

Student Misconduct Rule

The Board of Trustees of Western Sydney University makes the following rule under section 41 of the [Western Sydney University Act 1997](#) and clause 44(1) of the [Western Sydney University By-law 2017](#).

Part 1 - Preliminary

1 Name of rule

(1) This is the Western Sydney University (Student Misconduct Rule) 2015.

2 Commencement

(1) This Rule commences on 1 January 2016.

3 Purpose and application

(1) This Rule applies to all students of the University and of The College.

(2) This Rule makes it an offence for any student to engage in any one or more of the following types of misconduct:

- a. academic misconduct;
- b. research misconduct; or
- c. general misconduct,
including misconduct that occurs:
 - d. within a student residence located on any property under the control of the University;
 - e. during an off-campus activity anywhere within or outside Australia, including field work, placements, exchanges or internships with other education providers, institutions or organisations;
 - f. during any period of intermission from enrolment, including because of deferment, temporary exclusion or suspension;
 - g. in any mode of delivery of educational services, including on-campus, online or distance education mode; or
 - h. where the respondent student has otherwise consented to be bound by this Rule (including under any agreement).

4 Effect

(1) This Rule supersedes and revokes any previous rules, policies or procedures of the University or of The College relating to student misconduct.

(2) Nothing in this Rule has the effect of invalidating any past act validly performed under any previous rule, policy or procedure of the University or The College relating to student misconduct.

Part 2 - Dictionary and Delegations of Authority

5 Definitions

(1) In this Rule the following words have these meanings, unless the context otherwise requires.

Word or expression	Definition
academic misconduct	Conduct by a student that in any way undermines or otherwise puts at risk the academic integrity of any course, unit of study or assessment (including examinations) or the University's academic reputation
Appeals Committee	A Committee convened under Part 7 - Committee Constitution and Procedures to decide appeals under Part 5 - Appeals
Authorised Officer	A person (other than a Committee) with authority under this Rule: (a) hear and decide an allegation of misconduct; (b) impose a Sanction; (c) make a Temporary Restriction Order; or (d) impose a Suspension Order
campus	A place designated as a campus of the University or The College, including any buildings facilities or services available on that campus
Category 1 Sanction	A Sanction specified in clause 28
Category 2 Sanction	A Sanction specified in clause 29
Category 3 Sanction	A Sanction specified in clause 30
Chair	A person appointed to chair a Committee
Committee	A Student Misconduct Committee or an Appeals Committee
course	A program of study (whether by course work or research, or a combination of both) leading to the award of a degree, diploma or other award or qualification conferred by the University or The College
Dean	The dean of a school of the University, the Dean, Graduate Studies or The College Dean
decision-maker	The responsible Authorised Officer or Committee that makes a decision under this Rule
exclude or exclusion	Termination of enrolment or prohibition from enrolling in a unit or a course for a defined period of time or permanently
expel or expulsion	Permanent banishment from the University or The College
general misconduct	Conduct by a student that is contrary to accepted standards of behaviour at the University including conduct that: (a) places at risk the health, safety or welfare of any person; (b) places at risk the business or other operations, systems or activities of the University; (c) disrupts or interferes with another person's ability to access or enjoy the University's facilities or services
Guidelines	Guidelines issued under clause 9
misconduct	Academic misconduct, research misconduct or general misconduct
research misconduct	Conduct by a student in connection with research that seriously deviates from accepted standards for the proposal, conduct or reporting of research, including any breach of any University or other applicable law, regulation or code relating to research, such as the Australian Code for the Responsible Conduct of Research
respondent student	A student against whom an allegation of misconduct is made
Sanction	A Category 1 Sanction or Category 2 Sanction
student	A person who, at the time of the alleged misconduct, is: (a) admitted to a course or unit of study of the University or The College, whether or not enrolled (including where the student has completed that course or unit of study, but has yet to graduate); (b) otherwise studying or undertaking a student-related activity at the University or The College, including as part of any exchange or other arrangement with another university or education provider; but does not include a person: (c) who is an employee of the University or of The College; and (d) the misconduct alleged is required to be dealt with under the terms of that person's employment with (as the case may be) the University or The College
Student Misconduct Committee	A Committee convened under Part 7 - Committee Constitution and Procedures to hear and decide allegations of misconduct under Part 4 - Misconduct Procedures

Student Misconduct Panel	A panel established under Guidelines from which academic and professional staff members or students can be selected to serve on a Student Misconduct Committee or an Appeals Committee
Suspension Order	An order made under Part 9 - Suspension Orders
Temporary Restriction Order	An order made under Part 8 - Summary Temporary Restriction Orders
teaching session	A period of time during which a unit of study is taught and assessed
The College	The controlled entity of the University known as Western Sydney University Enterprises Pty Ltd ACN 003 474 468 trading as Western Sydney University The College CRICOS Code 02851G
unit of study	A component of a course, including any field work or placement with an external person or body
University	Western Sydney University as established by the Western Sydney University Act 1997 (NSW)

6 Interpretation

(1) In this Rule, unless the context requires otherwise:

- a. the singular includes the plural and vice versa;
- b. other grammatical forms of defined words and expressions have corresponding meanings;
- c. a reference to a clause, a Part or a Schedule means a clause, part or schedule in this Rule;
- d. a reference to any law, by-law, regulation or other statutory instrument includes any amendment, re-enactment or replacement of it;
- e. a reference to a position within the University or The College (such as a dean) means the person employed in or appointed to that role, and includes any person acting in that role temporarily;
- f. a reference to "includes", "including", "for example" or other similar expressions does not limit what else is included;
- g. a reference to a business day means Mondays to Fridays inclusive, except:
 - i. public holidays gazetted in New South Wales; or
 - ii. days when the University is closed for business as published on its website from time to time.

