JMP - Bachelor of Medicine Student Academic Misconduct Rule

Part A - Introduction

Section 1 - Purpose

(1) The Joint Medical Program (JMP) is committed to promoting the highest standards of academic and research integrity, scholarship, safety and welfare for students and staff.

(2) This Rule is made in accordance with the provisions of the University of Newcastle Act (NSW) 1989 and the Student Coursework Plagiarism and Academic Misconduct Rules (approved 13 December 2010) of the University of New England and should be read in conjunction with the following policy documents:

a. University of Newcastle Student Misconduct Rule
b. University of Newcastle Academic Integrity and Ethical Academic Conduct Policy;
c. BMed JMP Student Academic Integrity Module;
d. University of New England Student Coursework Plagiarism and Academic Misconduct Rules.

(3) The Rule describes what constitutes Joint Medical Program student misconduct and establishes the procedural framework in which the Universities of Newcastle and New England will deal with matters relating to allegations of academic misconduct against students within the JMP, inclusive of research misconduct.

(4) This Rule aims to ensure allegations of student academic misconduct are dealt with in a timely, fair and effective manner consistent with the principles of procedural fairness and are applied consistently across the student cohort of JMP regardless of the University of enrolment being the University of Newcastle or University of New England.

Section 2 - Scope

(5) This Rule applies to all students undertaking B Medicine Joint Medical Program studies at, or offered by, the University of Newcastle and the University of New England and their controlled entities across all campuses, locations and modes of delivery.

(6) This Rule also applies to students of the B Medicine JMP who are no longer enrolled at either University (UON or UNE) but who were enrolled at the time of the alleged misconduct.

Section 3 - Commencement

(7) This Rule takes effect on the date determined by the Councils of both Universities when the Rule is approved.

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Section 4 - Definitions

(8) In the context of this Rule:

a. assessment item means any form of assignment, examination, quiz, test, laboratory task, tutorial exercise or other work used to measure student outcomes and determine the final result of a student in a course;
b. complainant means a person who provides notification of the allegation of misconduct, or in some cases, the person who brings the matter forward for consideration under this Rule;
c. days means working days, unless specified as calendar days;
d. Dean means the Dean of Medicine - Joint Medical Program (JMP);
e. Deputy Vice-Chancellor means the Deputy Vice-Chancellor at the University of Newcastle responsible for academic matters unless otherwise specified
f. degree means a program of courses/units approved by the Academic Senate (UON)/Academic Board (UNE) leading to the award of Bachelor of Medicine
g. ESOS Act means the Education Services for Overseas Students Act (Cth) 2000;
h. exclusion (exclude) means the condition of being precluded from re-enrolling in a program or a Faculty for a stated period. At the end of the exclusion period the student may apply for re-admission subject to the Rules governing Admission and Enrolment. There is no guarantee that an application for re-admission will be successful. In cases of misconduct a student may be excluded from the University permanently or for such lesser period as may be determined;
i. expulsion (expel) means the permanent termination of a student's enrolment at the University of enrolment, including the withdrawal of all rights and privileges and the right to use, enter or be within University of enrolment premises and facilities;
j. Faculty means the Faculty of Health and Medicine (UON) and/or the Faculty of the Professions (UNE);
k. Joint Medical Program (JMP) refers to the delivery of the Bachelor of Medicine by the University of Newcastle and the University of New England, in partnership across both institutions;
l. JMP Committee is responsible for the management of all matters pertaining to the curriculum, assessment, quality and standards of the Joint Medical Program;
m. Notice to Show Cause means a written notice to the student which outlines the allegation of misconduct, as well as further action that may be taken and potential penalties; and invites a response within 10 days;
n. property means real, personal, intellectual and shared property in any (including library and computing/electronic asset) form;
o. Pro Vice-Chancellor means Pro Vice-Chancellor of the Faculty of the Professions at UNE:
p. SACO means the Student Academic Conduct Officer for the Joint Medical Program (based at University of Newcastle). The JMP Student Academic Conduct Officer (SACO) is an academic staff member appointed to receive reports of incidents of alleged academic misconduct and to manage the Joint Medical Program's response to those incidents in line with this policy.
q. student means any person who is enrolled in the JMP program, a course from that program, or a group of courses from that program at, or offered by, the University of Newcastle and/or the University of New England. In the context of this Rule a student on leave of absence or suspended or excluded is considered to be enrolled at the University of their JMP enrolment (UON or UNE);
r. student academic misconduct includes but is not limited to conduct that:
    i. involves academic fraud, cheating, plagiarism, attendance substitution, forged documentation and/or signatures and any other dishonest conduct by a student taken to gain academic or general advantage, or to disguise an absence or academic failing; and/or
    ii. contravenes the provisions of the JMP's academic rules, policies, procedures and/or guidelines; and/or contravenes the provisions of the academic rules, policies, procedures and/or guidelines of the University

