

Student Behavioural Misconduct Rules

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1. INTRODUCTION

- 1.1 These Rules must be read in conjunction with the Related Document(s) listed above.
- 1.2 These Rules govern student misconduct arising from Behavioural Misconduct.
- 1.3 These Rules do not apply to:
 - a. Academic Misconduct – See *Student Coursework Plagiarism and Academic Misconduct Rules* and *Student Plagiarism and Academic Misconduct: Higher Degree Research – Non-Coursework Components Policy*; and
 - b. Staff Misconduct - See *UNE Code of Conduct for Employees* and the procedures for *Unsatisfactory Performance, Conduct and Discipline* in the University of New England (Academic Staff) Enterprise Agreement then current.

2. FRAMEWORK

- 2.1 University Members have the right to:
 - a. Be treated fairly and be free from acts or threats of violence, harassment, intimidation or discrimination;
 - b. Have their personal property respected;
 - c. Live and study in a safe environment; and
 - d. Have complaints considered fairly and acted upon promptly.
- 2.2 These Rules outline the principles and expectations for the behaviour of all Students at the University of New England on University Premises or at activities (including excursions) sponsored, or participated in, by the University.

2.3 Students should be aware that breaches of these Rules may result in disciplinary action in accordance with the University's rules and Policies.

2.4 Students who are Residential College residents are also subject to the Residential College Code of Conduct.

3. DEFINITIONS

3.1 **Academic Misconduct** is defined in the Student Coursework Plagiarism and Academic Misconduct Rules and the Higher Degree Research Policies and Rules.

3.2 **Academic Transcript** means the official academic record issued to a Student by the University.

3.3 **Appeal Officer** means a University Member authorised to uphold appeals, or uphold or vary penalties, under Rule 7.

3.4 **Behavioural Misconduct** means behavioural misconduct specified in Rule 4.

3.5 **Chair** means the chair of the Student Conduct Appeals Committee appointed to that position by the Student Conduct Appeals Committee under Rule 7.3.

3.6 **Exclusion** or **Excluded** means the exclusion from any defined part of the University's Premises for a designated period.

3.7 **Expulsion** or **Expelled** means the permanent separation of the Student from the University.

3.8 **Hazing** means any behaviour or initiation practice that involves humiliation, degradation, or abuse.

3.9 **Interview** means oral communication between the Student and Investigating Officer or Appeal Officer, and includes communication both in face-to-face settings and through electronic mediating devices such as the telephone.

3.10 **Investigating Officer** means a University Member authorised to investigate and determine cases and to impose penalties under Rule 6.

3.11 **Penalty unit** is a cash value that comprises a fine. The UNE Council sets the Penalty unit cash value.

3.12 **Policy** includes provisions of the By-Laws, rules and regulations of the University and other policy documents issued by the University from time to time.

3.13 **Probation** means the Student is reprimanded in writing and, if found guilty of further acts of misconduct during a specified period not exceeding three years, further and more severe penalties may be imposed.

3.14 **Reprimand** means the Student is notified in writing that they have been found guilty of misconduct and formally admonished with a record held on the Student's individual file.

3.15 **Revocation of Award** is the cancellation of a University of New England award by the UNE Council.

- 3.16 **Residential College** includes any of the following on-campus accommodation: Austin College, Duval College, Drummond & Smith College, Earle Page College, Mary White College, Robb College, St Albert's College and Wright Village. This includes separate accommodation facilities associated with a College, such as on-campus houses and/or flats that are used by Residents, Affiliates and Students as well as the buildings, blocks, floors, courts, grounds and parking areas associated with these buildings.
- 3.17 **Residential College Expulsion** means permanent expulsion of the Student from one or more of the Residential Colleges.
- 3.18 **Residential College Exclusion** means the Student is prohibited from entering one or more of the Residential Colleges for a specified period not exceeding twelve months. On completion of the specified period of exclusion, the Student is eligible to return to a Residential College although conditions on readmission may be applied.
- 3.19 **Staff** means the staff retained by the University of New England, staff employed by Residential Colleges and University of New England associates such as Cooperative Research Centres, Honorary and Emeritus staff, and contractors and employees of contractors engaged by the University.
- 3.20 **Statutory Census Date** means the date prescribed in the *Higher Education Support Act 2003* (Cth) at which registration in a unit of study is officially counted as an enrolment and the date by which fees or the student contribution must be paid or deferred through HECS-HELP or FEE-HELP as published by the University as a principal date from time to time.
- 3.21 **Student** means a person who is enrolled in a University of New England higher education course or in an enabling course or in a unit of study on a non-award basis.
- 3.22 **Student Conduct Appeals Committee** means the committee set up pursuant to Rule 7.3.
- 3.23 **University Member** includes any person who is a Student, member of the Staff, member of the UNE Council, or any other person employed by the University.
- 3.24 **University Premises** includes all land, buildings, facilities, Residential Colleges, and other property (including adjacent streets, footpaths and bicycle paths) in the possession of or owned, used or controlled by the University.
- 3.25 **University Exclusion** means the Student is prohibited from entering University Premises for a specified period of time not exceeding three years after which the Student is eligible to return to the University.
- 3.26 **Withdrawal of Services** means the withdrawal of specified services for a designated period as follows:
- a. UNE libraries: loss of borrowing rights for a period not exceeding 12 months;
 - b. Computer facilities: loss of user rights and access for a period not exceeding 12 months;
 - c. Loss of access to specified buildings and precincts for a period not exceeding 12 months.

