



Student Academic Misconduct procedure

This document is pursuant to the [Regulation 4.1\(2\) Academic Misconduct](#)

This procedure came into effect on 14 November 2011 and applies to Academic Misconduct matters rising on and from that date.

DEFINITIONS

Terms used in this procedure have the same meaning given to them in [Regulation 4.1\(2\)](#).

PROCEDURE

Chair of the Relevant Faculty Committee

- 1 The Chair of the relevant Faculty Committee to whom an allegation of Academic Misconduct has been made under [Regulation 4.1\(2\) Academic Misconduct](#) may dismiss an allegation of Academic Misconduct if they form the view that the allegation has no merit.
- 2 Circumstances where the Chair of the Faculty Committee may dismiss an allegation of Academic Misconduct on the basis that it has no merit include (but are not limited to):
 - 2.1 where, in the opinion of the Chair, the allegation is frivolous, vexatious, misconceived, lacks substance, or is otherwise an abuse of the processes of the University
 - 2.2 where the allegation is made without there existing reasonable grounds for belief that there has been an act of Academic Misconduct
 - 2.3 where the allegation, even if proved, would not comprise Academic Misconduct
 - 2.4 where the person against whom the allegation is made is not a Student.
- 3 The Chair of the Faculty Committee must provide written notification to the person reporting the allegation of Academic Misconduct of any dismissal of the allegation including a brief statement of the reasons for that dismissal. Such notification must be provided within five (5) working days of the Chair dismissing the allegation.
- 4 If the allegation is not dismissed the Chair of the Faculty Committee must appoint a person or persons to investigate, hear and determine the allegation of Academic Misconduct. The Chair will appoint either:
 - 4.1 a single member of the Faculty Committee where Section 8(a) of the Regulation applies, or
 - 4.2 a full Faculty Committee comprising no less than three members where Section 8(b) of the Regulation applies. Where a full Faculty Committee is appointed, the Chair of the Faculty Committee must nominate a Chairperson (the Panel Chair) for the purposes of dealing with the particular allegation of Academic Misconduct under [Regulation 4.1\(2\)](#) and this procedure.
- 5 A decision by the Chair of the Faculty Committee to proceed with an investigation, hearing and determination:

- 5.1 is not in any way to be taken as supporting any conclusion that Academic Misconduct has occurred or is proved for the purposes of [Regulation 4.1\(2\)](#)
- 5.2 is to be disregarded by the the Faculty Committee appointed for the purposes of [Regulation 4.1\(2\)](#)
- 5.3 does not preclude the Chair of the Faculty Committee comprising or being a member of the Faculty Committee or being the Panel Chair for the purposes of [Regulation 4.1\(2\)](#) or this procedure on the basis of a conflict of interest or otherwise.

Investigation, Hearing and Decision: General

- 6** In performing any functions under [Regulation 4.1\(2\)](#) or this procedure, and in addition to any requirements of the Regulation, members of the Faculty Committee must:
 - 6.1 act in the best interests of the University
 - 6.2 avoid any actual or perceived conflict of interest
 - 6.3 stand down from any appointment under section 8 of the Regulation if any actual or perceived conflict of interest arises in the course of performing functions under the Regulation or this procedure.
- 7** Without limiting the previous clause, the members of the Faculty Committee appointed under section 8 of [Regulation 4.1\(2\)](#) must, with a view to avoiding conflict of interest, immediately stand down from an appointment if:
 - 7.1 they have in any way been involved in or associated with (or alleged to have been involved in or associated with) the circumstances relating to the relevant allegation of Academic Misconduct
 - 7.2 they have, or have in the past had, a close association with:
 - 7.2.1 the Student who is the subject of the allegation of Academic Misconduct, or
 - 7.2.2 any person who made the allegation of Academic Misconduct, or
 - 7.2.3 a close relative of either.
- 8** Any allegation against a member of the Faculty Committee that there exists an actual or perceived conflict of interest must be considered by the Chair of the relevant Faculty Committee or, if it relates to the Chair of the Faculty Committee, by a full Faculty Committee with the exception of the Chair of the relevant Faculty Committee. A determination must be made by the Chair of the relevant Faculty Committee or the full Faculty Committee (with the exception of the Chair) as to any appropriate action to be taken in all the circumstances. Actions to be taken may include standing down the member of the Faculty Committee in relation to the consideration of the allegation of Academic Misconduct in question.
- 9** A person who stands down or is stood down from an appointment is not precluded from giving evidence or providing information relevant to an investigation of an allegation of Academic Misconduct.

