Student Conduct Rule

Part A - Introduction

Purpose

(1) This Rule is made in accordance with section 29 of the University of Newcastle Act 1989 No 68.

(2) This Rule establishes the framework and prescribes the requirements for managing matters relating to student conduct.

Application

(3) This Rule applies to all students in respect of University related conduct.

Commencement

(4) This Rule takes effect on the date determined by the Council when the Rule is approved.

Definitions

(5) In this Rule:

a. Act means the University of Newcastle Act 1989 (NSW).
b. assessment includes any form of assignment, examination, quiz, test, laboratory task, tutorial exercise or other method used to measure academic outcomes and determine a student's progress or result in a course.
c. Assessment Officer means a staff member appointed to conduct a preliminary assessment of an allegation of misconduct.
d. award means an academic qualification approved by Academic Senate that is conferred on a student who has met the relevant program requirements.
e. Behavioural Risk Group means a group of key personnel within the University who meet as required to discuss and make recommendations for responding to reports of serious behavioural risk.
f. concerning behaviour has the meaning given in clause 19.
g. conflict of interests has the meaning given in the Conflict of Interest Policy.
h. controlled entity has the meaning given in Section 16A of the Act.
i. complainant means any person who makes a report of concerning behaviour or an allegation of misconduct.
j. course means a course or unit of study that contributes to a program.
k. enabling program means a pathway program that prepares students for university study and facilitates their entry into an award program.
l. enforced leave means a period of leave imposed on a student in accordance with clauses 22-33.
m. facilities means infrastructure owned, maintained or supported by the University.
n. hazing means the ritual initiation and humiliation of individuals within a group regardless of the individuals consent.
o. international student means a student (as defined by the University) who is not an Australian citizen, Australian Permanent Resident or New Zealand citizen (or dual citizenship holders of either Australia or New Zealand). This

includes students who will be studying offshore and those who will be studying onshore and have a student visa, provisional residency, temporary residency, bridging visa, or any other category of non-permanent visa for Australia.

p. non-academic misconduct has the meaning given in clause 18.

q. non-award program means a program that does not lead to a University award or qualification.

r. notice of alleged misconduct means a written notice issued to a student that sets out:
    i. the alleged facts;
    ii. the alleged breaches of relevant University rules, policies, procedures, guidelines, the Student Code of Conduct and, where relevant, the Australian Code for the Responsible Conduct of Research;
    iii. the relevant sections of this Rule;
    iv. potential outcomes, including relevant penalties for misconduct;
    v. the date by which any written response to the notice must be received;
    vi. how any written response from the student is to be submitted; and
    vii. the contact details of the Student Advocates and other relevant student support services.

s. officer has the same meaning given in the Corporations Act 2001 (Cth), or any replacing legislation.

t. personal information has the same meaning as in the Privacy and Personal Information Protection Act 1998 (NSW).

u. plagiarism is the representation of the thoughts or works of another as one's own. Without limiting the generality of this definition, it may include:
    i. copying or paraphrasing material from any source without due acknowledgment;
    ii. using another person's ideas without due acknowledgment;
    iii. collusion or working with others without permission, and presenting the resulting work as though it was completed independently.

v. premises means:
    i. any premises owned, leased or otherwise used or occupied by the University;
    ii. any premises where research, workshops, camps, field or clinical placements, examinations and any other activities controlled or supervised by the University are conducted;
    iii. any premises where work integrated learning, practical work, clinical placements, professional placements, or vocational placements that form part of a program or course offered by the University are conducted; or
    iv. any premises or facility where a student is representing, or under the direction of, the University.

w. program means an award program approved by the Academic Senate.

x. research is as defined in the Australian Code for the Responsible Conduct of Research, or any replacing Code or document.

y. research misconduct has the meaning given in clause 17.

z. restorative justice conference means a meeting between a person or people who have been harmed, the person or people who have caused the harm, and other impacted community members (e.g. family members, friends) to have a conversation about what occurred. The emphasis is on being heard, understood, having questions answered, taking responsibility, showing remorse, and working towards healing.

aa. risk refers to the effect of uncertainty on objectives. Note: an effect is a deviation from the expected, whether it is positive and/or negative.

ab. staff or staff member means an employee of the University, including contract, casual and conjoint staff.

ac. Student Academic Conduct Officer (SACO) means an academic staff member nominated by the Head of School and appointed by the Deputy Vice-Chancellor (Academic) to receive and manage reports of academic misconduct.

ad. student means a person who:

i. has accepted an offer of admission for or been admitted to a program, course, or group of courses at, or offered by, the University or its controlled entities leading to an award or joint award of the University;
ii. is authorised to attend classes of any type at, or offered by, the University (including on-campus, online or by distance);
iii. has accepted an offer of admission for or been admitted to another university or higher education institution who is granted access to University premises and facilities;
iv. has accepted an offer of admission for or been admitted to an enabling program, study abroad program, student exchange program or non-award program at the University; or
v. met the descriptions in one or more of paragraphs (i)-(iv) at the time of their alleged misconduct.

ae. student exchange program means the program that gives overseas students who have not been admitted to an award program at the University the opportunity to enrol in one or more courses at the University in accordance with the terms of an exchange arrangement between the University and their home institution.

af. Student Living Standards means the standards document that sets out the University's expectations for members of the Student Living community, as amended or replaced from time to time.

ag. study abroad program means the program that gives overseas students who have not been admitted to an award program at the University the opportunity to enrol in one or more courses at the University for up to one year, outside a formal agreement between the University and their home institution.

ah. 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;
ii. withdrawal of the right to use, enter or to be within the Premises and/or;
iii. suspension from representing the University.

ai. unit when referring to an academic unit, means the proportional amount of academic credit allotted to a course. This term is used to define the requirements for a program award of the University and indicate a student's enrolment load. For all other uses of tis term, the generic definition applies.