of enrolment (UON) or UNE); and/or

iii. involves a serious or deliberate breach of the Australian Code for the Responsible Conduct of Research that involves intent and deliberation; recklessness or gross and persistent negligence; serious consequences, such as false information on the public record; or adverse effects on research participants, animals or the environment, and includes, but is not limited to research conduct that:

- fails to declare or manage a serious conflict of interest;
- fails to follow research proposals as approved by a research ethics committee;
- conceals or facilitates research misconduct by others.

s. student email address means the address issued by the University of enrolment at the time of student enrolment into the JMP;

t. Student Misconduct Record (SMR) means: the record kept on the University of Newcastle's confidential Student Misconduct Register maintained by the Complaints and Information Management Unit to record incidents of student misconduct; and the record kept on the University of New England's Central Plagiarism/Academic Misconduct File;

u. suspension means the temporary termination of a student's rights and privileges for a specified period of time, which may include:

i. suspension from attendance at lectures, seminars, tutorials, practical classes, supervisor meetings or similar periods of instruction; and/or

ii. withdrawal of the right to use, enter or to be within either University (UON's or UNE's) premises and facilities; and/or

iii. suspension from representing either University (UON) and/or UNE);

v. UON means the University of Newcastle, its controlled entities and any entities undertaking activities on behalf of the University;

w. UNE means the University of New England, its controlled entities and any entities undertaking activities on behalf of the University;

x. University communities means people, along with students and staff, associated with either the University of Newcastle or the University of New England such as alumni, conjoint appointees, guest lecturers, external contractors and visitors to either University's (UON's or UNE's) premises; and

y. University premises means:

i. any premises owned, leased or otherwise used and/or occupied by the University of Newcastle or the University of New England;

ii. any premises where research, workshops, camps, field placements, examinations, and any other activities controlled or supervised by the University of Newcastle or the University of New England are conducted;

iii. any premises where clinical, professional, practical work or vocational placements that form part of the Joint Medical Program or courses contributing to that program offered by the University of Newcastle and/or the University of new England are conducted; or

iv. any premises or facility where a student is representing or under the auspices of either University (UON) or UNE).

z. University of enrolment means the University from which an offer of admission of a place in the BMed – JMP was received and to which the offer was accepted, i.e., either the University of Newcastle or the University of new England. A student's university of enrolment does not change when on clinical placement.

Part B - Guiding Principles

Section 5 - Student Responsibilities

(9) Students have a responsibility to their University of enrolment and to the Joint Medical Program to:

a. act fairly and honestly;
b. respect the freedom of other members of their University of enrolment and of the Joint Medical Program;
c. act in an orderly and proper manner consistent with their University's Code of Conduct; and
d. comply with the provisions of all University of enrolment and Joint Medical Program rules, policies, procedures and guidelines as well as other external legislation and codes, so far as failure to do so many affect the University of enrolment or the JMP.

Section 6 - Procedural Fairness

(10) In considering matters relating to the academic conduct of students and allegations of student academic misconduct, both Universities (UON and UNE) have a responsibility to ensure that principles of procedural fairness are observed.

(11) A student shall be presumed innocent unless and until guilt is freely admitted or is determined using the balance of probabilities as the standard of proof.

