

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 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 commenced on 1 January 2016.

3 Purpose and application

(1) This Rule applies to all students of the University and to students registered in a University Affiliate Program.

(2) This Rule also applies to all allegations of Misconduct, including those alleged to have occurred before the commencement of this Rule but which have not been dealt with under any previous rule, policy or other process for Misconduct.

(3) 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:
 - i. within a student residence located on any property under the control of the University;
 - ii. during any activity associated with the University anywhere within or outside Australia, including any off-campus activity, field work, placements or exchanges or internships with other education providers, institutions or organisations or while using online or social media services monitored or facilitated by the University;
 - iii. during any period of intermission from enrolment, including breaks in teaching terms, leave of absence or because of deferment, temporary exclusion or suspension;
 - iv. in any mode of delivery of educational services, including on-campus, online or distance education mode, regardless of whether these are delivered directly by the University or by a University Affiliate; or
 - v. where the respondent student has otherwise consented to be bound by this Rule (including under any agreement).

Part 2 - Investigation

4 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 in accordance with Schedule 1; or
- c. in the case of research misconduct directly to the Deputy Vice-Chancellor and Vice-President, Research, Enterprise and International.

Note: Staff employed by a University Affiliate must ensure that the report is made to the appropriate Authorised Officer in accordance with Schedule 1 to the Rule.

(2) Following discovery or referral of alleged Misconduct, the Authorised Officer must as soon as possible do one of the following things as appropriate:

- a. deal with the matter under the [Student Misconduct Rule - Inappropriate Behaviour Guidelines](#) or another policy of the University; or
- b. if the allegation has not been admitted by the respondent student, and appears to be Category 2 or 3 Misconduct, refer it to the Office of Governance Services for investigation and hearing by a Student Misconduct Committee; or
- c. conduct a preliminary investigation of the allegation in accordance with this Part; or
- d. send a notice to the respondent student inviting a written response to the allegations.

5 Preliminary investigation

(1) When conducting a preliminary investigation, the Authorised Officer can, as appropriate:

- a. invite the respondent student to respond to the allegations either through an interview or in writing in accordance with subclause (2) or (3) as appropriate;
- b. make other inquiries as appropriate, including interviewing other witnesses;
- c. in the case of research misconduct, undertake the preliminary investigation in accordance with the [Australian Code for the Responsible Conduct of Research, 2018](#).

(2) If the Authorised Officer wants to interview a respondent student as part of a preliminary investigation, the Authorised Officer must notify the respondent student in writing, and:

- a. outline the general nature of the allegation(s);
- b. invite the respondent student to attend an interview to discuss it;
- c. advise that the respondent student may bring along a support person or an advocate to the interview, but subject to the requirements of clause 53; and
- d. if the respondent student does not attend the interview, then the Authorised Officer will complete the preliminary investigation and decide the next steps in the respondent student's absence; and
- e. give the respondent student a copy of, or an electronic link to this Rule.

(3) If the Authorised Officer wants to decide the matter on the papers, the Authorised Officer must notify the respondent student in writing and:

- a. outline the allegation(s) with sufficient particulars to enable the respondent student to respond;
- b. provide the respondent student with a period of no less than 10 business days to provide their written response;
- c. outline the Sanction or range of Sanctions likely to apply if Misconduct is admitted or proven;
- d. include statements to the following effect:
 - i. that if the respondent student admits the allegation, they will be invited to make a statement about an appropriate Sanction, either by attending a hearing or by providing a written statement;
 - ii. if the respondent student does not respond to the notice within the time specified, then the allegation

will be heard in accordance with Part 3 – Hearing; and

e. encloses a copy of, or an electronic link to, this Rule.

(4) At any interview with the respondent student, the Authorised Officer is to:

- a. identify the respondent student, including by requesting to sight an official University identification card;
- b. explain the allegation(s);
- c. outline the Sanction or range of Sanctions likely to apply if Misconduct is admitted or proven;
- d. invite the respondent student to respond to the allegation(s); and
- e. make a record of the interview having regard to clause 52 of this Rule.

(5) The Authorised Officer does not have to interview, or give copies of any evidence to, the respondent student during a preliminary investigation if the Authorised Officer 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.

(6) Following the preliminary investigation, the Authorised Officer is to do one of the following, as appropriate:

- a. dismiss the allegation or take no further action if the Authorised Officer considers there is no substance to it, or that it is so trivial or vexatious as not to warrant further action; or
- b. arrange for the matter to be dealt with under the [Student Misconduct Rule - Inappropriate Behaviour 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, as appropriate:
 - i. impose a Sanction for Category 1 Misconduct;
 - ii. agree on an outcome under the [Student Misconduct Rule - Inappropriate Behaviour Guidelines](#) in consultation with the respondent student; or
 - iii. refer it to the Office of Governance Services for consideration as Category 2 or 3 Misconduct; or
- d. if the respondent student does not admit Misconduct and the Authorised Officer forms the view that there is a case to answer:
 - i. if considered Category 1 Misconduct – further investigate, hear and decide it in accordance with Part 3 – Hearing; or
 - ii. if considered Category 2 Misconduct or Misconduct that falls outside the responsibility of that Authorised Officer, refer it to the Office of Governance Services to be managed in accordance with this Rule.

6 Notice to student

(1) Following a decision under clause 5(6)(c) or (d), the Authorised Officer must notify the respondent student of the decision made, and, if imposing a Category 1 Sanction:

- a. advise the respondent student of the right to appeal under Part 4 – Appeals; and
- b. enclose a copy of, or an electronic link to, this Rule.

Part 3 – Hearing

7 Who investigates, hears and decides Misconduct or appeals

(1) Schedule 1 to this Rule sets out the Authorised Officers, Senior Authorised Officers and Committees that have the power to investigate, hear and decide Misconduct and impose Sanctions.

(2) Committees may be assisted in an investigation by the Director, Governance Services.

8 Fresh or new allegations

(1) If a fresh or new allegation(s) is made against the respondent student, whether or not it is related to the original allegation before a finding is made, then the new allegation(s) may be heard and decided together with the original allegation at the discretion of the relevant decision-maker. However, the respondent student must first be sent:

- a. another notice of hearing containing the fresh allegation(s) that meets the requirements set out in clause 10; and
- b. an opportunity to be heard in relation to that new allegation(s) according to the procedure prescribed in this Part.