aj. University means the University of Newcastle, its controlled entities and any entities undertaking research or teaching and learning activities on behalf of the University.

ak. University related conduct means any conduct that is connected to the University, including conduct by a student that occurs:
i. at or in connection with:
- University premises or facilities;
- a student residence or accommodation located on any premises under the control or management of the University;
- University run or organised teaching, learning, assessment or extra-curricular activities, including any off-campus activity, field work, clinical, practicum, internship or work experience placement;
- an overseas exchange, study abroad, enabling, non-award or other University approved program;
- a University-related function or event (whether sanctioned or approved by the University or not);
- an event run by or affiliated with any student organisation, club or society (whether sanctioned or approved by the University or not);
- the use of information technology services and equipment owned, monitored or facilitated by the University;

ii. when a student is representing the University in any capacity; or
iii. in circumstances where the student is identifiable by their conduct, words or clothing as a student of the University;
iv. irrespective of whether the conduct occurred during or outside any term of enrolment.

al. witness means any person who provides information about alleged misconduct.

am. work integrated learning in the context of the Higher Education Standards Framework (Threshold Standards) 2021 (HES Framework), work-integrated learning (WIL) encompasses any arrangement where students undertake learning in a work context as part of their course requirements. WIL can be undertaken as part of coursework or research training.

an. working days means any day other than Saturday, Sunday, or a public holiday in Newcastle, on which business may be conducted.

Interpretation

(6) Headings and bold type are for convenience only and do not affect the interpretation of this Rule.

(7) The singular includes the plural and the plural includes the singular.

(8) The word 'includes' in any form is not a word of limitation.

(9) A reference to a staff position:

a. which ceases to exist; or
b. whose powers or functions are transferred to another staff position, is a reference to the staff position which replaces it or which substantially succeeds to its powers or functions.

(10) A reference to a rule (other than this Rule) or policy is a reference to the rule or policy, as relevant:

a. as it applied at the time of the alleged conduct;
b. as amended or replaced by the University from time to time.

Timelines

(11) The University will comply with the timelines prescribed in this Rule wherever reasonable. Where this is not possible due to the complexity of the matter, the absence or illness of key decision-makers, parties or witnesses, or any other valid reason, the relevant decision-maker or their nominee will be responsible for updating the student and explaining the reasons for the delay every 15 working days.

Part B - Meaning of misconduct

(12) Misconduct means:

a. academic misconduct;
b. research misconduct; and
c. non-academic misconduct.

Academic Misconduct

(13) Academic misconduct includes conduct that:

a. involves academic fraud, cheating, plagiarism and any other dishonest or reckless conduct by a student to gain an unfair academic advantage;
b. contravenes the principles or provisions of the University's academic rules, policies, procedures, guidelines or Student Code of Conduct; or
c. encourages, persuades or incites any other person to engage in similar conduct.

(14) Academic fraud means making a false representation to gain an unfair academic advantage, including:

a. falsifying research data or results;
b. using a substitute person to undertake, in full or part, an examination or other assessment;
c. reusing one's own work, or part thereof, that has been submitted previously and counted towards another course or program without permission from the relevant Course Co-ordinator;
d. submitting material as one's own work that has been either wholly or partially generated by an artificial intelligence system without permission from the relevant Course Co-ordinator;
e. making contact or colluding with another person, contrary to instructions, during any examination or other assessment;
f. bringing material or device(s) into an examination or other assessment when not approved for that assessment;
g. making use of computer software or other equipment or device(s) during an examination or other assessment where not approved for that assessment; and
h. contract cheating.

(15) Contract cheating means outsourcing an assessment to a third party, including a commercial provider, current or former student, family member or acquaintance. It includes:

a. the unauthorised use of file-sharing sites;
b. organising another person to contribute to or complete an assessment; and
c. inviting another person to compete or tender to produce assessable work.

(16) Plagiarism means presenting another person's thoughts or work as one's own. It includes:

a. copying or paraphrasing another person's work without due acknowledgement of the source;
b. using another person's ideas without due acknowledgement;
c. colluding or working with another person or persons without permission and presenting the resulting work as though it was completed independently.

Research Misconduct

(17) Research misconduct means conduct that involves a serious breach of the Australian Code for the Responsible Conduct of Research that is intentional, reckless or negligent.

Non-Academic Misconduct

(18) Non-academic misconduct includes conduct that:

a. contravenes the principles or provisions of the University's non-academic rules, policies, procedures, guidelines or the Student Code of Conduct;
b. breaches a student occupancy agreement or the Student Living Standards;
c. adversely impacts, or could adversely impact, upon the University's reputation including the reputation of staff, students, alumni, the University Council or other members of the University community;
d. is criminal or unlawful;
e. damages any University property, facilities or premises;
f. damages any property belonging to students or staff of the University;
g. obstructs or intends to obstruct a staff member or other member of the University community in the performance of their duties or functions;
h. obstructs or intends to obstruct the freedom of other persons to pursue their studies or research, or to

participate in activities or events organised or approved by the University;

i. assaults, threatens, bullies, harasses, or endangers any staff member, student or other member of the University community or causes them to fear for their personal safety, including gender-based violence, hazing and actual or attempted sexual misconduct, including sexual assault and sexual harassment ;
j. attempts to improperly influence or bribe any staff member, student or other member of the University community in the performance or conduct of their duties, functions or studies;
k. disobeys a reasonable instruction or request from a staff member or other representative of the University;
l. disrupts, interferes with, or causes detriment to, the conduct of any teaching, study, assessment, research, or administration of the University;
m. refuses, withholds, or fails to identify oneself truthfully or furnishes false personal information to any staff member or other representative of the University;
n. falsifies, or attempts to falsify, University records or official documents;
o. breaches confidentiality or privacy requirements or obligations in respect of the University, staff, students or other members of the University community;
p. obstructs or interferes with the functions or operations of the University;
q. uses or employs University resources for an improper purpose;
r. is lewd or obscene;
s. encourages, persuades or incites any other person to engage in similar conduct; or
t. is in reprisal for a person making an allegation of misconduct under this Rule, or a belief that a person made an allegation of misconduct under this Rule.