7 References to University and The College

(1) Any references in this Rule to the University shall, as appropriate, be read as references to The College where in relation to misconduct or an appeal involving a College student.

8 Powers and delegations

(1) The Authorised Officers or Committees listed in Schedules 1 and 2 have power to deal with the matters indicated in the tables opposite their description.

(2) An Authorised Officer or a Committee:

- a. has power to summon a staff member or student to give evidence at any hearing of misconduct.
- b. may obtain advice or assistance from another person (such as a unit or course coordinator), but always remains responsible for performing the delegated function; and
- c. may exercise a function that is preliminary or ancillary to the exercise of any delegated function.

(3) An Authorised Officer may designate another person in writing to fulfil a delegated function as that Authorised Officer's nominee if the Authorised Officer:

- a. reasonably believes there is or may be a conflict of interest, or actual or perceived bias, if he or she exercises that function; or

- b. is otherwise unavailable to exercise that function.
- (4) Any delegation of authority given under this Rule applies to the occupant of the position to whom it is made, including any person acting in that position.
- (5) The Vice-Chancellor and President may designate another person in writing to perform another Authorised Officer's function under this Rule in circumstances where:
- a. the position of that Authorised Officer no longer exists; or
 - b. that Authorised Officer is for any reason unable or unavailable to exercise that function.

9 Guidelines

- (1) The University may make guidelines not inconsistent with this Rule about any of following matters:
- a. establishment of Student Misconduct Panels, including selection and membership;
 - b. alternative methods for managing behaviours that warrant educative or remedial interventions rather than these being dealt with as misconduct under this Rule;
 - c. to ensure consistency in the way misconduct is managed and sanctions are imposed under this Rule.
- (2) Guidelines may be made by:
- a. the Academic Senate in relation to academic misconduct and research misconduct;
 - b. the Vice-Chancellor and President or the Vice-President, People and Advancement in relation to general misconduct.

Part 3 - Reports and Preliminary Action

10 Reporting misconduct

- (1) Any person who reasonably suspects a student has committed misconduct may report it to any one or more of the following:
- a. any member of staff, who if not an Authorised Officer, must then refer it promptly to the appropriate Authorised Officer; or
 - b. directly to the appropriate Authorised Officer.

11 Preliminary action

- (1) Following a discovery or referral of alleged misconduct, the Authorised Officer must as soon as possible (but generally within 10 business days) conduct a preliminary assessment of the allegation, and:
- a. may interview the respondent student before deciding what, if any, further action to take;
 - b. dismiss the allegation if it is trivial or misconceived and does not warrant any further action; or
 - c. may arrange for an investigation of the allegation, which may or may not include interviewing the respondent student.
- (2) If the Authorised Officer proposes to interview a student under this Part, he or she must first notify the respondent student in writing of the general nature of the allegation and:
- a. invite the respondent student to attend an interview to discuss the allegation;
 - b. advise the respondent student that he or she may bring along a support person or an advocate to the interview, but subject to the requirements of clause 58; and
 - c. if the respondent student does not attend interview, then the Authorised Officer will decide the next steps in his or her absence; and

- d. give the respondent a copy of this Rule.
- (3) The Authorised Officer does not have to interview, or give copies of any evidence to, the respondent student in this preliminary process if he or she reasonably believes that this would:
- a. unreasonably compromise or undermine the integrity of an investigation; or
 - b. risk the health, safety or welfare of the respondent student, any witness or any other person involved in the investigation of the allegation.
- (4) Following interview or investigation, the Authorised Officer is to:
- a. dismiss the allegation if there is no substance to it; or
 - b. if he or she considers it appropriate, refer the matter to be dealt with under Guidelines or under another University rule, policy or process, rather than the matter being dealt with as misconduct under this Rule; or
 - c. if the respondent student has admitted misconduct and as appropriate:
 - i. impose a Category 1 Sanction; or
 - ii. if the admitted misconduct warrants a Category 2 Sanction, refer it to the relevant Authorised Officer under clause 31; or
 - d. refer or deal with the allegation under Part 4 - Misconduct Procedures.

12 Notice to student

- (1) Following a decision under clause 11(4), the Authorised Officer must notify the student of the decision made, and:
- a. where the respondent student has admitted the misconduct and a Sanction has been imposed, advise the respondent student that he or she has a right to appeal that Sanction under Part 5 - Appeals; and
 - b. enclose a copy of this Rule.

Part 4 - Misconduct Procedures

13 Who hears and decides misconduct or appeals

- (1) Authorised Officers specified in Schedule 1 have power to hear and decide allegations of misconduct that if, substantiated, warrant a Category 1 Sanction.
- (2) Student Misconduct Committees have power to hear and decide allegations of misconduct that, if substantiated, warrant a Category 2 Sanction.
- (3) Appeals Committees have power to hear and decide all appeals.
- (4) Unless they consider it unreasonable or impractical, an Authorised Officer or a Student Misconduct Committee has power to hear and decide:
- a. multiple allegations against the same respondent student (including if the allegations traverse more than one category of misconduct); or
 - b. allegations involving more than one respondent student in relation to one incident or the same set of circumstances.

14 Fresh allegations

- (1) If a fresh allegation is made about the same conduct or incident before a finding is made, then that fresh allegation may be heard and decided with the original allegation. However, the respondent student must first be given:
- a. another notice of hearing containing that fresh allegation; and

- b. an opportunity to be heard in relation to that fresh allegation according to the procedure prescribed in this Part.