(12) The Universities of Newcastle and New England, through the SACO and all responsible officers, will ensure that:

a. the student will have access to adequate information about the allegation of misconduct;
b. the student will be given adequate notice of the process and timelines for dealing with the allegation of misconduct;
c. the student will have an opportunity to be heard before a determination is made in relation to the allegation of misconduct;
d. the process of inquiry and determination will be conducted without bias;
e. a determination will be made only on the basis of facts and documentation relevant to the allegation of misconduct;
f. the student will be notified of the outcome including sufficient reasons to explain the outcome; and
g. the student will have a right of appeal in accordance with the provisions of this Rule.

(13) The principles of procedural fairness will be applied with due consideration for confidentiality and privacy concerns as well as the safety and wellbeing of the complainant and other participants in the process.

Section 7 - Confidentiality

(14) All student misconduct cases, and records relating to them, are maintained confidentially. Information will be made available to people directly involved in the matter and such people are expected to maintain confidentiality and comply with the Privacy and Personal Information Protection Act 1998 (NSW) (PPIPA) and with the Universities' (UON's and UNE's) privacy policies. Breaches may result in disciplinary action.

(15) With due consideration for the student's privacy, the University of Newcastle and/or the University of New England may disclose to a complainant and/or third party affected by the alleged academic misconduct information relating to the misconduct, the outcome of the misconduct process and any penalty imposed. The student will be informed of such disclosures.

(16) If the identity of the student is not disclosed, expressly or by implication, the University (UON or UNE) may disclose to the University communities or general public information relating to the misconduct, the outcome of the misconduct process and any penalty imposed.

(17) All University records, including those related to student misconduct, are not protected from external legal proceedings or legislative obligations. Material can be subpoenaed or accessed under the provisions of the Government Information (Public Access) Act (NSW) 2009.

Section 8 - Reporting

(18) Action taken under this Rule does not preclude the University (UON or UNE) from:

a. instituting civil or criminal proceedings against a student with respect to the misconduct; and/or
b. reporting the matter to an external agency such as the Independent Commission Against Corruption (ICAC) in accordance with the Universities' reporting obligations.
c. reporting the matter to the Medical Board of Australia.

(19) Each University (UON and UNE) will follow its own reporting policy regarding reporting of Student Misconduct cases (Refer to UON Student Misconduct Rule Clause 8.4; and to UNE records management system number SED07/948 Item 9.8).

Part C - Reporting Student Academic Misconduct

Section 9 - Initial Actions in cases of suspected Student Academic Misconduct

(20) If student academic misconduct is suspected, it is appropriate in most instances for the relevant Course Co-ordinator to be notified, and for the Course Co-ordinator to speak to the student, outlining his or her concerns, and seeking appropriate explanations or clarifications, prior to making any formal allegation. If in the view of the Course Co-ordinator, the student's conduct may constitute student academic misconduct, but the seriousness does not warrant referral under clause 21 of these Rules, the Course Co-ordinator will counsel and caution the student in writing.

(21) If, following the steps outlined in Clause 20, the Course Co-ordinator is of the view that there is a prima facie case of student academic misconduct, the Course Co-ordinator will notify the Student Academic Conduct Officer (SACO), University of Newcastle, in writing that there is an allegation requiring investigation.

(22) Notwithstanding Clause 20 above, a written notice of an allegation of student academic misconduct can be lodged to the SACO by students, staff, other members of the University communities or an external person with an association with either University (UON or UNE).

Section 10 - Allegations of Academic Misconduct

Actions taken by the SACO

(23) Allegations of academic misconduct against B Med JMP students will be referred to the UON School of Medicine and Public Health SACO to investigate the matter. The SACO will:

a. advise the student in writing of the referral;

b. issue the student with a Notice to Show Cause in relation to the allegation with advice that failure to respond within 10 days may result in confirmation of the allegation and imposition of a penalty;
c. examine the material with reference to the B Med JMP Student Academic Integrity Module;
d. use any electronic text-matching software or other methods of detecting dishonesty made available by the University (UON and/or UNE); and
e. consider any evidence or representations deemed necessary to undertake an assessment of the matter.