Part C - Concerning Behaviour

Meaning of Concerning Behaviour

(19) Concerning behaviour means conduct that could reasonably be construed as inappropriate, worrying or threatening. It includes actions, statements or behaviour that cause any person to fear for their personal safety, or that may indicate or create a threat to:

a. the health, safety or welfare of the student;
b. the health, safety or welfare of any staff member, student or other member of the University community;
c. property, facilities, premises;
d. animals or the environment.

Report of Concerning Behaviour

(20) Any person may make a report about concerning behaviour to Campus Care, the Behavioural Risk Group, the Vice-Chancellor, the Deputy Vice-Chancellor (Academic), or the Deputy Vice-Chancellor (Research and Innovation).

(21) A report of concerning behaviour is different and separate to a report of misconduct and will not automatically trigger misconduct proceedings against a student.

Enforced Leave

(22) On receiving a report of concerning behaviour, the Vice-Chancellor, Deputy Vice-Chancellor (Academic) or Deputy Vice-Chancellor (Research and Innovation) ('the officer') will consider whether the student's conduct poses any actual or potential risk to the health, safety or welfare of the student, any staff member, student or other member of the University community, or to property, facilities, premises, animals or the environment.

(23) If the officer determines that the student's conduct poses an actual or potential risk, they may determine that it is

in the students best interest to place them on enforced leave for such period and on such terms and conditions as they consider necessary.

(24) A decision to place a student on enforced leave may be taken summarily and the officer:

a. is not required to give the student a hearing before making their decision;
b. may inform themselves in relation to any matter in any manner that they consider appropriate;
c. may work with University staff to determine the level of engagement with the student based on the particular circumstances and to ensure the student has access to appropriate support.

(25) Subject to clause 26, the officer will notify the student in writing of:

a. the reasons for the enforced leave;
b. the length of the enforced leave;
c. any relevant conditions, including whether the student will:
    i. be prohibited from attending specified University classes, activities, events, accommodation, facilities or premises;
    ii. be withdrawn from relevant courses and provided with a tuition fee refund;
    iii. have their access to University information and technology services limited or removed;
    iv. be prohibited from contacting any specified staff, students or other members of the University community;
    v. be required to demonstrate their fitness to study and/or capacity to manage their behaviour without being a risk to self or others before being permitted to return to study; and
d. their right to request an internal review of the enforced leave.

(26) Where sending the written notice referred to in clause 25 may cause a risk to the health, safety or welfare of the student, the officer may make alternative arrangements for notifying the student of the terms and conditions of the enforced leave.

(27) Any enforced leave imposed on a student in accordance with this section:

a. must initially be for a period of not longer than one term; and
b. may be extended by one or more further periods of not longer than six months, by giving written notice to the student in accordance with clause 25.

(28) Subject to clause 27, the officer may lift or extend the period or vary the terms and conditions of the enforced leave at any time, in their absolute discretion, by giving written notice to the student in accordance with clause 25.

(29) The student will be given 20 working days to make a written request for internal review of the enforced leave, or any extension or variation of the terms and conditions of the enforced leave.

(30) The enforced leave will be effective during the review period and while any review is being conducted.

(31) The review may be conducted by the Vice-Chancellor, Deputy Vice-Chancellor (Academic) or Deputy Vice-Chancellor (Research and Innovation), provided they did not make the original decision (‘the review officer').

(32) The review officer will consider the application for review from the student, and may:

a. lift or vary the terms and conditions of the enforced leave;
b. confirm the period and terms and conditions of the enforced leave; or

c. extend or vary the terms and conditions of the enforced leave;

by giving written notice to the student.

(33) Any failure by the student to observe the terms and conditions of the enforced leave will be treated as non-academic misconduct and may result in the imposition of a penalty in accordance with this Rule.

Part D - Academic Misconduct

Notification of Academic Misconduct

(34) Any person may make an allegation of academic misconduct against a student by written notice to a Student Academic Conduct Officer or the Deputy Vice-Chancellor (Academic).

Actions to be taken by the Student Academic Conduct Officer

(35) Within 10 working days of receipt of an allegation of academic misconduct, the relevant Student Academic Conduct Officer will review the allegation and, taking into account the seriousness of the allegation and the availability of any supporting documentation:

a. dismiss the allegation;
b. issue the student with a notice of alleged misconduct;
c. in instances where they have an actual, potential or perceived conflict of interests, refer the allegation to a Student Academic Conduct Officer in another school; or
d. in consultation with the Deputy Vice-Chancellor (Academic), refer the matter to them for handling in accordance with clauses 40-50.

(36) If the Student Academic Conduct Officer issues the student with a notice of alleged misconduct, the student will:

a. be given copies of or links to the supporting documentation and relevant University rules, policies, procedures, guidelines or the Student Code of Conduct; and
b. be invited to provide a written or verbal response within 10 working days, or any extended period approved by the Student Academic Conduct Officer in their absolute discretion.

(37) If the student does not provide a written response within the required period, the Student Academic Conduct Officer will make a decision on the information available.

(38) If the student provides a written or verbal response within the required period, the Student Academic Conduct Officer will consider the response within 10 working days and, taking into account all of the relevant information, will:

a. determine whether the alleged facts are substantiated;
b. determine whether the alleged breaches of University rules, policies, procedures, guidelines or the Student Code of Conduct are substantiated; and
c. dismiss the allegation;
d. make a finding of academic misconduct and impose a penalty; or
e. refer the allegation to the Deputy Vice-Chancellor (Academic) with recommendations for action.