9 Admission of Misconduct

(1) A respondent student may, at any time before a hearing commences, admit an allegation of Misconduct and, if so, must be given a reasonable opportunity to make an oral or written statement about any Sanction to be imposed by the Authorised Officer or Senior Authorised Officer.

(2) If a respondent student admits all allegations of Misconduct (or facts giving rise to those allegations) before a hearing commences, the Sanction will be decided by:

- a. if Category 1 Misconduct, the Authorised Officer hearing the allegation; or
- b. if Category 2 Misconduct, a Senior Authorised Officer; or
- c. if Category 3 Misconduct, the Board of Trustees.

(3) If a respondent student admits to only some of the allegations of Misconduct (or facts giving rise to those allegations) before a hearing commences, the matter must proceed to be heard and decided in accordance with this Part.

(4) The respondent student must be notified of the final Sanction imposed by the Authorised Officer for the Senior Authorised Officer, and the notice must include:

- a. the Misconduct (or facts giving rise to the allegation of Misconduct) admitted by the respondent student;
- b. details of any Sanction imposed;
- c. a short statement of reasons for imposing that Sanction;
- d. except where a Category 3 Sanction is imposed by the Board of Trustees, a statement that the respondent student has a right to appeal that Sanction under Part 4 – Appeals; and
- e. a copy of, or an electronic link to, this Rule.

10 Notice of hearing

(1) At least 10 business days before hearing an allegation of Misconduct, the respondent student must be sent 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;
- 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. the respondent student may bring along a support person or an advocate to the hearing, but subject to the requirements of clause 53; and
 - iii. if the respondent student does not attend the hearing without reasonable excuse, then the allegation will be heard and decided in the respondent student's absence; and

- d. encloses a copy of, or an electronic link to, 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.
- (3) If allegations or particulars to allegations contained within a notice of hearing need to be amended, the respondent student must be sent a fresh notice that complies with subclause (1).
- (4) Nothing in this clause prevents a respondent student requesting an earlier hearing date or agreeing to the 10-day notice period being reduced, provided that the respondent student's written consent is obtained.

11 Requirements at hearing

- (1) The Authorised Officer, Senior Authorised Officer or Student Misconduct Committee must at any hearing of an allegation of Misconduct:
- a. ensure that the respondent student has been given notice of the hearing under clause 10;
 - b. identify the respondent student, including by requesting to sight the respondent student's official University identification card;
 - c. confirm whether the respondent student admits or denies the allegation;
 - d. consider all available evidence about the allegation and make findings of fact based on any relevant evidence;
 - e. 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;
 - f. 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 12 and any Guidelines, question witnesses.
- (3) Any hearing conducted under Part 3 may be recorded in any form in accordance with clause 52 of this Rule.

12 Questioning witnesses

- (1) There is no automatic right for a respondent student to cross-examine witnesses in proceedings under this Rule. Questioning of witnesses may be permitted by an Authorised Officer, Senior Authorised Officer or the Chair of a Committee subject to this clause or any other provision of this Rule.
- (2) A respondent student or, if applicable, his or her advocate may only question witnesses:
- a. directly, with the permission of the Authorised Officer, Senior Authorised Officer or Chair of a Committee; or
 - b. through the Authorised Officer, Senior Authorised Officer or the Chair of a Committee.

(3) The Authorised Officer, Senior Authorised Officer or the Chair of a Committee can, if appropriate, direct that witnesses may only be questioned using some form of telecommunications (such as video conferencing) and with or without the respondent student being present. If this occurs, the respondent student 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.

(4) The Authorised Officer, Senior Authorised Officer or Chair of a Committee can direct that questioning of a witness cease, or continue in an alternative form contemplated in subclause (3), if, acting reasonably, the decision-maker forms the view that:

- a. the witness is being subjected to irrelevant or unreasonable questions; or
- b. there appears to be a risk to the health, safety or welfare of that witness.

13 Failure of student to attend hearing or respond to notice

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

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

14 Decision and report

(1) Following a hearing, the Authorised Officer, Senior Authorised Officer or 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. finding that the allegation is substantiated on the balance of probabilities and, as appropriate:
 - i. take no further action; or
 - ii. if an Authorised Officer, impose a Category 1 Sanction; or
 - iii. if a Senior Authorised Officer, impose a Category 1 Sanction or a Category 2 Sanction for admitted Misconduct; or
 - iv. if a Committee, impose a Category 1 Sanction, a Category 2 Sanction or, where clause 24(1) applies, recommend to the Board of Trustees that a Category 3 Sanction be imposed.
- c. The Authorised Officer, Senior Authorised Officer or Committee is to prepare and send the respondent student a report that sets out:
 - i. the findings of fact;
 - ii. a summary of the evidence on which those findings of fact are based;
 - iii. whether the allegation is dismissed or any finding of Misconduct made;
 - iv. if an Authorised Officer, any applicable Category 1 Sanction;
 - v. if a Committee, any applicable Category 1 Sanction or Category 2 Sanction;
 - vi. a short statement of reasons; and
 - vii. the availability of any internal appeal from the decision.

(2) 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 4 - Appeals

15 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 Sanction or Category 2 Sanction.

(2) There is no internal appeal available from:

- a. an outcome imposed under the [Student Misconduct Rule - Inappropriate Behaviour Guidelines](#); or
 - b. a decision to recommend imposition of, or to impose, a Category 3 Sanction.
- (3) An appeal may only be made on any one or more of the following grounds:
- a. that the finding of Misconduct was made in breach of the requirements of procedural fairness or of a material requirement of this Rule;
 - b. that there is new or fresh evidence that is relevant to the original finding(s) of Misconduct and that evidence was not known or reasonably available to the respondent student before the finding of Misconduct was made and could reasonably be expected to affect the finding of Misconduct or the Sanction imposed; or
 - c. that the Sanction imposed is:
 - i. inconsistent with Part E – Sanctions for Misconduct; or
 - ii. excessive and out of proportion to the Misconduct, taking into account any current and relevant Guidelines.

16 Lodging an appeal

- (1) A respondent student must lodge an appeal with the Office of Governance Services no later than 20 business days following notification of a finding made or Sanction imposed for Misconduct.
- (2) At the time the respondent student lodges an appeal, they must specify:
- a. the finding or Sanction under appeal;
 - b. the ground(s) of appeal under clause 15; and
 - c. if the appeal is made under clause 15(2)(b), details and copies of any new or fresh evidence.
- (3) The Director, Governance Services may refuse to accept an appeal that does not meet any of the criteria stated in this Rule.

