did not follow the required procedure for doing so.

(34) Appeals must:

a. be made within twenty (20) business days of the decision as to the final outcome being sent to the student; and
b. be made in writing to the Registrar; and
c. contain details of the basis for the appeal, identifying the relevant ground or grounds of appeal and providing any supporting information;
d. contain the student's name, email address and student identification number; and
e. be made only after the student is sent the decision on the final outcome.

(35) Within ten (10) business days of receipt of the appeal, the Registrar (who in the case of an appeal against a decision under clause 23b. must not be the same person as the decision maker) will commence assessing the appeal and may:

a. dismiss the appeal if satisfied that it is lacking in substance or has failed to identify one or more grounds for appeal listed in clause 33; or
b. otherwise convene a Student Conduct Appeal Committee to consider the appeal. A student attending a meeting of the Committee may bring a support person (other than a legal practitioner).

(36) A Student Conduct Appeal Committee will consider the appeal and:

a. dismiss the appeal; or
b. uphold the appeal in whole or in part, and where in part, refer those upheld parts for reassessment by another decision-maker under this Procedure; or
c. vary the misconduct outcome.

(37) Within ten (10) business days of the Student Conduct Appeal Committee making its decision, the Committee will notify the student in writing of:

a. the decision, providing reasons; and
b. the student's right to complain about the appeals process to an external agency.

Part E - Summary Suspension or Banning of Students

(38) At any time and regardless of whether or not any investigation has commenced, the Registrar may suspend the

enrolment of a student or ban a student from the whole or any part of University premises for a maximum of one study period (which may be renewed) as the Registrar considers appropriate if the Registrar is satisfied that:

a. the behaviour of the student may constitute misconduct; or
b. there is an imminent threat of misconduct by the student; and
c. the Registrar is satisfied that it is reasonably necessary to:
    i. ensure the physical safety or wellbeing of the University community or a specific person; or
    ii. prevent damage to property or resources of the University or any person; or
    iii. prevent interference with any University activity; or
    iv. prevent harm to the reputation of the University.

(39) If the Registrar decides to suspend a student or to ban a student from University premises, the Registrar will notify the student in writing of the decision with reasons for the decision.

(40) A decision to suspend or ban a student from University premises is not appealable.

(41) A decision to suspend a student or ban a Student from University premises takes effect immediately.

(42) The Registrar may at any time revoke or vary a decision to suspend a student or to ban a Student from University premises.

(43) An action taken against a Student under this Part does not prevent subsequent action against the student in respect of any misconduct.

Part F - Agent

(44) The Registrar may authorise a senior staff member to carry out their functions and powers as their agent under this Procedure.

Part G - Miscellaneous

Confidentiality

(45) The University will keep records of misconduct matters.

(46) Misconduct matters are confidential, unless:

a. for the purposes of the student receiving professional advice in relation to the proceedings;
b. for the purposes of informing persons or bodies who are directly connected with the student's studies and/or have a need to receive the information (e.g. professional practice bodies, employers);
c. the University is obliged to produce the records by law or by a regulatory agency or body;
d. the University is responding to a complaint concerning its conduct of the proceedings.

(47) The University may be required to report information about a 'serious indictable offence' to Police, in accordance with section 316 of the Crimes Act 1900 (NSW).

Notifications and Communications

(48) Notifications and communications to a student will be made by email to the student's University email address and will be considered to be delivered when sent. The University may agree to different arrangements where the student shows that there are special circumstances.

Part H - Definitions

(49) For the purpose of this Procedure the following definitions apply:

a. Misconduct Allegation or Allegation means a report or concern raised under this procedure describing the behaviour of a student which if proven may constitute a breach of the Student Code of Conduct or the Academic Integrity Breach Procedure.
b. Registrar includes acting Registrar and a person appointed as an agent under Part F.

Status and Details

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Responsible Executive	Rorden Wilkinson Deputy Vice-Chancellor (Academic)
Responsible Officer	Leanne Piggott Pro Vice-Chancellor (Dean of Students)
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