(39) The Student Academic Conduct Officer will give the student written notice of their decision, including:

a. reasons for the decision;
b. any finding of misconduct;
c. any proposed penalty; and

d. any right to appeal the decision in accordance with clauses 85-91.

Deputy Vice-Chancellor (Academic) and Vice President

(40) If an allegation of academic misconduct is referred directly to the Deputy Vice-Chancellor (Academic) in accordance with clause 35, the Deputy Vice-Chancellor (Academic) may appoint an Assessment Officer to conduct a preliminary assessment and prepare a report.

(41) A preliminary assessment may involve, as appropriate:

a. assessing the seriousness of the allegation;
b. collating and reviewing any relevant documentary material;
c. having discussions with the complainant and any witnesses;
d. recommending an appropriate course of action to deal with the allegation.

(42) Upon receipt and review of the preliminary assessment report, the Deputy Vice-Chancellor (Academic):

a. may request the Assessment Officer to obtain further information relevant to the allegation; and
b. will consider any recommendations made by the Assessment Officer.

(43) Taking into account the information in the preliminary assessment report, including the seriousness of the allegation and the availability of any supporting documentation, the Deputy Vice-Chancellor (Academic) will, within 10 working days:

a. dismiss the allegation;
b. issue the student with a notice of alleged misconduct; or
c. in instances where they have an actual, potential or perceived conflict of interests, refer the allegation to the Deputy Vice-Chancellor (Research and Innovation), who will exercise the functions of the Deputy Vice-Chancellor (Academic) prescribed in this Part.

(44) If the Deputy Vice-Chancellor (Academic) issues the student with a notice of alleged misconduct, the student:

a. will be given copies of or links to the supporting documentation and relevant University rules, policies, procedures, guidelines or the Student Code of Conduct; and
b. will be invited to provide a written response within 10 working days, or any extended period approved by the Deputy Vice-Chancellor (Academic) in their absolute discretion.

(45) If the student does not provide a written response within the required period, the Deputy Vice-Chancellor (Academic) will make a decision on the information available.

(46) If the student provides a written response within the required period, the Deputy Vice-Chancellor (Academic) may:

a. make their own inquiries; or
b. refer the allegation for independent internal or external investigation, report and recommendations as appropriate.

(47) Any independent internal or external investigation must be conducted in accordance with the principles of procedural fairness prescribed in clauses 118-122.

(48) Taking into account all of the relevant information and any report or recommendations, the Deputy Vice-

Chancellor (Academic) will, within 15 working days of receipt of any report or recommendations:

a. determine whether the alleged facts are substantiated;
b. determine whether the alleged breaches of University rules, policies, procedures, guidelines or the Student Code of Conduct are substantiated; and
c. dismiss the allegation; or
d. make a finding of academic misconduct and impose a penalty.

(49) If an allegation of academic misconduct is referred to the Deputy Vice-Chancellor (Academic) in accordance with clause 38, they will review the information considered by the Student Academic Conduct Officer and may:

a. accept or reject the Student Academic Conduct Officer's findings of fact and breaches of University rules, policies, procedures, guidelines or the Student Code of Conduct;
b. request the Student Academic Conduct Officer to obtain further information or make their own inquiries; and
c. dismiss the allegation;
d. make a finding of academic misconduct and impose a penalty; or
e. refer the alleged misconduct back to the Student Academic Conduct Officer with advice on the action required.

(50) The Deputy Vice-Chancellor (Academic) will give the student written notice of their decision, including:

a. reasons for the decision;
b. any finding of misconduct;
c. any penalty; and
d. any right to appeal the decision in accordance with clauses 85-91.

Part E - Research Misconduct

Notification of Research Misconduct

(51) Any person may make an allegation of research misconduct against a student in accordance with the University's Research Breach Investigation Procedure.

Preliminary Assessment and Investigation

(52) The preliminary assessment and any investigation of an alleged breach of the Australian Code for the Responsible Conduct of Research will be conducted in accordance with the University's Research Breach Investigation Procedure.

Referral to the Dean of Graduate Research

(53) If a student is found under the Research Breach Investigation Procedure to have engaged in conduct that breaches the Australian Code for the Responsible Conduct of Research, the Deputy Vice-Chancellor (Research and Innovation) will refer the matter to the Dean of Graduate Research, who will:

a. determine whether the breach is serious;
b. determine whether the breach is intentional, reckless or negligent; and
c. if the breach is not serious and intentional, reckless or negligent:
    i. dismiss the allegation; or
    ii. refer the matter back to the Deputy Vice-Chancellor (Research and Innovation) for handing in accordance with the Research Breach Investigation Procedure;
d. if the breach is serious and is intentional, reckless or negligent, make a finding of research misconduct and;

i. impose a penalty; or
ii. refer the misconduct to the Deputy Vice-Chancellor (Research and Innovation) to impose a penalty.

(54) In determining whether a breach of the Australian Code for the Responsible Conduct of Research is serious, the Dean of Graduate Research will take into account:

a. the extent of the departure from accepted practice;
b. the extent to which research participants, the wider community, animals and the environment are, or may have been, affected by the breach;
c. the extent to which the breach affects the trustworthiness of research;
d. the student's research experience;
e. any previous breaches by the student of the Code;
f. whether institutional failures may have contributed to the breach; and
g. any other mitigating or aggravating circumstances.

(55) The Dean of Graduate Research will give the student written notice of their decision, including:

a. reasons for the decision;
b. any findings of misconduct;
c. any penalty; and
d. any right to appeal the decision in accordance with clauses 85-91.

Part F - Non-Academic Misconduct

Notification of Non-Academic Misconduct

(56) Any person may make an allegation of non-academic misconduct against a student:

a. concerning any matter relating to student accommodation, by written notice to the Senior Manager, Student Living Support or their nominee, or to the Deputy Vice-Chancellor (Academic);
b. concerning all other matters, by written notice to the Deputy Vice-Chancellor (Academic).