17 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 that does not involve new or fresh evidence.
- (2) At least 10 business days before hearing an appeal, the respondent student must be sent a notice that:
- a. specifies the date, time and place for the hearing;
 - b. includes statements to the effect that:
 - i. the respondent student may bring along a support person or an advocate to the hearing, but subject to the requirements of clause 53; and
 - ii. if the respondent student does not attend the hearing without reasonable excuse, then the allegation will be heard and decided in the respondent student's absence; and
 - c. encloses a copy of, or an electronic link to, this Rule.
- (3) At least 10 business days before deciding an appeal on the papers, the respondent student must be sent 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, or an electronic link, of:
 - i. this Rule; and
 - ii. any submissions of the University concerning the appeal.
- (4) Any hearing conducted under Part D may be recorded in any form in accordance with clauses (123) and (124) of this Rule.
- (5) 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.
- (6) 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.

18 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 clause 15(3).
- (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 substituted for a more appropriate Sanction.
- (4) If the Appeals Committee dismisses an appeal, then the original finding of Misconduct and decision to impose a Sanction will stand.
- (5) If the Appeals Committee allows an appeal, it must either:
- a. substitute its own finding and, if applicable, set aside or vary any decision regarding a Sanction; or
 - b. if it decides that the original finding or decision regarding a Sanction should not be set aside or varied, despite allowing the appeal, confirm that finding or Sanction.
- (6) 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 is made under clause 15(2)(b)b, any fresh or new evidence submitted by the respondent student; and
 - c. any submissions of the student or of the University concerning the appeal.

19 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 student in accordance with the [National Code 2018](#) enacted under the [Education Services for Overseas Students Act 2000 \(Cth\)](#) (as amended); or
 - e. if the respondent student is a domestic student, information on how the student may obtain advice or assistance regarding any avenues of external review or appeal available to the student in accordance with domestic law.
- (2) The decision of the Appeals Committee takes effect immediately from the date on which it sends its report to the student.

20 No further internal appeal available

- (1) There is no further avenue of internal review or appeal following completion of an appeal under this Part 4 – Appeals.

Part 5 - Sanctions for Misconduct

Categories

- (1) There are three categories of Sanctions that may be imposed for Misconduct by the relevant Authorised Officer or Committee as specified in Schedule 1 to this Rule.
- (2) Nothing in this Rule prevents a Senior Authorised Officer or a Committee applying Category 1 Sanctions for findings of Category 2 Misconduct.
- (3) Certain types of Misconduct attract a minimum Sanction in accordance with clause 25.

22 Category 1 Sanctions

- (1) A Category 1 Sanction is any one or more of the following:
- a. a reprimand;
 - b. amendment of a mark:
 - i. by reducing the mark, including to zero; and/or
 - ii. to a “Fail”; and/or
 - iii. to a “Practicum 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 for a period of up to the greater of 6 months or one teaching term;
 - f. a direction to undertake a short course or instructive program that addresses the conduct that was the subject of the allegations, including but not limited to an academic integrity module or a respectful relationships module or other training considered appropriate;
 - g. a direction that the respondent student gives a written undertaking to not repeat or continue the behaviour or activity that is the subject of the finding of Misconduct;

- h. exclusion or deferral from undertaking or completing a placement, practicum or other form of professional experience for the whole or any part of one teaching term;
- i. restricted or conditional access to or use of any campus (including buildings and the shuttle bus service), facilities or services for a period of up to the greater of 6 months or one teaching term;
- j. temporary exclusion for a period of up to the greater of 6 months or one full teaching term from a:
 - i. specified subject;
 - ii. program 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 program or research degree.
- k. in the case of a year-long subject, temporary exclusion for the period of that subject.

23 Category 2 Sanctions

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

- a. temporary exclusion for a period of up to the greater of two years or four teaching terms from a:
 - i. specified subject;
 - ii. program 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 program or research degree;
- b. permanent exclusion from enrolment at the University, or a specified program;
- c. a direction to pay a specified amount for reasonable costs of repair or replacement of damaged or lost property;
- d. restricted or conditional access to or use of any Campus (including buildings), facilities or services for a period of up to the greater of two years or four teaching terms;
- e. suspension for a period of up to two years;
- f. expulsion;
- g. if a respondent student is already eligible for conferral of an award, deferral or non-conferral of that award.

(2) The following types of Misconduct are automatically characterised as Category 2 Misconduct:

- a. Misconduct involving a sexual offence;
- b. other types of assault;
- c. Misconduct involving serious harassment, victimisation, vilification or bullying;
- d. Misconduct involving motting, hazing or similar activities;
- e. Misconduct involving unauthorised access to personal information of others or University systems or data;
- f. a failure to comply with a Temporary Restriction Order or Suspension Order;
- g. any other matter as prescribed by this Rule.

24 Category 3 Sanctions

(1) A Category 3 Sanction is the revocation of an award conferred on the respondent student. For the purposes of this Rule, it can be imposed for misconduct where a student has graduated from the University after referral of misconduct under clause 4(2)(b) or after commencement of a preliminary assessment under clause 4(2)c. Otherwise, the matter is to be investigated and dealt with under the [Revocation of Awards Rule](#).

(2) A Category 3 Sanction, in respect of misconduct dealt with under this Rule, may only be imposed by the Board of Trustees. A Category 3 Sanction may be recommended to the Director, Data Integrity, Quality and Operations following findings made by either a Student Misconduct Committee, Appeals Committee or a Senior Authorised Officer at the conclusion of proceedings under this Rule.

(3) The provisions of Part – E of the [Revocation of Awards Rule](#) apply to Category 3 Sanctions.