(24) Following investigation, the SACO may:

a. dismiss the allegation of academic misconduct; or
b. initiate remedial action; or
c. confirm the allegation of academic misconduct and impose a penalty in accordance with Part D of this Rule; or
d. refer the allegation of academic misconduct to the Dean of Medicine with supporting material and a recommendation for a penalty to be imposed in accordance with Part D of this Rule; or

(25) In determining any penalty or further referral, the SACO must check the Student Misconduct Record for the student's record and use the following criteria for determining penalties:

a. previous allegations and/or determinations of academic misconduct;
b. the nature and extent of the academic misconduct;
c. the level of the student;
d. the student's knowledge of academic regulations; and
e. the discipline's conventions.

(26) The SACO will inform the student in writing of the determination including reasons for the decision. The SACO will also inform other relevant staff within the University and ensure that appropriate University records are maintained as described in Section 12 of this Rule.

Referral to Dean of Medicine – JMP

(27) When an allegation of academic misconduct is referred to the Dean of Medicine - Joint Medical Program (JMP) by the SACO, the Dean will review the allegation of academic misconduct, the supporting material provided and the SACO's recommendation regarding the penalty to be imposed. The Dean may:

a. dismiss the allegation of academic misconduct; or
b. confirm the allegation of academic misconduct and impose a penalty in accordance with Part D of this Rule; or
c. refer the allegation of academic misconduct to the Deputy Vice-Chancellor or Pro Vice-Chancellor to be dealt within accordance with this Rule.

(28) When an allegation of academic misconduct is referred by the Dean of Medicine - Joint Medical Program (JMP) to the Deputy Vice-Chancellor or Pro Vice-Chancellor, they will review the allegation, the supporting material, and all recommendations and advice from the SACO and the Dean of Medicine - Joint Medical Program (JMP) and make a determination in accordance with this Rule.

(29) The Deputy Vice-Chancellor or Pro Vice-Chancellor will inform the student in writing of the determination including reasons for the decision. The relevant officer (Deputy Vice-Chancellor or Pro Vice-Chancellor) will also inform other relevant staff within the University and ensure that appropriate University records are maintained as described in Section 12 of this Rule.

Part D - Penalties and Outcomes

Section 11 - Authorised Penalties

(30) If it is determined that the allegation of academic misconduct is sustained, either in full or in part, a penalty may be imposed according to the severity of the misconduct, previous misconduct by the student and any mitigating circumstances. The penalty may also take into account the fact that the student has admitted to the allegation. Conditions may be specified regarding the timing of the imposition of the penalty.

(31) To ensure that penalties are imposed as consistently as possible, the SACO, Dean, Deputy Vice-Chancellor and Pro Vice-Chancellor, will consider the penalty with respect to previous/concurrent student misconduct cases of a similar nature within the JMP, but will not be bound by precedent.

(32) The SACO has authority to impose the following penalties and if doing so will advise the Dean of Medicine - Joint Medical Program (JMP), Head of School (UON) and the Head of School (UNE) of the penalty applying:

a. remedial action such as counselling or training on proper academic conventions and techniques and/or allowing the student to re-attempt the assessment item without loss of marks;
b. allowing the student to re-attempt the assessment item with a capped mark;
c. allowing the student to complete a new piece of work with a capped mark;
d. excluding any parts resulting from dishonest practices and referring the assessment item for a remark appropriate to the work completed; and/or
e. awarding no marks for the assessment item;
f. referral to the Dean of Medicine - Joint Medical Program (JMP) with recommendation for a more serious penalty

(33) The Dean of Medicine - Joint Medical Program (JMP) may consider any one or more of the following actions in determining an appropriate penalty for academic misconduct:

a. consider that the incident has been effectively dealt with an take no further action;
b. counsel, reprimand, caution or warn the student;
c. award no marks for the assessment item and/or
d. award a fail grade in a course or courses;
e. referral to Deputy Vice-Chancellor or Pro Vice-Chancellor with recommendation for a more serious penalty.

(34) Deputy Vice-Chancellor or Pro Vice-Chancellor, may consider any one or more of the following actions in determining an appropriate penalty for academic and/or non-academic misconduct:

a. consider that the incident has been effectively dealt with and take no further action;
b. counsel, reprimand, caution or warn the student;
c. require the student to undertake some form of remediation, such as academic training or counselling;
d. require the student to undertake further academic work to complete a course;
e. award a fail grade in a course or courses;
f. impose a suspension, with or without conditions, for a specified period of time;
g. impost an exclusion, with or without conditions, for a specified period of time, at the end of which the student will be required to apply for re-admission to the University;
h. expel the student from the University;
i. recommend to the Council that the student’s degree be revoked; and/or
j. any other such penalty or action as considered appropriate.