Actions to be taken by the Deputy Vice-Chancellor (Academic) and Vice President

(57) Upon receipt of an allegation of non-academic misconduct, the Deputy Vice-Chancellor (Academic) may appoint an Assessment Officer to conduct a preliminary assessment and prepare a report.

(58) A preliminary assessment may involve, as appropriate:

a. assessing the seriousness of the allegation;
b. collating and reviewing any relevant documentary material;
c. having discussions with the complainant and any witnesses;
d. recommending an appropriate course of action to deal with the allegation.

(59) Upon receipt and review of the preliminary assessment report, the Deputy Vice-Chancellor (Academic):

a. may request the Assessment Officer to obtain further information relevant to the allegation; and
b. will consider any recommendations made by the Assessment Officer.

(60) Taking into account the information in the preliminary assessment report, including the seriousness of the

allegation and the availability of any supporting documentation, the Deputy Vice-Chancellor (Academic) will within 15 working days:

a. dismiss the allegation;
b. issue the student with a warning and/or direction;
c. issue the student with a notice of alleged misconduct (which may include a warning and/or direction); or
d. in instances where they have an actual, potential or perceived conflict of interests, refer the allegation to the Deputy Vice-Chancellor (Research and Innovation), who will exercise the functions of the Deputy Vice-Chancellor (Academic) prescribed in this Part.

(61) If the Deputy Vice-Chancellor (Academic) issues the student with a notice of alleged misconduct, the student:

a. will be given copies of or links to the supporting documentation and relevant University rules, policies, procedures, guidelines or the Student Code of Conduct;
b. will be invited to provide a written response within 10 working days, or any extended period approved by the Deputy Vice-Chancellor (Academic), in their absolute discretion; and
c. may be invited to participate in a restorative justice conference.

(62) If the student does not provide a written response within the required period and/or participate in a restorative justice conference, the Deputy Vice-Chancellor (Academic) will make a decision on the information available.

(63) If the student provides a written response within the required period, and/or participates in a restorative justice conference, the Deputy Vice-Chancellor (Academic) may:

a. make their own inquiries; or
b. refer the allegation for independent internal or external investigation, report and recommendations as appropriate.

(64) Any independent internal or external investigation must be conducted in accordance with the principles of procedural fairness prescribed in clauses 118-122.

(65) Taking into account all of the relevant information and any report or recommendations, the Deputy Vice-Chancellor (Academic) will within 15 working days of receipt of any report or recommendations:

a. determine whether the alleged facts are substantiated;
b. determine whether the alleged breaches of University rules, policies, procedures, guidelines or the Student Code of Conduct are substantiated; and
c. dismiss the allegation; or
d. make a finding of non-academic misconduct and impose a penalty.

(66) The Deputy Vice-Chancellor (Academic) will give the student written notice of their decision, including:

a. reasons for the decision;
b. any findings of misconduct;
c. any penalty; and
d. any right to appeal the decision in accordance with clauses 85-91.

Actions to be taken by the Senior Manager Student Living Support

(67) Within 15 working days of receipt of an allegation of non-academic misconduct, the Senior Manager, Student

Living Support will review the allegation and, taking into account the seriousness of the allegation and the availability of any supporting documentation may:

a. dismiss the allegation;
b. issue the student with a notice of alleged misconduct; or
c. in consultation with the Deputy Vice-Chancellor (Academic) refer the allegation to them for handling in accordance with clauses 57-66.

(68) If the Senior Manager, Student Living Support issues the student with a notice of alleged misconduct, the student:

a. will be given copies of or links to the supporting documentation and relevant University rules, policies, procedures, guidelines or the Student Code of Conduct;
b. will be invited to provide a written response within 10 working days, or any extended period approved by the Student Living Support Manager, in their absolute discretion;
c. may be invited to participate in a restorative justice conference.

(69) If the student does not provide a written response within the required period and/or participate in a restorative justice conference, the Senior Manager, Student Living Support will make a decision on the information available.

(70) If the student provides a written response within required period, and/or participates in a restorative justice conference, the Senior Manager, Student Living Support will consider the response and/or the outcomes of any restorative justice conference and, taking into account all of the relevant information, will within 15 working days:

a. determine whether the alleged facts are substantiated;
b. determine whether the alleged breaches of University rules, policies, procedures, guidelines or the Student Code of Conduct are substantiated; and
c. dismiss the allegation; or
d. make a finding of non-academic misconduct and impose a penalty; or
e. refer the allegation to the Deputy Vice-Chancellor (Academic) for a decision on penalty.

(71) The Senior Manager, Student Living Support will give the student written notice of their decision, including:

a. reasons for the decision;
b. any findings of misconduct;
c. any penalty; and
d. any right to appeal the decision in accordance with clauses 85-91.

(72) Any action taken by the University under clauses 57-71 will not affect the University's rights under any student occupancy agreement.

Part G - Immediate Suspension Pending Misconduct Proceedings

(73) Upon receiving, or at any time following receipt of, an allegation of student misconduct, the Vice-Chancellor, Deputy Vice-Chancellor (Academic) or Deputy Vice-Chancellor (Research and Innovation) ('the officer') may consider whether a student's actions, statements or behaviour pose any actual or potential risk to:

a. the health, safety or welfare of the student;
b. the health, safety or welfare of any staff member, other student or member of the University community;
c. property, facilities or premises; or
d. animals or the environment.

(74) If the officer determines that the student's conduct poses an actual or potential risk, they may immediately suspend the student on such terms and conditions as they consider necessary.

(75) A decision to immediately suspend a student may be taken summarily and the officer:

a. is not required to give the student a hearing before making their decision;
b. may inform themselves in relation to any matter in any manner that they consider appropriate.