15 Where respondent student admits misconduct

(1) A respondent student may admit an allegation of misconduct at any stage of this process and, if so, must be given a reasonable opportunity to make an oral or written statement about any Sanction to be imposed.

(2) If a student admits misconduct:

- a. before a notice of hearing is issued; and
- b. the misconduct is serious enough to warrant a Category 2 Sanction,

the Sanction shall instead be decided by a person authorised under clause 31 rather than being referred to a Student Misconduct Committee.

(3) The respondent student must be notified of the Sanction, and any notice must include:

- a. the misconduct admitted by the respondent student;
- b. details of any Sanction imposed;
- c. a short statement of reasons for imposing that Sanction;
- d. a statement that the respondent student has a right to appeal that Sanction under Part 5 - Appeals; and
- e. a copy of this Rule.

16 Notice of hearing

(1) Before hearing an allegation of misconduct, the Authorised Officer or Student Misconduct Committee must send the respondent student a notice that:

- a. gives sufficient particulars of the allegation to enable the respondent student to respond to it;
- b. states the date, time and place for the hearing (which is to be no less than 10 business days from the date on which the notice is sent);
- c. includes statements to the following effect:
 - i. that if the respondent student admits the allegation, then the respondent student may make a statement about an appropriate Sanction, either by attending the hearing or providing a written statement on or before the hearing date;
 - ii. if the respondent student attends the hearing, he or she may bring along a support person or an advocate, but subject to the requirements of clause 58; and
 - iii. if the respondent student does not attend the hearing without reasonable excuse, then the allegation will be heard and decided in his or her absence; and
- d. encloses a copy of this Rule.

(2) A notice of hearing may (but does not have to) include copies of any evidence about the allegation then available. Any available evidence may be excluded or redacted if disclosure at that time could unreasonably:

- a. compromise the integrity of the investigation of the alleged misconduct; or
- b. place the health, safety or welfare of a person, including any witness at risk.

17 Requirements at hearing

(1) The Authorised Officer or Student Misconduct Committee must:

- a. ensure that the respondent student has been given notice of the hearing under clause 16;
- b. confirm whether the respondent student admits or denies the allegation;

- c. consider all available evidence about the allegation and make findings of fact based on any relevant evidence;
- d. give the respondent student a reasonable opportunity to respond to the allegation and any evidence, and to present his or her own evidence or give any statements;
- e. decide whether the allegation is sustained, and
 - i. if so, decide what, if any, Sanction should be imposed; or
 - ii. if not, dismiss it and take no further action.

(2) At a hearing, a respondent student is entitled to a reasonable opportunity to:

- a. call witnesses to give evidence on his or her behalf;
- b. respond to any evidence;
- c. present any evidence or give oral or written statements;
- d. subject to clause 18, question witnesses.

18 Questioning witnesses

(1) A respondent student or, if applicable, his or her advocate may only question witnesses:

- a. directly, with the permission of the Authorised Officer or Chair of the Student Misconduct Committee; or
- b. through the Authorised Officer or the Chair of the Student Misconduct Committee.

(2) Witnesses may be questioned in person or using some form of telecommunications (such as video conferencing) and with or without the respondent student being present. However, if the respondent student is not present, then he or she must be given details of the substance of that witness' evidence and a reasonable opportunity to respond to that evidence before any finding is made.

19 Failure of student to attend hearing or respond to notice

(1) A misconduct hearing must proceed to its conclusion if the respondent student does not attend the hearing without reasonable excuse.

(2) The Authorised Officer or Chair of the Student Misconduct Committee has a discretion to adjourn a hearing or extend a deadline for a short period of time, if he or she considers it is reasonable to do so in the circumstances.

20 Decision and report

(1) Following a hearing, the Authorised Officer or Student Misconduct Committee must:

- a. dismiss the allegation if satisfied that the allegation is:
 - i. not substantiated on the balance of probabilities; or
 - ii. so trivial as not to warrant imposing a Sanction; or
- b. make a finding that the allegation is substantiated on the balance of probabilities and, if appropriate, impose a Sanction.

(2) The Authorised Officer or the Student Misconduct Committee is to prepare and send the respondent student a report that sets out:

- a. the findings of fact;
- b. a summary of the evidence on which those findings of fact are based;
- c. any finding of misconduct;
- d. if applicable, any Sanction to be imposed; and
- e. a short statement of reasons.

(3) A decision (including any Sanction) takes effect immediately from the date on which the report is sent to the respondent student, subject to any appeal.

Part 5 - Appeals

21 Grounds of appeal

(1) A respondent student may appeal to an Appeals Committee against a finding of misconduct or the imposition of a Category 1 or Category 2 Sanction.

(2) An appeal may only be made on any one or more of the following grounds:

- a. a failure to accord procedural fairness in hearing and deciding the allegation or any Sanction;
- b. that there is new or fresh evidence that was not known or reasonably available to the respondent student before the finding of misconduct was made; or
- c. that the Sanction imposed is:
 - i. inconsistent with Part 6 - Sanctions for Misconduct; or
 - ii. excessive and out of proportion to the misconduct, taking into account any current and relevant Guidelines.

22 Lodging an appeal

(1) A respondent student must lodge an appeal with the Director, Governance Services no later than 15 business days following notification of a misconduct decision.

(2) A notice of appeal must specify:

- a. the finding or Sanction under appeal;
- b. the ground(s) of appeal under clause 21(2); and
- c. if this is a ground of appeal, details and copies of any new or fresh evidence.