25 Minimum Sanctions for certain types of Misconduct

(1) For all findings involving the following types of Misconduct, unless the Authorised Officer, Student Misconduct Committee or Senior Authorised Officer consider that there are extenuating circumstances that warrant a lesser Sanction in accordance with any Guidelines or procedures relating to the imposition of Sanctions, then the following Sanctions apply as a minimum:

- a. for Misconduct involving a sexual offence – suspension for 1 year. For second or multiple occurrences or in circumstances of an aggravated sexual assault – expulsion;
- b. for other types of assault – suspension for 6 months. For second or multiple occurrences or in circumstances of an aggravated assault – expulsion;
- c. for Misconduct involving serious harassment, victimisation, vilification or bullying – suspension for 6 months. For second or multiple occurrences – expulsion;
- d. for Misconduct involving motting, hazing or similar activities – suspension for 6 months. For second or multiple occurrences – expulsion;
- e. for Misconduct involving unauthorised access to personal information of others or University systems or data – suspension for 6 months. For second or multiple occurrences – expulsion.
- f. for Misconduct involving fraudulent conduct, including falsification or fabrication of documents submitted under declaration to the University:
 - i. a Fail grade and a reduction of a mark to zero for the subject that relates to the Misconduct;
 - ii. for a first offence, single occurrence – temporary exclusion from the subject to which the conduct relates;
 - iii. for a first offence, multiple occurrences – temporary exclusion from the subject(s) of study to which the conduct relates and/or suspension from the University for up to 2 years;
 - iv. for a second offence – suspension from the University for 12 months;
 - v. for a third or subsequent offence – expulsion.

(2) Nothing in subclause (1) prevents the imposition of a more severe Sanction under this Rule.

26 Restrictions or conditions following temporary exclusion or removal

(1) Any readmission to the University or a program following temporary exclusion or suspension is subject to any:

- a. applicable criteria for admission or entry to the University or that program at the time of readmission; and
- b. if applicable, conditions or restrictions specified in the decision including demonstrated compliance with any Sanction imposed.

27 Suspended Sanctions

(1) A Sanction may be suspended with or without conditions except:

- a. Category 2 Sanctions for permanent exclusion, suspension or expulsion;
- b. Category 3 Sanctions; or
- c. where the student has previously been given a suspended Category 1 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, such as restrictions on communications or interactions with another 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 program 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.

28 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 term;
 - b. the length of any previous summary temporary restriction or suspension order made in relation to the respondent student for the Misconduct; or
 - c. any other factor considered by the Authorised Officer, Senior Authorised Officer or the Student Misconduct Committee including if there are any extenuating circumstances considered relevant to the effective date of a Sanction pursuant to clause 30.

29 Matters to be taken into account

- (1) Subject to clause 23(2), a Sanction must be proportionate to the type and circumstances of the Misconduct, and take into account the following:
- a. the nature, frequency, and seriousness of the Misconduct;
 - b. any previous record of Misconduct against the respondent student, including Sanctions or penalties imposed and the respondent student's compliance with any Sanctions or penalties imposed;
 - c. the timing of any admission of Misconduct by the respondent student;
 - d. any relevant mitigating factors, including any extenuating circumstances;
 - e. the objective of preventing future incidences of Misconduct;
 - f. the objective of protecting the University community and the good governance and reputation of the University;
 - g. 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.

30 Effect of Sanctions

- (1) The effect of a Category 3 Sanction (to revoke an award) is described in the [Revocation of Awards Rule](#).
- (2) A Sanction to not confer or to defer conferral of an award means the respondent student will not be permitted to graduate from their award program either during the deferral period or at all.
- (3) A Sanction to expel a student means that:
- a. the respondent student's current enrolment will be cancelled immediately and any fees paid for that enrolment period may be forfeited subject to the [Student Fees Policy](#);
 - b. the respondent student can never be re-admitted or enrolled in any program, registered in any subject or other curriculum element at the University;
 - c. the respondent student is not permitted to come onto any University lands or use any of its facilities for any reason;
 - d. the expulsion will be recorded on the respondent student's internal and external academic transcript records permanently.

(4) A Sanction to exclude a student, either permanently or for a specified period of time, from a program at the University means as follows:

- a. the respondent student's current program enrolment will be terminated immediately and any fees paid for that enrolment period may be forfeited subject to the [Student Fees Policy](#);
- b. the respondent student will not be permitted to enrol in or graduate from his or her program, either for the period of exclusion or at all (as the case may be);
- c. the respondent student is not permitted to seek a supplementary assessment or apply for a review of grade for the subject affected by the Misconduct;
- d. the respondent student is not permitted to come onto any University lands or use any of its facilities subject to any conditions placed on the exclusion by the Student Misconduct Committee or the Senior Authorised Officer allowing access to specific services or facilities;
- e. the exclusion will be recorded on the respondent student's University record permanently;
- f. the exclusion will be recorded on the respondent student's internal transcript permanently and on the external academic transcript either permanently or for the period of exclusion (whichever applies);
- g. if an exclusion is for a specified period of time, the respondent student will be required to re-apply for admission to his or her award program and comply with any conditions applicable for re-admission at the end of the exclusion period (including any conditions imposed as part of the Sanction);
- h. the respondent student will not be permitted to apply for, and will be ineligible to receive [credit for prior learning](#) for any studies undertaken during the exclusion period.

(5) A Sanction to temporarily exclude a student for a specified period of time from a subject(s) at the University means as follows:

- a. the respondent student is not permitted to seek a supplementary assessment or apply for a review of grade for the subject affected by the Misconduct;
- b. the respondent student will not be permitted to register in the subject(s) for the exclusion period;
- c. the exclusion will be recorded on the respondent student's internal and external academic transcript records for the period of exclusion;
- d. the exclusion will be recorded on the respondent student's University record permanently;
- e. the respondent student will not be permitted to apply for, and will be ineligible to receive [credit for prior learning](#) for any studies undertaken during the exclusion period in lieu of the affected subject(s).

(6) A Sanction to suspend a student means as follows:

- a. the respondent student's current enrolment will be terminated immediately and any fees paid for that enrolment period may be forfeited subject to the [Student Fees Policy](#);
- b. the respondent student will not be permitted to enrol in or graduate from his or her program, for the period of suspension;
- c. the respondent student is not permitted to come onto any University lands or use any of its facilities, including the shuttle bus service, for any reason;
- d. the suspension will be recorded on the respondent student's internal and external academic transcript records for the period of suspension;
- e. the respondent student will not be permitted to apply for, and will be ineligible to receive [credit for prior learning](#) for any studies undertaken during the suspension period.

(7) A Sanction that a 'fail grade' to be applied to a subject means as follows:

- a. any fees paid by the respondent student for that subject may be forfeited subject to the [Student Fees Policy](#); and
- b. any change of grade following a withdrawal without academic penalty is subject to the requirements of the

University's [Enrolment Policy](#) and is limited to the remission of debt only.