Investigation

- 10** Any investigation carried out by a Faculty Committee into an allegation of Academic Misconduct must be carried out in accordance with section 11 of [Regulation 4.1\(2\)](#).
- 11** Without limiting the generality of the previous clause, a Faculty Committee may co-opt any person or persons (whether from within or outside the University) to assist it in conducting any investigation. This may include assistance with the following matters:
- making all enquires believed to be relevant
 - seeking information or material from the Student who is the subject of the allegation, the person who reported the matter under sections 4 or 5 of [Regulation 4.1\(2\)](#), and other witnesses.
- 12** The nature and scope of the investigation will be determined by all relevant circumstances including the nature and seriousness of the allegation of Academic Misconduct.
- 13** Information or material will be relevant to an investigation if it tends logically to prove or disprove the allegation of Academic Misconduct.
- 14** Having conducted all relevant enquiries and having obtained all relevant information or material, the Faculty Committee must provide the following information in writing to the Student who is the subject of any allegation of Academic Misconduct ("notice") at least 10 working days prior to the date of the hearing:
- 14.1 an adequate statement of particulars of all allegations of Academic Misconduct
- 14.2 a statement informing the Student that a hearing will be held by the Faculty Committee at which the Student will be given an opportunity to be heard orally and/or by way of written submission, and the date, time and location of the hearing
- 14.3 any evidence relied upon by the Faculty Committee in relation to allegations of Academic Misconduct, including a list of any witnesses to be called
- 14.4 a statement that the Student may make a written submission to the Faculty Committee and the date by which that should be done
- 14.5 a statement that the Student may make a written submission to the Faculty Committee and the date by which that should be done
- 14.6 a statement informing the Student that he or she may call witnesses to provide evidence at the hearing, or apply to the Faculty Committee to have that body require a person to attend as a witness, and question any witnesses produced by the Faculty Committee to give evidence;
- 14.7 a copy of, or internet addresses for [Regulation 4.1\(2\) Academic Misconduct](#) and this procedure, including [Schedule A: Penalties for Student Academic Misconduct](#).

Hearing

- 15** Hearings of the Faculty Committee must be conducted in accordance with [Regulation 4.1\(2\)](#) and this procedure.

- 16** The Student who is the subject of the allegation of Academic Misconduct must be given a reasonable opportunity to be heard orally or in writing or both.
- 17** If the Student agrees or requests, the Student may be heard by way of written submission only (and not orally).
- 18** If the Student who is the subject of the allegation of Academic Misconduct attends the hearing the Student is entitled to be accompanied by a person of their choice, provided that the person is not a practising lawyer. Where the Student is to be heard by way of an oral submission, the Faculty Committee may permit the accompanying person to speak on behalf of the Student. Neither the Student nor the University is entitled to be legally represented.
- 19** Subject to this procedure a hearing is confidential and must be conducted in private. The University may record the hearing.
- 20** Subject to this procedure, the Faculty Committee may co-opt any person or persons (whether from within or outside the University) to assist it in conducting a hearing. This may include assistance with calling or cross-examining witnesses, presenting evidence in relation to the allegation of Academic Misconduct, or other aspects of the hearing.
- 21** The Student and the Faculty Committee may call witnesses and question them. The Student may apply to the Faculty Committee to have that body require a person attend as a witness for the purposes of examination and/or cross-examination. Witnesses must not be present at a hearing except when giving evidence and must respect and adhere to the confidentiality of the hearing. The Student may be questioned by the Faculty Committee.
- 22** A hearing may be adjourned by the Faculty Committee at any time, but the same Faculty Committee must be reconvened to continue the hearing as soon as reasonably practicable.
- 23** If the Student does not provide any written submissions and does not appear at any hearing, the hearing must be conducted in the Student's absence on the basis that the Student does not admit the allegation of Academic Misconduct.

Decision

- 24** If the Student admits to the allegation of Academic Misconduct in any written submission or in person, the Faculty Committee must record a finding that the allegation has been proved. In such a case, the Faculty Committee must consider the Student's written submission and any other evidence or information presented by or on behalf of the Student in mitigation of, or having a bearing on, any penalty imposed or other action taken by the Faculty Committee.
- 25** Once an investigation and hearing have been completed a decision must be made on the balance of probabilities (on the basis that it is more probable than not) that the allegation of Academic Misconduct is either proved or not proved.
- 26** Although the Faculty Committee may do so, it is not bound to make a decision at the time of the hearing. If a decision is not made at the time of the hearing, the Faculty Committee must make a decision as soon as reasonably practicable after the conclusion of the hearing.
- 27** Any decision of the Faculty Committee must be reached in private. A decision in relation to a hearing by a full Faculty Committee must be reached by a simple majority with the Panel Chair having a casting vote.