23 Appeals procedures

(1) The Appeals Committee:

- a. must hold a hearing for an appeal where a ground of appeal is on the basis of new or fresh evidence; or
- b. may, in its discretion, hold a hearing or decide the appeal on papers for an appeal made on any other ground.

(2) For appeals involving a hearing, the Chair must send the respondent student a notice that:

- a. specifies the date, time and place for the hearing (to be no less than 10 business days from the date on which the notice is sent);
- b. includes statements to the effect that:
 - i. if the respondent student attends the hearing, he or she may bring along a support person or an advocate, but subject to the requirements of clause 58; and
 - ii. if the respondent student does not attend the hearing without reasonable excuse, then the allegation will be heard and decided in his or her absence; and
- c. encloses a copy of this Rule.

(3) For appeals on the papers, the Chair must send the respondent student a notice that:

- a. states that the appeal will be decided on the papers;
- b. invites the respondent student to make any further written submissions in support of the appeal by a deadline not less than 10 business days from the date of the notice;
- c. includes a statement that the Appeals Committee will proceed to decide the appeal if the respondent student does not respond within that time; and

- d. includes copies of:
 - i. this Rule; and
 - ii. any submissions of the University concerning the appeal.
- (4) An appeal must proceed to its conclusion if the respondent student does not:
- a. attend the hearing without reasonable excuse; or
 - b. respond to a notice given under subclauses (2) or (3) within the specified deadline.
- (5) If a respondent student withdraws an appeal before the Appeals Committee decides it, then:
- a. the appeal shall be deemed to be dismissed; and
 - b. the original decision (including any Sanction) shall stand.

24 Appeal decision

- (1) The Appeals Committee must limit its inquiry to the grounds of appeal specified in the notice of appeal and in accordance with 21(2).
- (2) For appeals involving a ground of new or fresh evidence, the Appeals Committee is to:
- a. decide whether that ground is made out; and
 - b. if so, consider and decide the allegation afresh, taking into account that new or fresh evidence, and make a finding on the balance of probabilities; or
 - c. if that ground is not made out, dismiss the appeal.
- (3) For appeals on any other ground, the Appeals Committee must:
- a. dismiss the appeal if the ground is not made out; or
 - b. uphold the appeal (in whole or in part) if:
 - i. a ground of appeal is made out; and
 - ii. the original finding of misconduct should be varied or set aside; or
 - iii. the original Sanction should be reduced.
- (4) If the Appeals Committee allows an appeal, it must either:
- a. substitute its own finding and, if applicable, set aside or vary any Sanction; or
 - b. if it decides that the original finding or Sanction should not be set aside or varied, despite allowing the appeal, confirm that finding or Sanction.
- (5) Any appeal must be decided on the basis of:
- a. the material and evidence that was before the Authorised Officer or Student Misconduct Committee;
 - b. where a ground of appeal, any fresh or new evidence submitted by the respondent student; and
 - c. any submissions of the respondent student or of the University concerning the appeal.

25 Notification of outcome of appeal

- (1) The Appeals Committee is to prepare and send to the respondent student a report that sets out:
- a. its findings and decision (including any sanctions) on the appeal;
 - b. a summary of the evidence or submissions on which its decision is based;
 - c. a short statement of reasons; and
 - d. if the respondent student is an overseas student, any avenues of external review or appeal available to the

respondent student in accordance with the [National Code 2018](#) enacted under the Education Services for Overseas Students Act 2000 (Cth) (as amended).

(2) The decision of the Appeals Committee takes effect immediately from the date on which it sends its report to the respondent student.

26 No further appeal available

(1) There is no further avenue of internal review or appeal following completion of an appeal under this Part 5 - Appeals.

Part 6 - Sanctions for Misconduct

27 Categories

(1) There are three categories of Sanctions that may be imposed for misconduct:

- a. Category 1 Sanctions, which may be imposed by:
 - i. an Authorised Officer or a Student Misconduct Committee if a finding of misconduct is made; or
 - ii. an Appeals Committee in relation to an appeal under Part 5 - Appeals;
- b. Category 2 Sanctions, which may only be imposed by:
 - i. a Student Misconduct Committee if it makes a finding of misconduct;
 - ii. an Authorised Officer specified in clause 31 if a student admits to misconduct that warrants a Category 2 Sanction before a notice of hearing is issued; or
 - iii. an Appeals Committee in relation to an appeal under Part 5 - Appeals; and
- c. Category 3 Sanctions, which may only be imposed by the Board of Trustees on the recommendation of:
 - i. a Student Misconduct Committee; or
 - ii. an Authorised Officer under clause 31.

28 Category 1 Sanctions

(1) A Category 1 Sanction is any one or more of the following:

- a. a reprimand;
- b. reduction of a mark, including to zero, or a "fail" for an assessment task, examination or final grade;
- c. a direction to pay up to \$500.00 for repair or replacement of damaged or lost property;
- d. a direction to give an apology;
- e. a direction not to approach, contact or attempt to contact a staff member or another student, but only to the extent that this does not unreasonably interfere with the respondent student's ability to attend classes or undertake his or her studies;
- f. a direction that the respondent student give a written undertaking to not repeat or continue the behaviour or activity that is the subject of the finding of misconduct;
- g. restricted or conditional access to or use of any University campus (including buildings), facilities or services for a period of up to one full teaching session.