(8) An Authorised Officer, Senior Authorised Officer or a Student Misconduct Committee may impose conditions on any Sanction that deals with any of the matters outlined in this clause.

(9) An Authorised Officer, Senior Authorised Officer or a Student Misconduct Committee may amend the effect of any Sanction as outlined if there are any extenuating circumstances considered relevant to the imposition of the Sanction pursuant to clause 29.

Part 6 - Committee Constitution

31 Convening and constitution

(1) All Committees shall be convened by the Director, Governance Services 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 Student Misconduct Panel;
- b. one of whom must be a student from the Student Misconduct Panel;
- c. one of whom may be a professional staff member from the Student Misconduct Panel where the allegation relates to general misconduct only; and
- d. one of whom may be an external person appointed under clause (88).

32 External members

(1) The Director, Governance Services may appoint one external member to a Committee as follows if it is considered appropriate in the circumstances of the proceedings:

- a. a person who is admitted as an Australian legal practitioner for a minimum of seven years or who holds or has previously held office as a judicial or tribunal member 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.

33 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 32:
 - i. that Chair; and
 - ii. one academic staff member.

34 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;
- c. has been involved in reporting, investigating, deciding or giving advice or recommendations about the allegation or appeal before that Committee; or

- d. otherwise declares a conflict of interest to the Director, Governance Services.
- (2) Subject to subclause (3), 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 Director, Governance Services for any reason;
 - d. resigns from the Committee; or
 - e. dies.
- (3) A person appointed to a Committee from a Student Misconduct Panel may continue as a member of the Committee if, after the hearing or consideration of a matter commences, he or she:
- a. ceases to be a member of the relevant Student Misconduct Panel; or
 - b. has completed the requirements of his or her degree or graduated from the University.
- (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 Director, Governance Services, 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 is a quorum;
 - b. to appoint a replacement member; or
 - c. to dissolve that Committee and convene a new Committee.

35 Chair

- (1) The Chair of a Committee is to be:
- a. an academic staff member designated by Director, Governance Services; or
 - b. if one is appointed, the external member appointed under clause 32.
- (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, in addition to any other powers or functions specified in this Rule;
 - b. does not have a casting vote if there is an equality of votes.

Part 7 - Temporary Restriction Orders

36 Purpose

- (1) A Temporary Restriction Order may be summarily imposed on a respondent student:
- a. where the circumstances warrant immediate or urgent action; and
 - b. where that respondent 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 respondent student for which a Suspension Order may be made under Part 8 – Suspension Orders.

37 Who may impose

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

38 Procedure

(1) A Temporary Restriction Order:

- a. may be given verbally or in writing;
- b. takes effect immediately from when it is given; and
- 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.

39 Nature and scope

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

- a. attendance at, lectures, placements, field work or other activities related to the respondent student's study or enrolment (which includes exclusion from the premises on which that activity occurs);
- 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 Temporary Restriction Order:

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

40 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 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 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.

41 Compliance

(1) A respondent student who is given a Temporary Restriction Order must comply with it and failure to do so is Category 2 Misconduct.

42 No internal appeal

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

Part 8 - Suspension Orders

43 Purpose

(1) A Suspension Order may be imposed on a respondent student 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 the conduct giving rise to the alleged Misconduct will occur or continue.

(2) For a respondent student accused of general misconduct involving a sexual offence, serious bullying or harassment or an offence punishable by 12 or more months' imprisonment (regardless of whether the respondent student is charged with that offence), a Suspension Order will be imposed automatically for the duration of proceedings under this Rule, unless the respondent student can reasonably satisfy the Senior Authorised Officer that:

- a. 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, but only on the condition that the respondent student gives a written undertaking, and continues, to comply with any reasonable management strategies specified by a Senior Authorised Officer.

44 Nature and scope

(1) Only a Senior Authorised Officer can impose a Suspension Order.

(2) A Suspension Order may withdraw, restrict or limit any right, entitlement or privilege applicable to a respondent 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.

(3) A Suspension Order:

- a. subject to clause 43(2), must be proportionate to the circumstances;
- b. may be made at any time before or after an investigation (including preliminary assessment) or before a hearing for Misconduct commences under this Rule;
- c. takes effect immediately from the date on which the Suspension Order is notified to the 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.

45 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

(2) If the Suspension Order is to be issued for more than 30 days, or for the duration of proceedings under this Rule, the notice must also:

- a. invite the respondent student to make written and/or oral submissions within 10 business days after the Suspension Order is sent on the issue of suspension only; and
- b. tell the respondent student that if no submissions are received by that deadline, then the Suspension Order will remain in effect for the duration specified in the notice.

(3) The Senior Authorised Officer must consider any submissions made by the respondent student made in accordance with subclause (2).

46 Variation, lifting and expiry

(1) A Senior Authorised Officer may vary or lift a Suspension Order at any time to take account of any submission made by the respondent student under clause 45(2) or changes in circumstances, including the continued likelihood of any risks, by following the process specified in this Part.

(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 lifted; or
- c. conclusion of proceedings under this Rule.

47 Compliance

(1) A respondent student against whom a Suspension Order is made must comply with it and failure to do so is Category 2 Misconduct.

48 No internal appeal

(1) There is no avenue of internal review or appeal against a Suspension Order, including a decision not to vary or lift a Suspension Order.

Part 9 - Miscellaneous

49 Procedural requirements and powers

(1) Authorised Officers, Senior Authorised Officers and Student Misconduct Committee have power to carry out those functions specified in this Rule (including Schedules 1 and 2), and are required to:

- a. act as quickly and with as little formality as possible, subject to the requirements of this Rule;
- b. treat all allegations of Misconduct as allegations of the University; and
- c. treat all proceedings under this Rule as inquisitorial proceedings, not adversarial proceedings.

(2) Authorised Officers, Senior Authorised Officers and Committees:

- a. may decide their own procedures, subject to this Rule and any Guidelines;
- b. are not bound by the rules of evidence;

- c. may make inquiries and obtain evidence about any matter, consistent with the rules of procedural fairness, including health or risk assessments;
- d. may obtain advice or assistance from another person in exercising their functions (although they cannot delegate the exercise of their function except as permitted under clause 68. This includes legal advice on jurisdictional or procedural issues;
- e. may exercise functions that are preliminary or ancillary to the exercise of any function delegated under this Rule.

50 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 or in any way undermines the hearing process.