Section 12 - Recording Outcomes

(35) The SACO and/or Dean of Medicine - Joint Medical Program (JMP) and/or Deputy Vice-Chancellor and/or Pro Vice-Chancellor will prepare a Determination Report to document their decision and relevant considerations in imposing the penalty.

(36) All matters relating to student misconduct, including the determination and penalty will be recorded in the Student Misconduct Record and/or other appropriate UON/UNE records.

(37) The student will be informed in writing of the determination outlining reasons for the decision and including notification of the right to appeal.

(38) Relevant staff within UON/UNE will be informed of the determination and appropriate university enrolment records will be maintained. Usually the following people will be notified:

a. the relevant BMed JMP Year Manager, the Academic Manager (when the case is for a UNE student), the JMP Coordinator and the JMP Student Welfare Officer;
b. the ESOS Student Compliance Coordinator for necessary action under the ESOS Act if the student is an international student (including development of an intervention plan if required);
c. the SACO, Dean of Medicine - Joint Medical Program (JMP) and relevant Pro Vice-Chancellor (as required); and
d. in circumstances of major academic misconduct where a fail is awarded, or an exclusion or expulsion results:
    i. the student's University of enrolment's Vice-Chancellor;
    ii. the Academic Registrar (UON) and the Director, Student Administration and Services (UNE) for the purposes of appropriately recording the misconduct on the student's academic record and/or amending the student's enrolment.

(39) The student should be advised that the investigation into the allegation of misconduct has been completed with summary details of the outcome in accordance with Section 7 of this Rule.

(40) Any determination by the SACO, Dean of Medicine - Joint Medical Program (JMP), Pro Vice-Chancellor and/or Deputy Vice-Chancellor will not take effect until the period for appeal has expired.

Part E - Appeals

Section 13 - Appeal Process

(41) An appeal against a determination in a student academic misconduct matter for a student of the JMP can be lodged by the student if there is:

a. evidence of a breach of this Rule or general principles of procedural fairness; and/or
b. the suggestion that the determination was affected by a conflict of interest or personal bias; and/or
c. new information that could not reasonably have been provided prior to the hearing and it is probably that this information would have affected the determination.

(42) An appeal on the grounds of penalty alone will not be considered.

(43) An appeal against a determination made by the SACO or the Dean of Medicine - Joint Medical Program (JMP) may be made in writing to the Pro Vice-Chancellor or Deputy Vice-Chancellor within 20 days of notice of the determination (date of email notification sent to the student's email address) and the grounds for appeal must be clearly set out.

(44) If a case has been referred by the SACO or the Dean of Medicine - Joint Medical Program (JMP) to the Pro Vice-Chancellor or Deputy Vice-Chancellor for determination, an appeal against the determination may be made in writing within 20 days of notice of the determination, and in accordance with each institution's own Misconduct Rule (at UON Student Misconduct Rule – Document 000935; at UNE, Student coursework Plagiarism and Academic Misconduct Rules – SED07/948).

(45) Upon receipt of the appeal the relevant officer (Deputy Vice-Chancellor or Pro Vice-Chancellor) shall undertake a preliminary review to determine the validity of the appeal. Once determined, and within 10 days of receiving the appeal, the relevant officer (Deputy Vice-Chancellor or Pro Vice-Chancellor) may:

a. dismiss the appeal if not valid;
b. make a determination in relation to the appeal; or
c. refer the appeal to the Student Misconduct Appeal Committee (UON) in line with the UON Student Misconduct Rule or the Student Conduct Appeals Committee in line with the Student Coursework Plagiarism and Academic Misconduct Rules (UNE).

(46) According to the circumstances of the allegation of misconduct, the relevant officer (Deputy Vice-Chancellor or Pro Vice-Chancellor) has discretion to determine whether or not a suspension will be imposed, with our without conditions, during the appeal process. If, at the conclusion of the appeal process, the suspension was considered unwarranted, the student may apply for consideration of special circumstances in relation to their studies.

