

DEAKIN UNIVERSITY

ACADEMIC BOARD

FACULTY ACADEMIC PROGRESS AND DISCIPLINE COMMITTEE AND FACULTY COMMITTEE STUDENT HEARINGS: RULES OF PROCEDURE

These rules of procedure are made pursuant to:

- Regulation 4.1(1) *Student Discipline*
- Regulation 5.3(1) *Assessment and Academic Progress In Higher Education Award Courses*
- *Academic Progress* operational policy

MEMBERSHIP

1. Each Faculty Board shall establish:
 - (a) a Faculty Academic Progress and Discipline Committee (FAPDC) to conduct proceedings pursuant to student discipline
 - (b) a Faculty Committee (FC) to conduct proceedings pursuant to academic progress.
2. An FAPDC may conduct proceedings:
 - (a) to make an initial determination on a matter of academic misconduct.
 - (b) to hear an appeal against the decision of an Assessment Panel in a matter of alleged academic misconduct in less than 10% of the total assessment in a unit.
3. An FC may conduct proceedings:
 - (a) to make an initial determination on a student showing cause as to why a proposed decision of an FC, regarding unsatisfactory progress or inability to complete course requirements, should not be implemented
 - (b) to make an initial determination as to whether to accept a late show cause submission
 - (c) when an Academic Appeals Committee has upheld an appeal against the refusal of the FC to accept a late show cause submission
 - (d) to reconsider a proposal of the FC or Academic Appeals Committee to exclude a student who has failed to meet a restriction or prescription on the basis of exceptional circumstances.
- 3.1. In accordance with Regulation 5.3(1), the FC may delegate to a Subcommittee (the Subcommittee), the power to conduct proceedings dealing with unsatisfactory academic progress matters.
4. The FC and the Subcommittee shall be constituted in accordance with Regulation 5.3(1). The FAPDC shall be constituted in accordance with Regulation 4.1.
- 4.1. Three (3) members shall form a quorum.
- 4.2. The FAPDC and FC shall be chaired by the Dean or the Dean's nominee.
- 4.3. The Subcommittee shall be chaired by a person appointed by the FC.
5. Members of the FC or Subcommittee hearing matters of unsatisfactory academic progress and members of the FAPDC hearing matters of alleged academic misconduct must act in the best interests of the University and must not represent any constituent group.
6. The FAPDC, FC or Subcommittee must be an unbiased and disinterested decision-maker. Any actual or perceived conflict of interest that may arise in the conduct of any hearing of the FAPDC, FC or Subcommittee involving one or more of the members must be considered by the Chair or, if it relates to the Chair, it must be considered by the full committee or subcommittee. The decision or the appropriate action to be taken should be based on the particular circumstances being

considered at that time.

7. A member of the FAPDC, FC or Subcommittee must stand down from the committee or subcommittee for the duration of the hearing if he or she has any intimate knowledge of the matter being heard or close association with the student concerned.
8. All members of an FAPDC, FC or Subcommittee should be familiar with the University's equity and equal opportunity policies.

PROCEEDINGS: GENERAL

9. All proceedings of the FAPDC, FC or Subcommittee are confidential.
 - 9.1. All persons involved in FAPDC, FC or Subcommittee hearings shall comply with and are bound by the provisions of the *Information Privacy Act 2000* (Vic) and the *Health Records Act 2001* (Vic) and their respective Information Privacy Principles and Health Privacy Principles.
 - 9.2. All persons involved in FAPDC, FC or Subcommittee hearings shall comply with Deakin University's Information Privacy policy and procedure.
10. Proceedings of the FAPDC, FC or Subcommittee must be conducted in accordance with the principles of natural justice. The student and the University must be given a reasonable opportunity to present their cases.
11. Neither the FAPDC, FC or Subcommittee is bound by the rules of evidence and may inform itself as it thinks fit.
12. The Chair of the FAPDC, FC or Subcommittee hearing a matter shall determine and direct the conduct of the proceedings in accordance with these rules of procedure.
13. The student must be given the opportunity to appear in person before the FAPDC, FC or Subcommittee.
14. The student may be accompanied by a person of their choice provided that the person is not a practicing lawyer. No legal representation is permitted for either party. The FAPDC, FC or Subcommittee may permit the accompanying person to speak on behalf of the student if the need arises.
15. Witnesses must not be present at a hearing except when giving evidence.
16. The FAPDC, FC or Subcommittee may adjourn a hearing at any time, but the same FAPDC, FC or Subcommittee must continue to hear and consider the case at a later time.
17. Neither the FAPDC, FC or Subcommittee is bound to make a decision at the time of a hearing and may take any additional time it requires to consider its decision.
18. A decision of an FAPDC, FC or Subcommittee hearing shall be reached in private, by simple majority with the Chair having the casting vote.
19. Once a decision on the facts and penalty, if any, has been reached the student (and the staff member referring an allegation of academic misconduct for hearing, if appropriate) shall be informed as soon as practicable. In all circumstances the final decision shall be notified to the student (and the staff member referring an allegation of academic misconduct for hearing, if appropriate) in writing within five (5) working days of the completion of the decision being made.
 - 19.1. The FAPDC, FC or Subcommittee must inform the student that the decision can be appealed to the Academic Appeals Committee.