- 28** In accordance with section 15 of [Regulation 4.1\(2\)](#), a decision that an allegation of Academic Misconduct is not proved must be advised in writing to the Student who is the subject of the allegation, the person who reported the matter, and the Chair of the Academic Board. Notification must be provided within five (5) working days of the decision being made.
- 29** If a decision is made that an allegation of Academic Misconduct is proved the Faculty Committee may do one or more of the following:
- 29.1 impose one or more of the penalties within their power set out in [Schedule A: Penalties for Student Academic Misconduct](#) appearing at the end of this procedure, and/or
- 29.2 make appropriate recommendations to the Student who is the subject of the proved allegation (for e.g. to attend counselling), and/or
- 29.3 in lieu of a penalty, allow the Student who is the subject of the proved allegation to undertake a specified number of hours of voluntary University service work.
- 30** If a decision is made that an allegation of Academic Misconduct is proved the Faculty Committee must within five (5) working days of that decision inform the Student in writing of:
- 30.1 the decision, the penalty imposed and any other recommendations and any opportunity for voluntary University service work to be undertaken in lieu of a penalty;
- 30.2 the reasons for the decision, including the findings on material facts
- 30.3 the right to appeal the decision and/or penalty and the body to whom and the time within which an appeal may be made.
- 31** The Faculty Committee will report its decisions to the Faculty Board, including any penalties imposed, any recommendations by the Faculty Committee, and any undertakings by the Student to perform University service.
- 32** The Faculty Board will report on decisions of the Faculty Committees to the Academic Board.

Appeals

- 33** An appeal against a decision adverse to a Student that an allegation of Academic Misconduct has been proved and/or against the penalty imposed may be heard by a relevant appeal committee ("appeal committee") being:
- 33.1 in the case of a decision made or penalty imposed by a single member of the Faculty Committee, a full Faculty Committee
- 33.2 in the case of a decision made or penalty imposed by a full Faculty Committee, the University Appeals Committee.
- 34** An appeal must be made within seven (7) working days from the date when the decision or penalty was notified or could reasonably have been expected to have been notified to the Student concerned.
- 35** An appeal may not be made on any grounds other than the grounds set out in section 20 of [Regulation 4.1\(2\)](#). An appeal is commenced by the Student lodging all of the following documents with the Chair of the appropriate appeal committee:

- 35.1 a written notice of appeal setting out the ground or grounds under Section 20 of the Regulation on which the appeal is made
- 35.2 a written submission detailing the substance of the appeal
- 35.3 any documentation or other material supporting the ground or grounds of appeal.
- 36** The Chair of the appeal committee must consider the notice of appeal and must decide whether the appeal should be dismissed on the basis that it is lacking in substance. A decision to dismiss an appeal must be notified to the Student within ten (10) working days of the formal lodgment of the appeal. A decision by the Chair to dismiss an appeal is final and binding.
- 37** If an appeal is not dismissed by the Chair, it must be heard in accordance with [Regulation 4.1\(2\)](#) and this procedure.
- 38** Without limiting [Regulation 4.1\(2\)](#), a member of the relevant appeal committee must, with a view to avoiding conflict of interest, immediately stand down for the duration of the appeal if:
 - 38.1 they have in any way been involved in or associated with (or alleged to have been involved in or associated with) the circumstances relating to the relevant allegation of Academic Misconduct
 - 38.2 they have, or have in the past had, a close association with:
 - 38.2.1 the Student who is the subject of the allegation of Academic Misconduct, or
 - 38.2.2 any person who made the allegation of Academic Misconduct, or
 - 38.2.3 a close relative of either.
- 39** Any allegation against a member of the appeal committee that there exists an actual or perceived conflict of interest must be considered by the Chair of the appeal committee or, if it relates to the Chair, by the full appeal committee with the exception of the Chair, and a determination made as to any appropriate action to be taken in all the circumstances which can include being stood down from the appeal committee in relation to the consideration of the appeal.
- 40** A person who stands down or is stood down from an appointment is not precluded from giving evidence or providing information relevant to an appeal.
- 41** The appeal must be heard as soon as practicable after receipt of notice of appeal. The Student must be given at least ten (10) working days notice of the time, date and location of the hearing of the appeal.
- 42** The Student making the appeal must be given a reasonable opportunity to be heard orally or in writing or both.
- 43** If the Student making the appeal is to appear at the hearing, the Student and the University are entitled to be legally represented or represented by any other person. Subject to this procedure, the appeal committee may co-opt any person or persons (whether from within or outside the University) to assist it in conducting an appeal.
- 44** If the Student appealing the decision does not appear at the hearing, the appeal will be conducted on the basis of any written submission detailing the substance of the appeal and any documentation or other material supporting the ground or grounds of appeal submitted by the Student and any other information obtained

by the appeal committee in accordance with [Regulation 4.1\(2\)](#).