51 Hearings to be conducted in private

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

52 Recording of proceedings under this Rule

(1) All proceedings before a Student Misconduct Committee or an Appeals Committee will be recorded in an audio or audio visual format. An Authorised Officer or Senior Authorised Officer may also designate any interviews or proceedings before them to be recorded.

(2) Where hearings are conducted by videoconferencing, the respondent student must access the hearing using such methods as directed by the Authorised Officer, Senior Authorised Officer or Student Misconduct Committee, and ensure that they are able to be appropriately identified. For example, a student may be directed to login to the videoconference using their official University student email account and/or provide information as requested to enable their identity to be verified before the hearing proceeds.

53 Support persons

(1) A respondent student may bring along a support person to assist the 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 is to proceed to completion in the absence of that support person.

(3) Notwithstanding that a support person may advocate on behalf of the respondent student, the Authorised Officer, Senior Authorised Officer or Student Misconduct Committee may direct the respondent student to answer any question put to them in relation to the allegations.

54 Withholding results and restrictions on graduation

(1) The respondent student is not entitled to be issued with any academic results that relate to allegations of Misconduct until the finalisation of proceedings under this Rule. Sanctions imposed under this Rule may impact a respondent student's progression as set out in the [Progression Policy](#).

(2) The respondent student may not be entitled to graduate from the University until all proceedings related to the

Misconduct (including under this Rule) are completed, having regard to the requirements of the Graduation Policy.

55 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 of Suspension Order where subsequently:

- a. no further action is taken under this Rule; or
- b. the allegation of Misconduct is not sustained; or
- c. a finding of Misconduct is overturned on appeal.

56 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.
- d. wherever possible, a respondent student must be notified promptly of any delays in investigating or making a decision in relation to Misconduct.

57 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.

58 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.

59 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 with a deadline does not render a decision or action void or capable of being set aside merely for that reason.

60 Meaning of no further internal review of 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.

61 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.

62 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 document and records management system relating to the student in accordance with the [State Records Act 1998 \(NSW\)](#) and as specified in this Rule.

(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.

63 Suspension of misconduct proceedings

(1) A Senior Authorised Officer may, at any stage of proceedings under this Rule suspend or adjourn any proceedings under this Rule pending the outcome of any police investigation or criminal proceedings, or any other actual or potential legal proceedings about the same circumstances of the alleged Misconduct.

(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 in future; or
- c. prevent reactivation of or commencement of new proceedings (including another or a further investigation) under this Rule.

64 Savings provisions

(1) If before commencement or any amendments of this Rule, a hearing of an allegation or an appeal has already commenced under a process prescribed in an earlier version of this Rule, or under another rule or policy, but a decision has not yet been made, then that matter shall continue to be dealt with under that rule (or version of this Rule) or policy or under this Rule before amendment, until all processes are completed or exhausted.

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

65 Effect

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

Part J - Dictionary and Delegations of Authority

66 Definitions

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

Word or expression	Definition
academic integrity	Acting with the values of honesty, trust, fairness, respect and responsibility in learning, teaching and research. Students, teachers, researchers and all staff are expected to act honestly, to be responsible for their actions, and to show fairness in every part of their work. Staff are expected to be role models for students. Academic integrity is important for an individual's and an academic unit's reputation (source: Exemplary Academic Integrity Project at the University of South Australia).
academic misconduct	<p>Conduct by a student that is in breach of any academic policy of the University or in any way undermines or otherwise puts at risk the academic integrity of any program, subject or assessment (including examinations) or the University's academic reputation.</p> <p>Examples of academic misconduct include but are not limited to:</p> <ul style="list-style-type: none"> a. bringing unauthorised materials or devices into an examination or assessment activity; b. working with another person in order to gain an unfair advantage in assessment; c. copying another person's answers or improperly obtaining answers to questions in an examination or other form of assessment; d. submitting work for assessment that is not the student's own work; e. re-submission of work for assessment that has previously been submitted for a different assessment without approval; f. communicating in an examination, or other test, with other students, or bringing into the examination room any textbook, notebook, memorandum, other written material or electronic device or any other item not authorised by the person who set the examination or the examinations supervisor in charge or other supervisor of a test; g. writing an examination answer, or consulting another person or materials, for an examination answer, outside the confines of the examination room, without permission to do so; h. attempting to read another student's work in an examination, or, in other circumstances, without their permission; i. where an individual work is required, making or receiving available notes, papers or answers related to the content of an examination or assignment (in whatever form) to or from another student, without the permission of the teacher of the subject; j. not following the directions about seating location and movement about the examination room; k. where a student submits work in which ideas, words or other work are taken from a source and presented as if these are the student's own work, without appropriate acknowledgement of the original author, 'Appropriate acknowledgement' being the conventions of citation recognised as acceptable to the University; l. a breach of the Student Honour Code.
Appeals Committee	A Committee convened under Part 6 – Committee Constitution and Procedures to decide appeals under Part 4 – Appeals.
Authorised Nominee	A person authorised to deal with matters referred under the Student Misconduct Rule - Inappropriate Behaviour Guidelines as defined in those Guidelines.
Authorised Officer	<p>A person (other than a Committee or Senior Authorised Officer) with authority as specified in Schedule 1 or 2 of this Rule to:</p> <ul style="list-style-type: none"> a. hear and decide Category 1 Misconduct; b. impose a Category 1 Sanction; or c. make a Temporary Restriction Order, <p>and includes any person authorised by the Vice-Chancellor and President under clause 68(3).</p>
campus	A place designated as a campus or teaching and learning space of the University or a University Affiliate, including any buildings, facilities or services available there.
Category 1 Misconduct	Misconduct (whether it be academic, general or research) that is either specified as Category 1 Misconduct in this Rule, or would, if substantiated, attract a Category 1 Sanction.