INITIAL DETERMINATION ON A MATTER OF ALLEGED ACADEMIC MISCONDUCT

20. A staff member of the University who believes that academic misconduct may have occurred shall, when the alleged misconduct is in relation to an academic task representing more than 10% of the total assessment in the unit, refer the case to the FAPDC for hearing and determination.
21. The FAPDC shall provide the student with at least ten (10) working days notice of the date, time and place of the hearing, which shall be as soon as practicable after the alleged act of misconduct.
- 21.1. The notice of the hearing provided to the student will include:
- (i) a statement setting out details of the alleged academic misconduct
 - (ii) the material evidence relied on by the University
 - (iii) advice that the student may make a written submission to the FAPDC
 - (iv) advice that if the student makes a submission to the FAPDC, the submission will be made available to any other students involved in the alleged academic misconduct in accordance with section 24 of Regulation 4.1(1)—*Student Discipline*
 - (v) advice that the student may appear personally before the FAPDC and may be accompanied by a person of their choice provided that the person is not a practising lawyer
 - (vi) a copy of or web address for Regulation 4.1(1)—*Student Discipline*
 - (vii) a copy of or web address for these Rules of Procedure.
22. **If the student does not respond to the notice**, the hearing shall be conducted in the student's absence on the basis that the student does not admit to the alleged academic misconduct.
23. **If the student responds to the notice and admits the academic misconduct** in the written submission or in person:
- (a) The FAPDC shall record its finding that the student has committed an act of academic misconduct.
 - (b) The FAPDC shall consider the student's written submission, any other evidence and any information presented by the student or accompanying person in mitigation of and/or having bearing on the penalty to be imposed.
 - (c) The FAPDC may recommend such actions and/or impose any one or more of the penalties within its powers as listed in the Schedule to Regulation 4.1(1)—*Student Discipline*.
24. **If the student responds to the notice and does not admit to the academic misconduct:**
- (a) The FAPDC shall consider the student's written submission.
 - (b) The student and any accompanying person shall be invited into the hearing.
 - (c) The Chair shall present details of the alleged academic misconduct and may call witnesses.
 - (d) The student, accompanying person, and members of the FAPDC may ask questions of the Chair and any witnesses.
 - (e) The student shall then have the opportunity to be heard and may produce evidence and/or call witnesses. The FAPDC may allow the accompanying person to speak on behalf of the student if the need arises.
 - (f) The members of the FAPDC may ask questions of the student and any witnesses called before the committee.
 - (g) When the FAPDC is satisfied that it has heard all the evidence, the student and any accompanying person shall leave the hearing while the FAPDC deliberates.
 - (h) The FAPDC may either:
 - (i) find the allegation of academic misconduct **not proven**, or
 - (ii) find the academic misconduct **proven**.

- (i) If the FAPDC finds the allegation of academic misconduct **not proven** it shall be recorded that the matter was dismissed.
- (j) If the FAPDC finds the academic misconduct **proven** the FAPDC will consider what penalty is appropriate. In doing so, it will take into account all the evidence before it. The committee may:
 - (i) invite the student or accompanying person to provide any additional information in mitigation of and/or having bearing on the penalty to be imposed
 - (ii) recommend such actions and/or impose any one or more of the penalties within its powers as listed in the Schedule to Regulation 4.1(1)—*Student Discipline*.

APPEAL IN A MATTER OF ALLEGED ACADEMIC MISCONDUCT IN A TASK WORTH 10% OR LESS OF THE TOTAL ASSESSMENT IN A UNIT

- 25. The FAPDC may hear an appeal by a student against a finding or penalty made by an Assessment Panel in relation to alleged academic misconduct in an academic task representing 10% or less of the total assessment in a unit.
- 26. The student initiates such an FAPDC hearing by giving written notice of appeal to the Secretary of the FAPDC within seven (7) working days from the date the advice of the original decision could reasonably have been received.
- 27. The written notice of appeal must state the grounds for appeal which shall be limited to:
 - (a) that there is new evidence that was not reasonably ascertainable by the student at or prior to the initial decision and that would probably have affected the original decision or penalty
 - (b) the penalty imposed on the student having regard to the evidence available was too severe
 - (c) a misapplication of procedures resulting in some disadvantage to the student.
- 28. The written notice of appeal must be accompanied by a written submission detailing the substance of the appeal.
- 29. A copy of the written notice of appeal and the written submission shall be provided to the Chair of the Assessment Panel.
- 30. The FAPDC shall provide the student with at least ten (10) working days notice of the date, time and place of the appeal hearing.
- 31. The FAPDC shall consider the student's written submission.
- 32. **If the student attends the hearing**, the hearing shall be conducted pursuant to clauses 24.1 to 24.7.
- 33. **If the student does not attend the hearing**, the FAPDC shall consider the written submission and any other information or evidence.
- 34. The FAPDC may decide to:
 - (a) **uphold, vary or set aside** the decision of the Assessment Panel
 - (b) **uphold, vary or set aside** the penalty imposed by the Assessment Panel.