(47) The appeal determination (made by the relevant officer (Deputy Vice-Chancellor, Pro Vice-Chancellor or Student Misconduct Appeal Committee (UON) or the Student Conduct Appeals Committee (UNE)) is final and there is no further avenue of appeal. However, the student and/or complainant do have the right to lodge a case for consideration by the University (UNE) Ombudsman or the NSW Ombudsman. Students and/or complainants wishing to do this should contact the Complaints Office (UON) or the Service Quality Unit (UNE) for assistance.

(48) In making a determination in relation to the appeal, the original determination may be confirmed, varied or set aside. In varying the penalty, any one or more of the actions listed in Part D of this Rule may be considered.

(49) The student will be informed in writing of the appeal determination outlining reasons for the decision.

(50) Relevant staff within the University will be informed of the appeal determination and appropriate University records will be maintained.

Part F - Other Provisions

Section 14 - Timelines

(51) Timelines specified in this Rule are provided as a guideline in the interests of dealing with allegations of misconduct efficiently and fairly. In exceptional circumstances they may be extended or reduced at the discretion of the Pro Vice-Chancellor or Deputy Vice-Chancellor.

(52) The failure to meet timelines specified in this Rule is not in itself grounds to dismiss or not proceed with an allegation of misconduct. Consideration will be given if unfair consequences arise from a failure to meet these specified timelines.

Section 15 - Notification to students

(53) All correspondence and notifications will be sent in writing to the student's University of enrolment email address in the first instance and will be deemed to have been delivered at the time of sending.

(54) Correspondence and notifications may also be served in writing by being:

a. given to the student in person; or
b. sent by express, registered post or courier to student's postal address as recorded on the University of enrolment student system, NUSTAR (UON) or Callista (UNE); or
c. left for the student at their last known address.

(55) Correspondence and notifications served under Clause 54c will be deemed to have been received by the student:

a. given to the student in person; or
b. three days after being sent to an address within Australia; or
c. 10 days after being sent to an address outside Australia.

Section 16 - Undischarged Penalties

(56) A student cannot be qualified for an award of the University of enrolment while an allegation of academic misconduct is being considered in accordance with this Rule. If an allegation of academic misconduct has been considered and a determination made in accordance with this Rule, the student cannot be qualified for an award of the University of enrolment until the period of appeal has expired and/or the imposed penalty (including conditions) has been served.

(57) The Vice-Chancellor or Deputy Vice-Chancellor or Pro Vice-Chancellor may determine that a student cannot re-enrol at the University of Newcastle OR the University of New England, access examination results and/or return from suspension until after an allegation of academic misconduct has been dealt with in accordance with this Rule, the period of appeal has expired and/or the imposed penalty (including conditions) has been served.

Section 17 - Improper Process

(58) Any person with concerns regarding the proper implementation of this Rule in relation to a specific misconduct matter may advise the Vice-Chancellor of UON or of UNE in writing. The Vice-Chancellor may take any action they consider to be appropriate to address the concern.

Section 18 - Transitional Provisions

(59) Any proceedings for academic or general misconduct that have commenced but not completed before the commencement of this Rule must be completed as if the previous versions of these Rules had not been replaced.

(60) Any allegation of academic misconduct which was alleged to have occurred prior to the date of commencement of this Rule must be dealt with under the previous version of this Rule unless the student and Deputy Vice-Chancellor and Pro Vice-Chancellor agree in writing to deal with the matter under this Rule.

Section 19 - Essential Supporting Documents

University of Newcastle

(61) Student Code of Conduct

(62) Notice to Show Cause Template – under development

(63) Student Misconduct Rule 000935

(64) Academic Integrity and Ethical Academic Conduct Policy 000608

(65) Complaints Resolution Policy 000745

(66) Complaints Resolution Procedure 000898

(67) Complaints Resolution Guideline 000899

University of New England

(68) Student Coursework Plagiarism and Academic Misconduct Rules – SED07/948

Status and Details

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Effective Date	23rd October 2019
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Responsible Executive	Belinda Yourn Senior Deputy Vice-Chancellor (Academic)
Enquiries Contact	Darren Whittingham Joint Medical Program Manager College of Health, Medicine and Wellbeing