29 Category 2 Sanctions

(1) A Category 2 Sanction is any one or more of the following:

- a. temporary exclusion from a:
 - i. specified unit of study;

- ii. course or research degree; or
 - iii. from undertaking a specified activity (including research or field work, a placement or other form of professional experience) in connection with a course or research degree;
- b. permanent exclusion from a specified course; or
 - c. permanent exclusion from the respondent student's research degree (including any research activity in which the respondent student is involved); or
 - d. a direction to pay a specified amount for repair or replacement of damaged or lost property up to a value not exceeding \$2,000;
 - e. suspension from the University or from undertaking a specified activity connected with the respondent student's course (including field work, a placement or other form of professional experience) for a period of up to two consecutive and full teaching sessions;
 - f. expulsion from the University;
- (2) a determination that the respondent student should not be granted the relevant award for the course or courses in which he or she was enrolled at the time the alleged misconduct occurred.

30 Category 3 Sanctions

- (1) A Category 3 Sanction is revocation of an award conferred on the respondent student.
- (2) A Category 3 Sanction may only be imposed by the Board of Trustees in accordance with the University's [Revocation of Awards Rule](#).
- (3) There is no internal avenue of review or appeal against a decision by, or a recommendation to, the Board of Trustees to impose a Category 3 Sanction.

31 Category 2 Sanctions for admitted misconduct

- (1) The following Authorised Officers may impose a Category 2 Sanction or recommend to the Board of Trustees that a Category 3 Sanction be imposed where a respondent student admits to misconduct before a notice of hearing is given under clause 16:
- a. the Vice-Chancellor and President or a Deputy Vice-Chancellor for academic, research or general misconduct; or
 - b. a Vice-President for general misconduct only.

32 Restrictions or conditions following temporary exclusion or removal

- (1) Any readmission to the University or a course following temporary exclusion or suspension is subject to any:
- a. applicable criteria for admission or entry to the University or that course at the time of readmission; and
 - b. if applicable, conditions or restrictions specified by the Committee in its decision.

33 Suspended Sanctions

- (1) A Sanction may be suspended with or without conditions unless:
- a. the Sanction is a Category 2 Sanction for temporary or permanent exclusion, suspension or expulsion;
 - b. the Sanction is a Category 3 Sanction; or
 - c. the respondent student has previously been given a suspended Category 1 or Category 2 Sanction for the same or similar misconduct.
- (2) A respondent student may be required to comply with any one or more of the following as a condition of suspending a Sanction:

- a. to undertake to do or not to do something to minimise risk of further misconduct or to the health, safety and welfare of any person;
 - b. to undertake counselling, training or other remedial action;
 - c. to apologise either verbally or in writing to any person aggrieved by the respondent student's misconduct;
 - d. to contact or report to a specified person, such as a course coordinator, at specified intervals.
- (3) If the respondent student fails to comply with a condition imposed under subclause (2), then the full Sanction will apply and take effect immediately when the University gives the respondent student notice to that effect.

34 Effective date

- (1) The effective date of a Sanction may be adjusted, backdated or delayed to take account of:
- a. the start or finish of a teaching session; or
 - b. the length of any previous summary temporary restriction or suspension order made in relation to the respondent student for the misconduct.

35 Matters to be taken into account

- (1) A Sanction must be proportionate to the type and circumstances of the misconduct, and take into account the following:
- a. the nature, severity and impact of the misconduct;
 - b. any previous finding of misconduct against the respondent student;
 - c. the personal circumstances of the respondent student;
 - d. the objective of deterring future incidences of misconduct
 - e. the objective of protecting the University community and the good governance and reputation of the University;
 - f. any University policies, conventions or guidelines relating to standards of behaviour (including academic honesty and integrity) expected of students.
- (2) Any Sanction imposed under this Rule in relation to conduct that occurred within a student residence does not affect or preclude any other action concerning the respondent student's continued occupancy of or access to that student residence.

Part 7 - Committee Constitution and Procedures

36 Convening and constitution

- (1) All Committees shall be convened by the Chief Student Experience Officer and should include at least one male and one female member.
- (2) Except for external members, Committee members must be selected from the members of the relevant Student Misconduct Panel.
- (3) Each Committee is to comprise three members:
- a. at least one of whom must be an academic staff member from the Panel;
 - b. one of whom must be a student from the Panel;
 - c. one of whom may be a professional staff member from the Panel where the allegation relates to general misconduct only; and
 - d. one of whom may be an external person appointed under clause 37.

37 External members

- (1) The Chief Student Experience Officer may appoint an external member to a Committee as follows:
- a. if the alleged misconduct involves a criminal offence punishable by 12 months' imprisonment or more and would, if proven, warrant expulsion, a person with the following qualifications may be appointed:
 - i. a person admitted as a legal practitioner anywhere in Australia for a minimum of seven years; or
 - ii. a person who holds or has previously held office as a judicial tribunal member, magistrate or judge anywhere in Australia;
 - b. a senior academic from another university, who is from the same or similar discipline as the respondent student, and who is not involved in supervising or examining the respondent student.

38 Quorum

- (1) The quorum for any Committee is two members, one of whom must be:
- a. the Chair; or
 - b. if the Chair is an external person appointed under clause 37:
 - i. that Chair; and
 - ii. one academic staff member.