(76) The officer will notify the student in writing of:

a. the reasons for the immediate suspension;
b. the length of the immediate suspension;
c. any relevant conditions, including whether the student will:
    i. be prohibited from attending specified University classes, activities, events, accommodation, facilities or premises;
    ii. have their access to University information and technology services limited or removed;
    iii. be prohibited from contacting any specified staff, students or other members of the University community; and
d. d. their right to request an internal review of the suspension.

(77) Any suspension imposed on a student in accordance with this section:

a. must initially be for a period of not longer than two months; and
b. may be extended by one or more further periods of not longer than one month, by giving written notice to the student in accordance with clause 76.

(78) Subject to clause 77, the officer may lift or vary the terms and conditions of the suspension at any time, in their absolute discretion, by giving written notice to the student in accordance with clause 76.

(79) The student will be given 20 working days to make a written request for internal review of the immediate suspension, or any extension or variation of the terms and conditions of the suspension.

(80) The suspension will be effective during the review period and while any review is being conducted.

(81) The review may be conducted by the Vice-Chancellor, Deputy Vice-Chancellor (Academic) or Deputy Vice-Chancellor (Research and Innovation), provided they did not make the original decision ('the review officer').

(82) The review officer will within 15 working days consider the application for review from the student and may:

a. lift or vary the terms and conditions of the immediate suspension;
b. confirm the period and terms and conditions of the immediate suspension; or
c. extend or vary the terms and conditions of the immediate suspension;

by giving written notice to the student.

(83) Any failure by the student to observe the terms and conditions of the immediate suspension will be treated as misconduct and may result in the imposition of a penalty in accordance with this Rule.

(84) Any action undertaken by the University under these clauses 73-84 will not affect the University's rights under any student occupancy agreement.

Part H - Appeals

Process

(85) A student may appeal against a finding of misconduct and a decision to impose a penalty in accordance with this Rule.

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

a. the finding of misconduct was:
    i. made in breach of the requirements of procedural fairness; or
    ii. made in breach of a material requirement of this Rule or the Research Breach Investigation Procedure, as relevant; or
b. new relevant information has become available that could not reasonably have been provided by the student earlier, and it is probable that this information would have affected the finding of misconduct and/or the penalty.

(87) An appeal against a decision to impose a penalty, or a specific penalty, alone will not be considered.

(88) Any appeal must:

a. be lodged in writing:
    i. for all students with a penalty less than a suspension, within 5 working days; and
    ii. for all students with a penalty of suspension, exclusion or expulsion, within 20 working days of the date of the written notice informing the student of the misconduct finding and any penalty;
b. clearly set out the grounds of appeal; and
c. attach all relevant supporting documentation.

(89) An appeal is to be made to an Appeal Officer, as follows:

Original Decision Maker	Appeal Officer
Student Academic Conduct Officer	Deputy Vice-Chancellor (Academic)
Senior Manager, Student Living Support	Deputy Vice-Chancellor (Academic)
Dean of Graduate Research	Deputy Vice-Chancellor (Research and Innovation)
Deputy Vice-Chancellor (Academic)	Vice-Chancellor
Deputy Vice-Chancellor (Research and Innovation)	Vice-Chancellor

(90) The Vice-Chancellor will from time to time appoint a panel of suitably qualified University officers to hear and determine appeals from decisions of the Deputy Vice-Chancellor (Academic) and Deputy Vice-Chancellor (Research and Innovation) (‘Student Appeals Panel’).

(91) Unless otherwise decided by theVice-Chancellor in their absolute discretion, appeals to the Vice-Chancellor will be heard and determined by a member of the Student Appeals Panel.

Appeal Outcome

(92) The Appeal Officer will commence assessment within 10 working days of receipt of an appeal made in accordance with this Part.

(93) Within 20 working days of receipt of an appeal made in accordance with this Part, the Appeal Officer will consider:

a. the information provided by the student in the appeal, including any written submissions;
b. all relevant material considered by the original decision-maker; and
c. any other relevant information;

and will uphold or dismiss the appeal.

(94) If the Appeal Officer dismisses the appeal, the finding of misconduct and the original penalty will stand.

(95) If the Appeal Officer upholds the appeal, they may, in their absolute discretion:

a. overturn the finding of misconduct and discharge the penalty; or
b. affirm the finding of misconduct and vary the penalty.

Decision is Final

(96) The Appeal Officer will give the student written notice of their decision, including:

a. the outcome of the appeal;
b. any penalty to be imposed in accordance with Part I;
c. reasons for the decision; and
d. the student's right to appeal to the NSW Ombudsman.

(97) The decision of the Appeal Officer is final and there is no further avenue of appeal within the University.

Part I - Penalties

General

(98) A penalty may be imposed on a student who has been found to have engaged in misconduct.

(99) Except where the Vice-Chancellor, Deputy Vice-Chancellor (Academic) or Deputy Vice-Chancellor (Research and Innovation) consider that there is an actual or potential risk to the health, safety or welfare of the student or other members of the University community, any decision to impose a penalty will not take effect until, relevantly:

a. the period for any appeal has expired; or
b. if the student lodges an appeal, the appeal has been heard and determined.

(100) Conditions may be included in the imposition of a penalty.

(101) The operation of any penalty may be suspended on such terms and conditions as the relevant decision-maker considers appropriate.

(102) When imposing a penalty for misconduct, the relevant decision-maker may take into account:

a. the nature, frequency and seriousness of the misconduct;
b. any previous record of misconduct by the student;
c. any previous warning and/or direction issued to a student in accordance with this Rule;
d. previous penalties imposed on a student for misconduct, including any penalty suspended in accordance with this Rule;
e. the timing of any admission by the student of the misconduct;

f. any relevant mitigating circumstances; and
g. any other relevant circumstances.

