

This regulation is made pursuant to Statute 4.1 – *Student Misconduct*.

## Purpose

1. The overarching obligation of all students is to act in the best interests of the University. The purpose of this regulation is to provide a framework for dealing with academic misconduct (including misconduct in research) by students. The University may make policies, procedures, rules and guidelines to give effect to this Regulation.

## Definitions

2. In this regulation:

**Academic Misconduct** means:

- (a) conduct by a Student that is designed or calculated to, or has the effect of, providing a misleading basis for admission, assessment or academic progress; and/or
- (b) conduct by a Student in connection with Research that is dishonest, reckless or negligent or seriously deviates from accepted standards within the scientific and scholarly community.

**Faculty Committee** means a committee established by the faculty board of each faculty for purposes which include investigating, hearing and determining matters of Academic Misconduct in accordance with this regulation.

**Research** means work undertaken by a Student for the purposes of producing their own or someone else's:

- (a) thesis for a graduate or postgraduate degree;
- (b) research paper or report intended for publication or communication to a person or body outside the University.

**Schedule of Penalties** means the schedule of penalties applicable to acts of Academic Misconduct that is located in the University's policies, procedures or rules made pursuant to this Regulation.

**Student** includes:

- (a) a person enrolled in a course or unit in the University pursuant to Statute 5.1 – Admission Selection and Enrolment;
- (b) a student of another higher education institution to whom Deakin grants rights of access to University Premises and facilities;
- (c) a candidate for an award of the University whose work has been examined or assessed but on whom the award has not been conferred;
- (d) a person who was a student at the time the alleged conduct occurred;
- (e) a person who is on leave of absence from or who has deferred enrolment in a unit or course of the University;
- (f) a person designated as a student by Council.

**University Appeals Committee** means a Committee established by the Academic Board for purposes which include hearing and determining appeals in relation to findings of Academic Misconduct.

**University Premises** means any campus of the University or any property owned or occupied by the University, and includes any property or precincts or institution occupied or used by one or more Students in the course of or in relation to academic or practical work forming part of a course of study at the University.

### **Examples of Academic Misconduct**

3. Academic Misconduct includes but is not limited to:
- (a) passing off the work of any other person as the Student's own work;
  - (b) impersonating any other person in, or for the purpose of, any examination, essay, assignment, course requirement or any other work relevant to assessment or allowing impersonation by another person for those purposes;
  - (c) failing to comply with the University's directions given in connection with any examination or assessment, including having, possessing, accessing or using unauthorised material in the examination or assessment, whether or not with the intention of using the material to obtain an advantage;
  - (d) obtaining from, or giving to, any other person during any examination, or other assessment any information relating to that examination or other assessment or any part of it without the approval of the supervisor of that examination or other assessment;
  - (e) undertaking an examination in breach of the conditions set down by the University for the supervision and conduct of the examination;
  - (f) fabrication and falsification related to proposing, conducting or reporting Research;
  - (g) breaching the University's Code of Good Practice in Research Procedure;
  - (h) providing false information or fraudulent documentation including academic transcripts or medical certificates.

### **Reporting Academic Misconduct**

4. A member of the University staff who has reasonable grounds to believe that an act of Academic Misconduct has been committed by a Student must promptly report the matter to the Chair of the relevant Faculty Committee.
5. A Student who has reasonable grounds to believe that an act of Academic Misconduct has been committed by another Student may report the matter to the Chair of the relevant Faculty Committee.
6. A report made under sections 4 or 5 is an allegation of Academic Misconduct under this regulation.

### **Investigation**

7. If the Chair of the Faculty Committee is of the view that an allegation of Academic Misconduct has no merit, the Chair may dismiss the allegation.
8. If after receiving an allegation of Academic Misconduct the Chair of the Faculty Committee is of the view that Academic Misconduct may have occurred, the Chair must:
- (a) where the allegation relates to Academic Misconduct for an academic task representing 10% or less of the total marks for a unit, appoint a single member of the Faculty Committee;
  - (b) where the allegation relates to Academic Misconduct for an academic task representing more than 10% of the total marks for a unit, or where there is more than one allegation relating to academic tasks in one or more units, convene a full Faculty Committee,

to investigate, hear and determine in accordance with this regulation the allegation of Academic Misconduct.

9. No member of the Faculty Committee may be appointed under section 8 if they have been in anyway involved in or associated with, or alleged to have been involved in or associated with, the circumstances relating to the allegation of Academic Misconduct, or if they have, or have in the past had, a close association with the Student the subject of the allegation or the Student who made the allegation of Academic Misconduct under section 5.
10. Where a Faculty Committee is convened under section 8(b), the membership of the Committee must remain the same throughout the hearing of the matter notwithstanding any adjournment of the hearing. A quorum for a full Faculty Committee shall be any three members.
11. An investigation into an allegation of Academic Misconduct by a Faculty Committee under either section 8(a) or 8(b) must be carried out in accordance with the following rules:
  - (a) the investigation must be carried out expeditiously with as little formality and technicality as possible;
  - (b) Committee members:
    - (i) must act fairly and impartially;
    - (ii) must treat all information gathered in the course of the investigation as confidential;
    - (iii) must make all enquires they believe to be relevant, including seeking information or material from the Student the subject of the allegation, the person who reported the matter under sections 4 or 5, and other witnesses; and
    - (iv) are not bound by legal rules of evidence and may inform themselves as the Committee thinks fit.
  - (c) the Student must be provided with adequate particulars of all allegations and any information or material relied on by the Committee;
  - (d) the Student must be given a reasonable opportunity to be heard either orally or in writing or both;
  - (e) the Committee can at any time co-opt persons onto the Committee or to advise it in any way that it considers appropriate.
12. If an oral hearing is conducted, the Student the subject of the allegation is entitled to be accompanied by a person of their choice, provided that the person is not a practising lawyer. The University is not entitled to be legally represented.