39 Disqualification and casual vacancies

- (1) A person is disqualified from appointment to a Committee if that person:
- a. is a witness in any proceedings or appeal before that Committee;
 - b. is from the same school in which the respondent student is enrolled; or
 - c. has been involved in reporting, investigating, deciding or giving advice or recommendations about the allegation or appeal before that Committee.
- (2) A person ceases to be a member, or is disqualified from membership of, a Committee if that person:
- a. if appointed as a staff member, ceases to be a staff member of the University for any reason;
 - b. if appointed as a student, ceases to be a student for any reason;
 - c. if that person's appointment is revoked by the Chief Student Experience Officer for any reason;
 - d. resigns from the Committee; or
 - e. dies.
- (3) A person appointed to a Committee from a Panel may continue as a member of the Committee if, following appointment, he or she ceases to be a member of the relevant Panel.
- (4) If a vacancy on a Committee occurs after that Committee begins to hear or consider a matter, but before it makes a decision, then the Chief Student Experience Officer in consultation with the remaining Committee members, shall decide as follows, taking into account what is convenient and fair in the circumstances:
- a. to direct the remaining members to hear and decide the allegation or appeal, as long as there remains a quorum;
 - b. to appoint a replacement member; or
 - c. to dissolve that Committee and convene a new Committee.

40 Chair

- (1) The Chair of a Committee is to be:

- a. an academic staff member designated by Chief Student Experience Officer; or
 - b. if one is appointed, the external member appointed under clause 37.
- (2) The Chair:

- a. has power to make any decision or give a direction in relation to procedural matters, including to adjourn a hearing or extend a deadline;
- b. does not have a casting vote if there is an equality of votes.

Part 8 - Temporary Restriction Orders

41 Who may impose

(1) The Authorised Officers designated in Schedule 2 have power to summarily impose Temporary Restriction Orders as specified in Schedule 2.

42 Purpose

(1) An Authorised Officer may summarily impose a Temporary Restriction Order on a student:

- a. where the circumstances warrant immediate or urgent action; and
- b. where that student's conduct is unreasonably:
 - i. antisocial; or
 - ii. disruptive or a threat to others or to the academic or business activities or systems of the University; or
- c. in respect of any conduct by that student for which a Suspension Order may be made under Part 9 - Suspension Orders.

43 Procedure

(1) A Temporary Restriction Order:

- a. may be given verbally or in writing;
- b. takes effect immediately from when it is given;
- c. may be imposed for a length of time not exceeding three clear business days from the date it is made.

(2) An Authorised Officer may inform himself or herself as to any matter before imposing a Temporary Restriction Order, but does not have to give the respondent student an opportunity to be heard before making that order.

(3) A Temporary Restriction Order:

- a. must be proportionate to the circumstances;
- b. should if reasonably practicable try to minimise any unreasonable academic disadvantage to the respondent student; but
- c. is to take account of, as the paramount consideration, any risk to the:
 - i. health, safety and welfare of the respondent student or of others;
 - ii. security or integrity of any University land, buildings, business or systems (including any academic activity).

44 Notification

(1) An Authorised Officer must within one business day of making a Temporary Restriction Order:

- a. confirm its nature, scope and length in writing to the respondent student, if given verbally;

- b. notify the person specified in Schedule 2 to whom it must be notified, and provide the following details:
 - i. the name and student identification number of the respondent student;
 - ii. when and where the alleged incident occurred;
 - iii. a brief description of the incident;
 - iv. the nature, scope, length and dates of the Temporary Restriction Order; and
 - v. a recommendation as to whether the incident warrants further investigation or proceedings for misconduct.

(2) Following notification, the person to whom the Temporary Restriction Order is notified must decide whether the incident warrants further investigation or action for misconduct.

45 Compliance

(1) A respondent student who is given a Temporary Restriction Order must comply with it.

46 No appeal

(1) There is no internal avenue of review or appeal against a decision to summarily impose a Temporary Restriction Order.

Part 9 - Suspension Orders

47 Who may impose

(1) The following Authorised Officers have power to impose Suspension Orders:

- a. the Vice-Chancellor and President;
- b. a Deputy Vice-Chancellor;
- c. the Vice-President, People and Advancement; or
- d. the Chief Student Experience Officer.

48 Purpose

(1) A Suspension Order may be made for the purpose of preventing or minimising any of the following risks:

- a. risk to the health, welfare or safety of the respondent student or to others;
- b. risk to the security or integrity of any land, buildings, business or systems of the University (including any research activity);
- c. risk to the integrity of any evidence or investigation into suspected or alleged misconduct;
- d. risk that misconduct will occur or continue.

(2) A Suspension Order for an allegation of misconduct involving an offence punishable by 12 months' imprisonment or more (and regardless of whether the respondent student is charged with that offence), shall apply automatically, unless the Authorised Officer is reasonably satisfied:

- a. that the respondent student is unlikely to pose any risk specified in subclause (1); or
- b. the risk can be managed without the need for a Suspension Order, and on the condition that the respondent student complies with any reasonable management strategies specified by the Authorised Officer.

49 Nature and scope

(1) A Suspension Order may withdraw, restrict or limit any right, entitlement or privilege applicable to a student of the University, including:

- a. attendance at, lectures, placements, field work or other activities related to the respondent student's study or enrolment;
 - b. entry onto any lands or into buildings of the University;
 - c. access to or use of any facilities, services or other resources of the University (including libraries, laboratories, equipment or computers);
 - d. directing the respondent student not to contact or approach another student or any member of staff of the University while on University lands or through use of any University facilities, services or other resources.
- (2) A Suspension Order:

- a. subject to clause 48(2), must be proportionate to the circumstances;
- b. may be made at any time before or during an investigation or hearing for misconduct under this Rule;
- c. takes effect immediately from the date on which Suspension Order is notified to the respondent student or a later time specified in that notice;
- d. may be imposed for a specified period of time or for an indefinite period of time until conclusion of proceedings under this Rule; and
- e. may be extended or renewed.