Academic Misconduct

(103) A Student Academic Conduct Officer may impose one or more of the following penalties for academic misconduct:

a. counsel, reprimand, caution or warn the student;
b. require the student to undertake counselling or training;
c. require the student to re-attempt the assessment;
d. require the student to complete a new assessment;
e. require the student to re-attempt the assessment with a capped mark;
f. require the student to complete a new assessment with a capped mark;
g. exclude any parts of the assessment, and refer the revised assessment to be marked on the basis of the work completed;
h. reduce the mark for the assessment;
i. award no marks to the student for the assessment.

(104) The Deputy Vice-Chancellor (Academic) may impose one or more of the following penalties for academic misconduct:

a. any penalty under clause 103;
b. require the student to undertake further academic work to complete a course;
c. award a fail grade in a course or courses;
d. suspend the student;
e. exclude the student;
f. expel the student;
g. recommend to the Council that the student's degree be revoked;
h. any other penalty considered appropriate.

Research Misconduct

(105) The Dean of Graduate Research may impose one or more of the following penalties for research misconduct:

a. counsel, reprimand, caution or warn the student;
b. require the student to undertake counselling or training;
c. require the student to apologise formally to any aggrieved party;
d. exclude any parts of the submitted work;
e. require the student to undertake further research work to complete their studies;
f. award a fail grade in a course or courses; and/or
g. any such other penalty considered appropriate, except the penalties prescribed in clause 106.

(106) The Deputy Vice-Chancellor (Research and Innovation) may impose one or more of the following penalties for research misconduct:

a. any penalty under clause 105;
b. terminate the student's research candidature;

c. suspend the student;
d. exclude the student
e. expel the student;
f. recommend to the Council that the student's degree be revoked;
g. any other penalty considered appropriate.

Non-Academic Misconduct

(107) The Senior Manager, Student Living Support may impose one or more of the following penalties for non-academic misconduct relating to student accommodation:

a. counsel, reprimand, caution or warn the student;
b. require the student to undertake counselling or training;
c. require the student to compensate University Student Living for any damage done to or theft of University property;
d. require the student to do community work in a University Student Living residential area;
e. impose a fine not exceeding $500;
f. require the student to apologise formally to any aggrieved party;
g. transfer the student to a different room within the University Student Living residential area;
h. temporarily or permanently remove student privileges, including:
    i. ability to host guests in a University Student Living residential area;
    ii. on-site alcohol ban; and
    iii. right to attend Residential Life events and activities.

(108) The Deputy Vice-Chancellor (Academic) may impose one or more of the following penalties for any non-academic misconduct:

a. any penalty under clause 107;
b. impose a fine not exceeding $1,000;
c. suspend the student;
d. exclude the student;
e. expel the student;
f. any other penalty considered appropriate.

(109) Any action undertaken by the University under clauses 107-108 will not affect the University's rights under any student occupancy agreement.

Vice-Chancellor

(110) The Vice-Chancellor may impose any of the penalties in clauses 103-109.

Effect of Penalties

(111) When a student is suspended, the suspension will be recorded on the student's academic record, and their rights, benefits and privileges will be terminated for a specified period of time. This may include:

a. suspension from attendance at lectures, seminars, tutorials, practical classes, supervisor meetings and other periods of instruction;
b. withdrawal of their right to use University premises or facilities; and

c. suspension from representing the University.

(112) When a student is excluded:

a. the exclusion will be recorded on the student's academic record;
b. their current enrolment in a course or program will be terminated for a specified period of time, and they will forfeit any fees paid for that enrolment period;
c. they will not be entitled to any benefits or privileges of being a student for the term of the exclusion;
d. their re-enrolment at the University will be subject to any conditions set by the decision-maker at the time of their exclusion; and
e. they may be prohibited from using or entering University premises or facilities.

(113) When a student is expelled:

a. the expulsion will be recorded on the student's academic record;
b. their current enrolment in a course or program will be terminated, and they will forfeit any fees paid for that enrolment period;
c. they will not be entitled to any benefits or privileges of being a student;
d. they will be permanently prohibited from using or entering University premises or facilities; and
e. they will be permanently prohibited from enrolling in any or graduating from any program at the University.

(114) When a student's degree is revoked:

a. the revocation will be recorded on the student's academic record;
b. the student is prohibited from representing that they hold the relevant award or qualification, and from using the award or qualification for any purpose.

Undischarged Penalties and Limits on Award

(115) While any penalty imposed under this Rule remains outstanding, unfulfilled or unpaid (as relevant), the student will not be permitted to:

a. access course or program results; or
b. enrol in any course or graduate from any program at the University.

(116) The University may withhold access to a student's academic record pending the outcome of an allegation of academic misconduct.

(117) A student cannot be qualified for an award while an allegation of student misconduct is being considered in accordance with this Rule.

Part J - Administration

Multiple misconduct types

(118) Where an allegation is made of more than one type of misconduct, the University will determine at its discretion whether it should be handled in accordance with one or more of Part D, Part E or Part F of this Rule.

Procedural fairness

(119) Students are entitled to procedural fairness in the management of student conduct matters, including any

appeal.

(120) Students will be given a reasonable opportunity to:

a. respond to allegations of concerning behaviour or misconduct in writing;
b. provide any relevant documentation; and
c. respond to any relevant information provided by the complainant or any witness.

(121) Students may, at the discretion of an Assessment Officer, investigator or decision-maker, also be invited to provide a verbal response.

(122) The University will conduct the processes prescribed in this Rule in an impartial manner, and all decision-makers will be free from bias and any conflict of interests.

(123) Students may be accompanied to any meeting by a support person, if they choose.

Confidentiality

(124) All actions taken in accordance with this Rule are confidential.