INITIAL DETERMINATION ON A MATTER OF UNSATISFACTORY ACADEMIC PERFORMANCE

- 35. A student who has received notice that their academic performance is unsatisfactory may present a case to the FC or Subcommittee to show cause why the proposed decision should not be made.
- 36. A student wishing to show cause why a proposed decision should not be made must lodge a written submission with the FC or Subcommittee within seven (7) working days of the date that the notice could reasonably have been received and may also appear in person at the hearing.

37. The FC or Subcommittee shall notify the student of the date, time and place of the hearing.
38. **If the student does not attend the hearing**, the FC or Subcommittee shall consider the student's written submission, and make a decision in accordance with Regulation 5.3(1)—*Assessment and Academic Progress In Higher Education Award Courses*.
39. **If the student does attend the hearing**, the FC or Subcommittee shall firstly consider the student's written submission.
40. The student and any accompanying person shall then be invited into the hearing.
41. The student shall have the opportunity to show cause as to why the FC's or Subcommittee's proposed decision should not be made.
42. The members of the FC or Subcommittee may question the student.
43. The FC or Subcommittee may decide to:
 - (a) **confirm** its proposed decision
 - (b) **vary** its proposed decision
 - (c) **withdraw** its proposed decision.

LATE SUBMISSIONS

44. No late submissions in relation to unsatisfactory academic performance shall be accepted unless there are exceptional circumstances beyond the control of the student.
45. If the FC or Subcommittee considers a request for a late submission and rejects it, the student shall be informed:
 - (a) in writing within five (5) working days of the decision, and
 - (b) of the right of appeal to the Academic Appeals Committee within five (5) working days of the date on which the notice of the decision could reasonably have been received.
46. If the FC or Subcommittee accepts a request for a late submission, the FC or Subcommittee must then determine the substantive academic progress matter.
47. If an appeal to the Academic Appeals Committee regarding an FC or Subcommittee decision not to accept a late submission is successful, the matter shall be referred back to the FC or Subcommittee for hearing.

RECONSIDERATION OF A DECISION TO EXCLUDE

48. A student may request a hearing of the FC or Subcommittee to reconsider its decision that the student be excluded from a course because previously determined restrictions or prescriptions have not been met. Such requests can only be made on the grounds of exceptional circumstances beyond that student's control that have affected that student's ability to fulfil the previously determined requirements of the Academic Appeals Committee (AAC) FC or Subcommittee.
49. The student seeking a hearing under clause 48 must, as soon as reasonably practicable lodge a written submission outlining the grounds of exceptional circumstances to the Secretary.
50. **If the student does not attend the hearing**, the FC or APS shall consider the student's written submission, and make a decision in accordance with Regulation 5.3(1)—*Assessment and Academic Progress In Higher Education Award Courses*.
51. **If the student does attend the hearing**, the FC or Subcommittee shall firstly consider the student's written submission.

52. The student and any accompanying person shall then be invited into the hearing.
53. The student or accompanying person shall have the opportunity to explain to the committee the exceptional circumstances which have prevented the student from complying with the requirements previously set by the FC or Subcommittee and why the exclusion should not go ahead.
54. The members of the FC or Subcommittee may question the student.
55. The FC or Subcommittee may decide to:
- (a) **confirm** its previous decision
 - (b) **vary** its previous decision
 - (c) **withdraw** its previous decision.
56. The FC or Subcommittee may impose restrictions or conditions on the student as part of its decision and in accordance with Regulation 5.3(1)—*Assessment and Academic In Higher Education Award Courses*.

OUTCOME

57. All documentation associated with proceedings shall be collected by the Secretary at the end of a hearing and disposed of securely.
58. The Secretary must provide the Records Unit with a full copy of the proceedings and all relevant material.
59. The Secretary must provide a report on the outcome of any hearing to the Faculty Board as soon as practicable after the FAPDC, FC or Subcommittee has reached its decision.
60. The Secretary must provide a report on the outcome of any hearing to the appropriate record keeping area of the University as soon as practicable after the FAPDC, FC or Subcommittee has reached its decision.
61. If a student has been excluded from a course, the student's academic record shall be endorsed accordingly.