## **Decision**

13. When an investigation is complete a decision must be made on the balance of probabilities (ie it is more probable than not) that the allegation of Academic Misconduct is either proved or not proved.
14. A decision by a Faculty Committee convened under section 8(b) is to be made by simple majority.
15. A decision that an allegation of Academic Misconduct is not proved must be advised in writing to each of the following within 5 working days of that decision being made:
  - (a) the Student the subject of the allegation;
  - (b) the person who reported the Academic Misconduct;
  - (c) the Chair of the Academic Board.

16. If a single member of the Faculty Committee convened under section 8(a) or a full Faculty Committee convened under section 8(b) reach a decision that an allegation of Academic Misconduct has been proved they:
  - (a) may impose one or more of the penalties within their powers, listed in the Schedule of Penalties;
  - (b) may make appropriate recommendations to the Student the subject of the proved allegation, for example the benefit of attending counselling;
  - (c) may, in lieu of a penalty, allow the Student the subject of the proved allegation to undertake a specified number of hours of voluntary University service work.
17. Within 5 working days of a decision that Academic Misconduct has been proved the Student must be informed in writing of:
  - (a) the decision, the penalty imposed and any other recommendations;
  - (b) the reasons for the decision, including the findings on material facts; and
  - (c) their right to appeal and the body to whom and the time within which an appeal may be made.

## **Appeals**

18. A Student the subject of an adverse decision may appeal:
  - (a) a decision of a single member of a Faculty Committee that an allegation of Academic Misconduct has been proved, and/or the penalty imposed by that member, to a full Faculty Committee;
  - (b) a decision of a full Faculty Committee that an allegation of Academic Misconduct has been proved, and/or the penalty imposed by the Committee, to the University Appeals Committee.
19. The Student the subject of the decision must lodge a written notice of appeal which sets out the grounds of appeal, with the Chair of the Committee to which they seek to appeal within 7 working days of the day the decision was notified to them.
20. An appeal may only be made on one or more of the following grounds:
  - (a) there is new evidence which was not available or not known to the Student the subject of the decision at the time the allegation was initially investigated;
  - (b) the penalty imposed was too severe;
  - (c) there was a misapplication of procedures resulting in some disadvantage to the Student the subject of the decision;
  - (d) the decision is unreasonable in all the circumstances or cannot be supported by the evidence that was available at the time the decision was made;
  - (e) relevant evidence was not considered or irrelevant evidence was relied on in reaching the decision;
  - (f) there was bias on the part of the Faculty Committee.
21. The Chair of the relevant appeal Committee must consider the notice of appeal and any other relevant papers, and may dismiss the appeal if the Chair considers it to be lacking in substance. If an appeal is not dismissed it must proceed to a hearing in accordance with this regulation.
22. If an appeal is dismissed under section 21, the Chair must notify the Student as soon as practicable. A decision by a Chair of an appeal Committee to dismiss an appeal is final.

23. The membership of the Committee convened to hear an appeal must remain the same throughout the hearing of the matter notwithstanding any adjournment. A quorum for each meeting of the Committee will be any three members.
  24. No member of the Committee may be appointed to hear an appeal if they have been in anyway involved in or associated with, or alleged to have been involved in or associated with, circumstances relating to the allegation of Academic Misconduct or its initial investigation, or if they have, or have in the past had, a close association with the Student the subject of the allegation or the Student who made the allegation under section 5.
  25. A Student making an appeal is entitled to receive at least 10 working days' notice of the hearing of the appeal.
  26. Appeals must be conducted as follows:
    - (a) expeditiously with as little formality and technicality as possible;
    - (b) members of the Committee conducting the appeal:
      - (i) must act fairly and impartially;
      - (ii) must treat all information gathered in the course of the investigation as confidential;
      - (iii) are not bound by the legal rules of evidence and may inform themselves as the Committee thinks fit;
    - (c) the Student appealing the decision must be given an opportunity to be heard orally or in writing or both;
    - (d) the Student appealing the decision bears the onus of establishing one or more grounds of appeal on a balance of probabilities (ie that it is more probable than not).
  27. If an oral hearing is conducted the Student appealing and the University are entitled to be legally represented.
  28. If the Faculty Committee or the University Appeals Committee determines that the grounds of appeal relied upon by the Student appealing have not been established, the appeal must be dismissed.
  29. If the Committee hearing the appeal determines that one or more grounds of appeal have been established:
    - (a) where the only successful ground of appeal is excessive penalty, they may vary the penalty; and
    - (b) in all other cases, they must rehear the matter in whole or in part as the case requires and such rehearing must be conducted in accordance with sections 11 and 26.
  30. If the matter is reheard under section 29(b) the Committee may:
    - (a) uphold, vary or set aside the original decision;
    - (b) uphold, vary or set aside the original penalty.
  31. When the Committee has reached a decision on appeal (or any rehearing under section 29(b)) the Chair must inform the Student appealing in writing of that decision within 5 working days of that decision being made.
  32. A decision of the Faculty Committee on appeal from a decision of a single member of the Faculty Committee (or any rehearing under section 29(b)) is final and binding.
  33. A decision of the University Appeals Committee on appeal from a decision of the Faculty Committee (or any rehearing under section 29(b)) is final and binding.
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## **Recording a Decision**

34. All findings of Academic Misconduct, the penalties imposed and any recommendations made and undertakings given by the Student to perform voluntary University service must be reported in writing to the Academic Board.
35. The University will maintain a central database of Academic Misconduct matters.

Approved by Council on 24 February 2011.