(125) Subject to clause 127, students are required to keep the following information confidential by not discussing, publishing or referring to it:

a. the fact that an allegation of misconduct has been made;
b. the identity of the complainant;
c. the identity of any witness;
d. any correspondence, notice or documents sent to the student on behalf of the University;
e. any correspondence or documents sent to the University by the student;
f. any decision made in accordance with this Rule; and
g. any penalty imposed in accordance with this Rule.

(126) A breach of confidentiality may constitute non-academic misconduct and be subject to a penalty in accordance with this Rule.

(127) A student may disclose a matter set out in clause 125, in the following limited circumstances:

a. the disclosure is required by law or any legally binding order of any court, government, semi-government authority, administrative or judicial body;
b. the disclosure is required by any accrediting body or professional association;
c. the disclosure is necessary in order for the student to exercise a legal right to seek an external review of a decision;
d. the disclosure is necessary for the student to obtain confidential legal advice;
e. the disclosure has been expressly authorised by the Vice-Chancellor in writing;
f. the disclosure is to a Student Advocate;
g. the disclosure is to the University's counselling service, or other registered counselling service, or Campus Care; or
h. the disclosure is to the student's immediate family or key support person, subject to those family members and/or key support person being advised by the student of the requirement to keep the information confidential.

(128) Subject to clauses 129-130, the University, the complainant, and witnesses are required to maintain confidentiality about:

a. the fact that an allegation of student misconduct has been made;
b. the identity of the student;
c. the identity of the complainant; and
d. any information, documents or materials provided by the University, the student, the complainant or a witness, in accordance with this Rule.

(129) The complainant or a witness may disclose a matter set out in clause 128 in the following limited circumstances:

a. the disclosure is required by law or legally binding order of any court, government, semi-government authority, administrative or judicial body;
b. the disclosure is necessary in order for the complainant, a witness or the University to respond to an external review of a decision;
c. the disclosure is necessary for the complainant, a witness or the University to obtain confidential legal advice; or
d. the disclosure has been expressly authorised by the Vice-Chancellor in writing.

(130) The University may disclose a matter set out in clause 128 in the following limited circumstances:

a. the disclosure is necessary for the purposes of managing alleged misconduct in accordance with this Rule;
b. the disclosure is necessary to ensure the health and safety of any person;
c. the disclosure is to the complainant or a witness, to inform them of the outcome of the alleged misconduct;
d. the disclosure is required by law or legally binding order of any court, government, semi-government authority, administrative or judicial body;
e. the disclosure is necessary in order for the University to respond to an external review of a decision;
f. the disclosure is necessary for the University to obtain confidential legal advice; or
g. the disclosure has been expressly authorised by the Vice-Chancellor in writing.

Conflict of Interests

(131) Where a decision-maker identifies that they have a conflict of interests, the alleged misconduct will be referred to another decision-maker as follows:

Original Decision Maker	Alternative Decision Maker
Student Academic Conduct Officer	A Student Academic Conduct Officer in another school.
Student Living Support Manager	Deputy Vice-Chancellor (Academic)
Dean of Graduate Research	College Pro Vice-Chancellor
Deputy Vice-Chancellor (Academic)	Deputy Vice-Chancellor (Research and Innovation) or Vice-Chancellor
Deputy Vice-Chancellor (Research and Innovation)	Deputy Vice-Chancellor (Academic) or Vice-Chancellor
Vice-Chancellor	Deputy Vice-Chancellor (Academic) or Deputy Vice-Chancellor (Research and Innovation)

(132) Where an alternative decision-maker identifies that they have a conflict of interests, or are otherwise unavailable, the alleged misconduct will be referred to another University officer of equivalent seniority.

Recording Outcomes

(133) All matters resulting in a finding of misconduct will be recorded in the University Records Management System (TRIM), including details of the decision and any penalty.

(134) The relevant decision-maker under this Rule will notify relevant staff of any decision (and if applicable, any penalty) as necessary, including:

a. the Course Co-ordinator or relevant Head of School for any penalty related to assessment or amendment of grades;
b. the Academic Division General Manager and Academic Registrar, for the purposes of recording the student misconduct on the student's academic record and amending the student's enrolment;
c. if the student is an international student and the penalty imposed could have consequences for the student's visa, the Senior Manager, Academic Governance & Compliance;
d. the Student Academic Conduct Officer and Dean of Graduate Research; and
e. the Vice-Chancellor.

(135) All hard-copy records and information stored in TRIM relating to misconduct findings and penalties will be destroyed after 14 years.

Reporting

(136) Depending on its nature, the University may contact the police or any other relevant external agency to report a student's alleged conduct.

(137) Action taken under this Rule does not preclude the University from instituting civil or criminal proceedings against a student or reporting the student to an external agency.

(138) The police or any other relevant external agencies may take action on the alleged misconduct separately from the University.

(139) The Deputy Vice-Chancellor (Academic) will report annually to the University Council on student misconduct matters.

Notification to Students

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

(141) Correspondence and notifications may also be served in writing when:

a. handed to the student in person;
b. sent by express, registered post or courier to the student's postal address as recorded in the University's student records system; or
c. left for the student at their last known address.

(142) Correspondence and notifications will be deemed to have been received by the student:

a. at the time of sending, if by email;
b. or when handed to the student in person;
c. or 5 working days after being posted to an address within Australia; or
d. 10 working days after being posted to an address outside Australia; or

e. 5 working days after being left for the student at their last known address.

Status and Details

Status	Historic
Effective Date	2nd July 2024
Review Date	2nd July 2027
Approval Authority	University Council
Approval Date	28th June 2024
Expiry Date	19th June 2025
Responsible Executive	Belinda Yourn Senior Deputy Vice-Chancellor (Academic & Global)
Enquiries Contact	John Radvan Senior Manager, Academic Governance & Compliance Office of the Senior Deputy Vice-Chancellor (Academic & Global)