Word or expression	Definition
Category 2 Misconduct	Misconduct (whether it be academic, general or research) that is either specified as Category 2 Misconduct in this Rule, or would, if substantiated, attract a Category 2 Sanction.
Category 3 Misconduct	Misconduct (whether it be academic, general or research) that is either specified as Category 3 Misconduct in this Rule, or would, if substantiated, attract a Category 3 Sanction.
Category 1 Sanction	A Sanction specified in clause 22.
Category 2 Sanction	A Sanction specified in clause 23.
Category 3 Sanction	A Sanction specified in clause 24.
Chair	A person appointed to chair a Committee.
Committee	A Student Misconduct Committee or an Appeals Committee.
Dean	Any one of the following: a. the Dean of a University School; b. the Dean, Graduate Studies and Researcher Development; c. the Chief Executive Officer of Western Sydney University - The College.
decision-maker	The responsible Authorised Officer or Committee that makes a decision under this Rule.
exclude or exclusion	Termination of enrolment or prohibition from registering in a specific subject or enrolling in a specific program or with the University more generally for a defined period of time. The student's enrolment or registration is cancelled and they are precluded from re-registration in the specified subject or re-enrolling in the specified program during the period of the exclusion.
expel or expulsion	Permanent exclusion from the University or a University Affiliate program or admission to or use of University or a University Affiliate's lands or premises.
extenuating circumstances	Events or circumstances which directly relate to the timing of the Misconduct and: a. are beyond the person's control, i.e. the person is not responsible, directly or indirectly, for the situation. These events or circumstances must be unusual, uncommon or abnormal; and b. are claimed by the student with appropriate independent supporting documentation which the University may verify.

Word or expression	Definition
general misconduct	<p>Conduct by a student that is contrary to accepted standards of behaviour at the University including conduct that:</p> <ul style="list-style-type: none"> 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; d. breaches the Student Code of Conduct; e. breaches the Sexual Offences Response Policy and Procedures; f. breaches the Sexual Harrassment Prevention Policy; g. breaches the Bullying Prevention Policy; h. breaches the Acceptable Use of Digital Services Policy; i. breaches the Discrimination, Harassment, Vilification and Victimisation Prevention Policy; j. breaches the Respect and Inclusion in Learning and Working Policy; k. breaches the Privacy Policy and/or Privacy Management Plan. l. breaches guidelines or other directions given by University staff in relation to acceptable standards of behaviour during University activities. <p>Examples of general misconduct include but are not limited to:</p> <ul style="list-style-type: none"> m. bullying, harassing, vilifying, victimising or threatening another person, including because of that person's cultural or religious identity, gender, sexual orientation or disability; n. behaving in an unreasonably antisocial or offensive manner for any reason; o. not following a direction reasonably and lawfully given by a staff member of the University or a University Affiliate, including non-compliance with a Temporary Restriction Order or a Suspension Order; p. refusing to produce identification, including a student identification card, when asked lawfully to do so by a University staff member or University Affiliate; q. engaging in unprofessional behaviour while undertaking a practicum or placement as part of the student's program; r. engaging in hazing, motting or other unauthorised initiation activities of a similar kind; s. unauthorised access to or use of any University property, systems or facilities or those of another organisation or person; t. submitting forged or fraudulent medical or other documentation to the University; u. any other conduct that is in breach of any policy of the University in relation to acceptable standards of behaviour.
Guidelines	Guidelines issued under clause 69.
Misconduct	Any one or more of academic misconduct, research misconduct or general misconduct.
Office of Governance Services	The University's Office of Governance Services, or another administrative unit with responsibility for managing student misconduct.
program	A formally approved program of study (whether coursework or research, or a combination of both) regardless of whether it leads to the award of a degree, diploma or other qualification of the University or a University Affiliate.
research misconduct	Conduct by a student in connection with research that breaches the University's Research Code of Practice and/or other applicable law, regulation or code relating to research, such as the Australian Code for the Responsible Conduct of Research, including misconduct that occurs during Stage 2 of the Masters of Research.
respondent student	<p>A person who, at the time of the alleged misconduct alleged against him or her:</p> <ul style="list-style-type: none"> a. is admitted to the University or a University Affiliate to undertake a program or subject, whether or not enrolled or registered; b. has completed a program or subject at the University or a University Affiliate, but has yet to graduate; c. is otherwise studying or undertaking a student-related activity at the University or a University Affiliate, including as part of any exchange or other arrangement with another university or education provider; <p>but does not include a person:</p> <ul style="list-style-type: none"> d. who is an employee of the University or of a University Affiliate; and e. the alleged Misconduct is required to be dealt with under the terms of that person's employment with (as the case may be) the University or that University Affiliate.
Sanction	A Category 1 Sanction, Category 2 Sanction or Category 3 Sanction as set out in Part 5 – Sanctions for Misconduct.

Word or expression	Definition
Senior Authorised Officer	Any of the following: a. the Vice-Chancellor and President; b. the Senior Deputy Vice-Chancellor and Provost; c. a Deputy Vice-Chancellor; d. a Vice-President; e. the Chief Student Experience Officer.
sexual offence	Has the same meaning as in the Sexual Offences Response Policy and Procedures .
Student Misconduct Committee	A Committee convened under Part 6 – Committee Constitution to hear and decide allegations of Misconduct under Part 3 – Hearing.
Student Misconduct Panel	A panel established under Guidelines which academic and professional staff members or students can be selected to serve on a Student Misconduct Committee or an Appeals Committee.
subject	A component of a program, including any field work, practicum or placement with an external person or body.
suspension	Banning a student from attendance at the University for a specified period of time.
Suspension Order	An order made under Part 8 – Suspension Orders.
Temporary Restriction Order	An order made under Part 7 – Temporary Restriction Orders.
teaching term	A period of time during which a subject 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.
University	Western Sydney University as established by the Western Sydney University Act 1997 (NSW) .
University Affiliate	Any of the following: a. The College; b. Western Sydney University International College as a Third Party Provider to the University; c. An organisation with whom the University has a third party arrangement under the Higher Education Standards Framework (Threshold Standards) 2021 ; d. A person or an organisation with whom the University has arrangements in place for students to undertake placements, practicums or other activities as part of their Program requirements.

67 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 of replacement or 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.

68 Power to delegate

(1) An Authorised Officer may designate another person in writing to act as decision-maker in his or her place if that Authorised Officer:

- a. reasonably believes there is or may be a conflict of interest, or actual or perceived bias, if the Authorised Officer exercises that function; or
- b. is otherwise unavailable to exercise that function.

(2) 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.

(3) The Vice-Chancellor and President has authority to remove or to designate additional or replacement Authorised Officers in Schedules 1 and 2 at any time, including to take account of changes to organisational structure or where it is no longer appropriate for that Authorised Officer to continue exercising that function.

69 Guidelines

(1) The University may make guidelines not inconsistent with this Rule about any of the 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 Misconduct is managed and Sanctions are imposed appropriately and consistently 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 Senior Deputy Vice-Chancellor and Provost in relation to the management of general misconduct, establishment and procedures of Student Misconduct Committees and the imposition of Sanctions.