50 Procedure

(1) If the total length of any Suspension Order (including if it is extended or renewed) exceeds or is likely to exceed 10 business days, the respondent student must be given an opportunity to be heard on the issue of suspension by a notice that:

- a. summarises the alleged conduct to which the proposed Suspension Order relates;
- b. specifies the type of Suspension Order and length being considered;
- c. invites the respondent student to have the opportunity to be heard on the issue of suspension only, either by:
 - i. attending an interview at a time, date and place specified in that notice, which is to be no earlier than two business days from the date on which the notice is sent; or
 - ii. providing a written response by a date specified in that notice, which is to be no earlier than three business days from the date on which the notice is sent;
- d. include statements to the effect that:
 - i. if the respondent student does not attend the interview on, or respond by, the specified deadline, then the Suspension Order described in that notice shall take effect immediately following expiry of that deadline without further notice; or
 - ii. if the respondent student attends the interview or provides a written response, then a final decision will be made after considering the respondent student's response; and
 - iii. includes a copy of this Rule.

(2) The Authorised Officer must consider any response provided by the respondent student before making or extending a Suspension Order.

51 Notification

(1) A Suspension Order must be in writing and must:

- a. specify the alleged conduct to which the suspension relates;
- b. specify the nature and length of the Suspension Order and from when it takes effect;
- c. include a short statement of reasons for imposing the Suspension Order; and
- d. include a statement that the respondent student may, at any time, apply to have the Suspension Order varied or lifted at any time if the respondent student may demonstrate, to the University's reasonable satisfaction,

that circumstances have changed to an extent that warrant variation or lifting of the Suspension Order.

52 Variation, lifting and expiry

(1) An Authorised Officer may vary or lift a Suspension Order at any time to take account of any changes in circumstances, including the continued likelihood of any risks, by following the process specified in clauses 50 and 51.

(2) A Suspension Order ends on the earliest of:

- a. 5.00 pm on the expiry date specified in the notice;
- b. if and when it is revoked; or
- c. conclusion of proceedings under this Rule.

53 Compliance

(1) A respondent student against whom a suspension order is made must comply with it.

54 No appeal

(1) There is no avenue of internal review or appeal against a Suspension Order.

Part 10 - Miscellaneous

55 Procedural powers

(1) An Authorised Officer or a Committee:

- a. may decide their own procedures, subject to this Rule;
- b. is not bound by the rules of evidence;
- c. may make inquiries and obtain evidence about any matter, consistent with the rules of procedural fairness; and
- d. may summon any student or member of staff of the University to give evidence.

56 Student and staff cooperation

(1) All students and members of the staff of the University must:

- a. reasonably cooperate with any process conducted under this Rule;
- b. not do or attempt to do anything (including withholding or tampering with evidence) to undermine or interfere with the integrity of a process under this Rule; and
- c. behave in an appropriate and civil manner in any hearing.

(2) A respondent student or a witness may be directed to leave a hearing if his or her behaviour is unreasonably disruptive.

57 Hearings to be conducted in private

(1) Hearings under this Rule must be conducted in private.

58 Support persons

(1) A respondent student may bring along a support person to assist the respondent student or to speak on his or her behalf (including as an advocate) at any hearing or an allegation of misconduct or an appeal. However, that person must be available at the date and time specified in the notice of hearing.

(2) A support person may be directed to leave a hearing if that person unreasonably disrupts or delays the hearing. If this occurs, the hearing or appeal may proceed to completion in the absence of that support person.

59 Allowance for academic disadvantage

(1) The University must make reasonable allowance for any academic disadvantage a respondent student suffers (such as permission to re-sit an examination or an extension of time to complete an assessment task) following a Temporary Restriction Order or Suspension Order where subsequently:

- a. no further action is taken under this Rule; or
- b. the allegation of misconduct is not sustained.

60 Fairness and conflicts of interest

(1) Authorised Officers and Committee members must always:

- a. act fairly, reasonably, and without bias;
- b. disclose promptly any actual or potential conflict of interest and manage or work around that conflict of interest in accordance with any policy of the University relating to conflicts of interest; and
- c. treat all matters dealt with under this Rule as strictly confidential and not discuss them with anyone else, except on a strictly 'need to know' basis for the purposes of this Rule, including seeking legal or other professional advice.

(2) Authorised Officers and Committees should also act as quickly and with as little formality as possible, but in accordance with this Rule.

(3) Wherever possible, a respondent student must be notified promptly of any delays in investigating or making a decision in relation to misconduct.

61 Other action

(1) Any action taken under this Rule does not preclude the University from doing any of the following in relation to the circumstances involving the alleged misconduct:

- a. commencing legal action against the respondent student; or
- b. reporting the matter to the police or other external organisation (such as a professional registration body or a regulatory authority), regardless of whether the University is under a legal obligation to do so.

62 University may designate person to present evidence for University

(1) The University may designate a person to present evidence or make submissions on behalf of the University to a Committee.

63 Status of prescribed deadlines

(1) Except for minimum periods of notice to be given to a respondent student, any deadlines specified in this Rule are indicative only.

(2) Non-compliance does not render a decision or action void or capable of being set aside merely for that reason.

64 Meaning of no further internal review or appeal

(1) If a clause in this Rule states that a decision cannot be the subject of any further internal review or appeal under this Rule, then that decision cannot be the subject of any further review or appeal under any other internal rule, policy or process of the University.

(2) However, this does not preclude a respondent student from exercising a right of review of that decision by a court, tribunal or other external body with power to do so.