- 45** The Student appealing the decision bears the onus of establishing one or more grounds of appeal on the balance of probabilities (on the basis that it is more probable than not).
- 46** Subject to [Regulation 4.1\(2\)](#) and this procedure a hearing on appeal is confidential and must be conducted in private. The University may record the hearing.
- 47** Any decision of the appeal committee must be reached in private. A decision in relation to an appeal must be reached by a simple majority with the Chair having a casting vote.
- 48** Although the appeal committee may do so, it is not bound to make a decision in relation to the appeal at the time of the hearing. If a decision is not made at the time of the hearing, the appeal committee must make a decision as soon as reasonably practicable after the conclusion of the hearing.
- 49** The appeal committee may take one of the following actions, in accordance with sections 28-30 of [Regulation 4.1\(2\)](#):
- 49.1 dismiss the appeal, or
- 49.2 vary the penalty, or
- 49.3 wholly or partly rehear the matter (in accordance with sections 11 and 26 of the Regulation and this procedure).
- 50** If the matter is wholly or partly reheard, the appeal committee may take one of the following actions:
- 50.1 uphold, vary or set aside the original decision, or
- 50.2 uphold, vary or set aside the original penalty.
- 51** Any decision by the relevant appeal committee on appeal or on rehearing is final and binding.
- 52** The Chair of the appeal committee must provide written notification of the decision of the appeal committee to:
- 52.1 the Student, together with a statement of the reasons for the decision, within five (5) working days of the decision
- 52.2 the Faculty Committee
- 52.3 the Executive Director, Deakin International (if the Student is an international student and a penalty is imposed which may affect the Student's enrolment).
- 53** The appeal committee will report on its decisions with appropriate frequency to the Academic Board.
- 54** Nothing in this procedure is intended to preclude a Student from exercising any legal right they may have to external review of a decision.

Records

- 55** The University will maintain a central database of Academic Misconduct matters.

- 56** The Chair of the Faculty Committee and the Chair of any relevant Appeal Committee must provide to the Records Unit all documents and other records (including audio or audiovisual recordings of hearings) associated with the investigation, hearing and determination of any proceedings in relation to an allegation of Academic Misconduct, including any appeals, as soon as practicable after the conclusion of those proceedings and the expiration of any relevant appeal period.

Form of Notification

- 57** Where the University is required to give notice to a person of a matter arising out of [Regulation 4.1\(2\)](#) or this procedure, unless otherwise specified, that notice will be deemed to have been given if it is in writing and it is:
- 57.1 hand delivered to the person
 - 57.2 delivered by courier to the person at the address provided by that person and recorded by the University as being their current residential address
 - 57.3 posted by registered or express post to the person at the address provided by that person and recorded by the University as being their address for correspondence, or
 - 57.4 if the person has an allocated university email address, emailed to that address.

RESPONSIBLE OFFICER

The Chair of Academic Board is responsible for the development, compliance monitoring and review of this procedure.

IMPLEMENTATION OFFICER

The University Solicitor is responsible for the promulgation and implementation of this procedure throughout the University.

Schedule A: Penalties for Student Academic Misconduct

Penalty	Single Member Faculty Committee	Full Faculty Committee
Allocate a zero mark or result or other appropriate mark or result for the assessment task or the Unit	✓	✓
Suspend from a Unit or a Course ¹	✓ (for up to 2 weeks)	✓ (for up to 4 Study Periods ²)
Exclude from the University ^{3 4}		✓
Restrict or deny access to a facility (e.g. IT, library)	✓	✓
Impose a fine	✓ (up to \$500)	✓ (up to \$1,000)
Pay the cost of investigating the misconduct	✓	✓
Require the Student to refrain from contact with specified person/s	✓	✓
Require an apology	✓	✓
Reprimand and caution the Student	✓	✓
Require resubmission of one or more assessment tasks	✓	✓
Require a Student to undertake alternative assessment for the Unit on terms determined by the SMC		✓
Terminate candidature		✓
Degree not be awarded		✓

¹ If a Student is suspended from a Unit or a Course they remain enrolled as a Student but are precluded from pursuing the relevant Course or Unit for a specified period.

² 'Study Period' for the purposes of this Schedule A has the meaning given to it in [Regulation 5.2\(2\)](#).

³ If a Student is excluded from the University they cease to be a Student of the University. However, for the purposes of this procedure, such a person remains a Student pending:

- i. expiration of the time allowed for lodging an appeal
- ii. where a notice of appeal is lodged, until the appeal process is finalised.

⁴ Students who have been excluded may apply to have their student fees refunded in accordance with the University's policies and procedures dealing with fee refunds.