Schedule 1 - Who Investigates, Hears and Decides Misconduct

Authorised Officer or Committee	Responsibility
Chief Student Experience Officer (Senior Authorised Officer)	a. Investigate, hear and decide Category 1 general misconduct. b. Impose a Category 1 or 2 Sanction, or recommend the imposition of a Category 3 Sanction to the Board of Trustees for admitted general misconduct. c. Impose a Suspension Order under Part 8.
Appeals Committee	a. Investigate, hear and decide all appeals lodged under Part 4 – Appeals. b. Impose a Category 1 or 2 Sanction, or recommend the imposition of a Category 3 Sanction to the Board of Trustees.
Chief Executive Officer or Executive Director, Academic Studies of The College	Investigate, hear and decide Category 1 Misconduct by a respondent student registered in, or undertaking a subject taught within The College.
Dean or Deputy Dean of a School	Investigate, hear and decide Category 1 Misconduct by a respondent student enrolled in, or undertaking a subject taught within that School.
Deputy Vice-Chancellor and Vice-President, Academic (Senior Authorised Officer)	a. Investigate, hear and decide Category 1 academic misconduct. b. Impose a Category 1 or 2 Sanction, or recommend the imposition of a Category 3 Sanction to the Board of Trustees for admitted misconduct. c. Impose a Suspension Order as specified in Part 8.

Authorised Officer or Committee	Responsibility
Deputy Vice-Chancellor and Vice-President, Research, Enterprise and International (Senior Authorised Officer)	a. Investigation, hear and decide Category 1 research misconduct. b. Impose a Category 1 or 2 Sanction, or recommend the imposition of a Category 3 Sanction to the Board of Trustees for admitted misconduct. c. Impose a Suspension Order as specified in Part 8.
Deputy Vice-Chancellor, Strategy and Planning (Senior Authorised Officer)	a. Impose a Category 1 or 2 Sanction, or recommend the imposition of a Category 3 Sanction to the Board of Trustees for admitted misconduct. b. Impose a Suspension Order as specified in Part 8.
Director, Governance Services	Investigate Misconduct following a referral under clauses 4(2)b or 5(6).
Director of Learning, Online Education Services	Investigate, hear and decide Category 1 Misconduct by a respondent student registered in, or undertaking a subject taught by Online Education Services.
Director, Sydney City Campus	Investigate, hear and decide Category 1 Misconduct by a respondent student registered in, or undertaking a subject taught by Sydney City Campus.
Pro Vice-Chancellor, Research	Hear and decide Category 1 research misconduct.
Provost or Deputy Provost	Investigate, hear and decide Category 1 general misconduct that occurs within campus or other premises (including Student residences) for which that person has responsibility.
Senior Deputy Vice-Chancellor and Provost (Senior Authorised Officer)	a. Investigate, hear and decide Category 1 Misconduct. b. Impose a Category 1 or 2 Sanction, or recommend the imposition of a Category 3 Sanction to the Board of Trustees for admitted misconduct. c. Impose a Suspension Order as specified in Part 8.
Student Misconduct Committee	Investigate, hear and decide all categories of Misconduct and impose a Category 1 Sanction or Category 2 Sanction, or recommend the imposition of a Category 3 Sanction to the Board of Trustees.
Senior Vice-President (Senior Authorised Officer)	a. Hear and decide Category 1 general misconduct. b. Impose a Category 1 or 2 Sanction, or recommend the imposition of a Category 3 Sanction to the Board of Trustees for admitted general misconduct. c. Impose a Suspension Order under Part 8.
Vice-President, Finance and Chief Financial Officer (Senior Authorised Officer)	a. Hear and decide Category 1 general misconduct. b. Impose a Category 1 or 2 Sanction, or recommend the imposition of a Category 3 Sanction to the Board of Trustees for admitted general misconduct. c. Impose a Suspension Order under Part 8.
Vice-President, Infrastructure and Commercial (Senior Authorised Officer)	a. Hear and decide Category 1 general misconduct. b. Impose a Category 1 or 2 Sanction, or recommend the imposition of a Category 3 Sanction to the Board of Trustees for admitted general misconduct. c. Impose a Suspension Order under Part 8.
Vice-President, People and Advancement (Senior Authorised Officer)	a. Hear and decide Category 1 general misconduct. b. Impose a Category 1 or 2 Sanction, or recommend the imposition of a Category 3 Sanction to the Board of Trustees for admitted general misconduct. c. Impose a Suspension Order under Part 8.
Vice-Chancellor and President (Senior Authorised Officer)	a. Impose a Category 1 or 2 Sanction, or recommend the imposition of a Category 3 Sanction to the Board of Trustees for admitted misconduct. b. Impose a Suspension Order under Part 8.

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 40(1)b)
Any Campus Safety and Security Officer	Any building, land, facilities or services of the University (including Student residences) or a University Affiliate	Chief Student Experience Officer, (as applicable), Dean or College Chief Executive Officer and Director, Campus Safety and Security

Authorised Officer	Designated Restricted Areas or Activities	Person to whom Restriction must be Notified within 24 Hours (clause 40(1)b)
Campus Provost or Deputy Provost	Any University building, lands, facilities or services on a Campus for which that Provost has responsibility	Chief Student Experience Officer and Dean
Director of Learning, Online Education Services	Any online facilities, resources or other privileges	Chief Student Experience Officer and Dean
Director, Sydney City Campus	Any facilities (including online), resources or other privileges	Chief Student Experience Officer and relevant School Dean
Any member of academic staff of the University or a University Affiliate	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 Student undertakes any field work, placement or other activity related to his or her program	Chief Student Experience Officer, (as applicable) Dean or College Chief Executive Officer and Director, Campus Safety and Security
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 and (as applicable) Dean or College Chief Executive Officer
Any member of University or The College library staff	Any University or The College library areas, facilities, resources or other privileges	Executive Director, Library Services or The College Librarian and Director, Campus Safety and Security
Any person (including any third party) responsible for the management of Western Sydney University Village	Any University Student residence land, building, facilities or privilege	Chief Student Experience Officer and Director, Campus Safety and Security
Any Senior Authorised Officer	Any University building, lands, facilities or services on any Campus (including Student residences)	Chief Student Experience Officer and Director, Campus Safety and Security

Status and Details

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