65 Administrative errors or omissions

(1) A decision made under this Rule may be corrected where:

- a. there is an obvious clerical or typographical error or omission in the text;
- b. a document (or a reference to it) was omitted;
- c. there is an error arising from an accidental slip or omission; or
- d. there is a defect of form.

(2) Any correction made to a decision must be notified to the respondent student promptly following discovery of that error, defect or omission.

66 Recording and implementing decisions

(1) Subject to any right of appeal a respondent student has under this Rule, any finding of misconduct and any Sanction(s) imposed shall be recorded on the University's electronic and other records relating to the respondent student in accordance with the [State Records Act 1998 \(NSW\)](#).

(2) All relevant University staff (including any prescribed in Schedules 1 or 2) will be notified about any decision or action taken under this Rule for the purpose of recording and implementing the decision.

67 Concurrent legal proceedings or police investigation

(1) The Vice-President, People and Advancement or the Chief Student Experience Officer may, at any stage of proceedings under this Rule adjourn or suspend any investigation or hearing of an allegation of misconduct (including any appeal) if there is a police investigation or criminal proceedings in relation to the same conduct.

(2) A decision under subclause (1) does not:

- a. affect any Temporary Restriction Order or Suspension Order already made;
- b. prevent a Temporary Restriction Order or a Suspension Order from being made at any time; or
- c. prevent reactivation of or commencement of new proceedings (including another or a further investigation) under this Rule.

68 Savings provisions

(1) If before this Rule commences, a person or a committee has commenced hearing an allegation of, or an appeal in relation to, misconduct under a process prescribed in another rule or policy, but has not yet made a decision, then that matter shall continue to be dealt under that rule or policy, until all processes in that rule or policy are completed or exhausted.

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

Attachments

(1) Schedule 1

(2) Authorised Officers and Student Misconduct Committee who may hear and decide misconduct or appeals

(3) Schedule 2

(4) Authorised Officers who may make Temporary Restriction Orders

SCHEDULE 1

Authorised Officers and Committees and levels of responsibility

Authorised Officer or Committee	Responsibility
Chief Student Experience Officer	Hear and decide general misconduct attracting a Category 1 Sanction that occurs in a central examination, or involves the submission of inaccurate, incomplete or misleading documents
Appeals Committee	Hear and decide all appeals lodged under Part 5 - Appeals
Dean or Deputy Dean of a School or The College	Hear and decide: (a) academic misconduct attracting a Category 1 Sanction (b) general misconduct attracting a Category 1 Sanction by a student enrolled in that School or The College occurring within the School or The College premises
Deputy Vice-Chancellor and Vice-President, Academic	(a) Hear and decide academic misconduct attracting a Category 1 Sanction. (b) Impose a Category 2 Sanction where respondent student admits academic, research or general misconduct before notice of hearing issued.
Deputy Vice-Chancellor and Vice-President, Research, Engagement, Development and International	(a) Hear and decide research misconduct attracting a Category 1 Sanction (b) Impose a Category 2 Sanction where respondent student admits academic, research or general misconduct before notice of hearing issued.
Pro Vice-Chancellor, Research and Innovation or Dean, Graduate Studies	Hear and decide research misconduct attracting a Category 1 Sanction.
Chief Student Experience Officer	Hear and decide general misconduct attracting a Category 1 Sanction.
Provost	Hear and decide general misconduct attracting Category 1 Sanction occurring within campus (including student residences) for which Provost has responsibility.
Student Misconduct Committee	Hear and decide academic, research or general misconduct attracting a Category 2 Sanction unless misconduct is admitted before notice of hearing issued
Vice-President	Impose a Category 2 Sanction where respondent student admits general misconduct before notice of hearing issued
Vice-President, People and Advancement	Hear and decide general misconduct attracting a Category 1 Sanction
The College Registrar	General misconduct by a College Student in a central examination or involving submission of inaccurate, incomplete or misleading documents, except that referable to a Student Misconduct Committee
Vice-Chancellor and President	Impose a Category 2 Sanction where respondent student admits academic, research or general misconduct before notice of hearing issued

SCHEDULE 2

Authorised Officers who may impose Temporary Restriction Orders

Authorised Officer	Designated restricted areas or activities	Person to whom restriction must be notified within 24 hours (clause 44(1)b.)
Any officer within Campus Safety and Security	Any University or The College building, lands, facilities or services	Vice-President, People and Advancement or Chief Student Experience Officer and Dean
Provost	Any University building, lands, facilities or services on a campus for which that Provost has responsibility	Vice-President, People and Advancement or Chief Student Experience Officer and Dean

Any member of academic staff of the University or The College	(a) Any lecture theatre, laboratory or other teaching or research setting or facilities (b) Any area (including offices and common areas) within a School or The College building (c) Any area (on or off a campus) where the respondent student undertakes any field work, placement or other activity related to his or her course	Dean and Chief Student Experience Officer
Any person supervising or monitoring an examination (including casual invigilators)	Any area where or in immediate vicinity of where an examination is being conducted	Chief Student Experience Officer or The College Registrar.
Any member of University or The College library staff	Any University or The College library areas, facilities, resources or other privileges	University Librarian or The College Librarian
Any person (including any third party) responsible for the management of Western Sydney University Village	Any University student residence land, building, facilities or privilege	Vice-President, People and Advancement or Chief Student Experience Officer

Status and Details

Status	Historic
Effective Date	1st January 2016
Review Date	1st September 2016
Approval Authority	Board of Trustees
Approval Date	4th December 2015
Expiry Date	31st December 2019
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