4. BEHAVIOURAL MISCONDUCT

Specific acts of Behavioural Misconduct include, but are not limited to, the following:

- 4.1 Failure to comply with University rules or policies;
- 4.2 Providing information known to be false;
- 4.3 Forgery, alteration, or misuse of any University document, record, or instrument of identification;
- 4.4 Defamatory conduct prejudicial to the reputation, good order and governance of the University;
- 4.5 Abuse, threats, intimidation, harassment, coercion, deceit or other conduct (whether by physical, verbal or electronic means) in a context substantially connected to the University that:
 - a. Threatens or endangers the health, freedom or safety of any person;
 - b. Obstructs a University Member in performance of their duties; or
 - c. Interferes with teaching, research or related activity, the ability of a University Member to pursue their studies, examinations, official meetings, graduations, or other proceedings of the University;
- 4.6 Attempted or actual endangerment of, or damage to, or wrongful dealing with any persons and/or their property, University or public property, including any act of hazing arising from initiation, affiliation, or continued membership of any group or organisation;
- 4.7 Failure to comply with reasonable directions of Staff (including Safety and Security Staff) or officers of the public emergency services acting in performance of their duties or failure to identify oneself to these persons when requested to do so;
- 4.8 Unauthorised possession, duplication or use of keys and/or access cards to any University Premises or unauthorised entry to or use of University Premises;
- 4.9 Unlawful use, possession, cultivation or distribution of drugs;
- 4.10 Illegal or unauthorised possession or use of firearms, ammunition, explosives, other weapons, or chemicals on University Premises;
- 4.11 Disorderly or indecent conduct, breach of peace, or aiding, abetting or procuring another person to breach the peace on University Premises or at activities (including excursions) sponsored by, or participated in, by the University;
- 4.12 Theft or other abuse of UNE computer time or facilities, including but not limited to:
 - a. Unauthorised entry into a file;
 - b. Unauthorised transfer of, or change to, a file;
 - c. Unauthorised use of another individual's identification and password;
 - d. Use of computing facilities to interfere with the work of another University Member,
 - e. Use of computing facilities to send obscene or abusive messages,

- f. Use of computing facilities to interfere with normal operation of the University's computing systems.
- 4.13 Interference with the application of these Rules including but not limited to:
- a. Falsification, distortion, or misrepresentation of information before an investigation or hearing;
 - b. Disruption to, or interference with, the orderly conduct of an investigation or hearing;
 - c. Attempting to discourage an individual's proper participation in the application of these Rules;
 - d. Attempting to influence the impartiality of an Investigating Officer or Appeal Officer, or member of the Student Conduct Appeals Committee prior to, or during the course of, the investigation or hearing;
 - e. Harassment or intimidation of an Investigating Officer or Appeal Officer or member of the Student Conduct Appeals Committee prior to, during, or after an investigation or hearing.
- 4.14 Divulging any confidential information relating to any University intellectual property;
- 4.15 Conduct involving acts or threats of violence, harassment, intimidation or discrimination;
- 4.16 Influencing or attempting to influence another person to commit an act of Academic or Behavioural Misconduct;
- 4.17 Any form of criminal activity, or action(s) that may lead to such activity, not otherwise specified in these Rules.

5. PENALTIES

- 5.1 One or more of the following penalties may be imposed on any Student found to have committed Behavioural Misconduct:
- a. Minor Penalties**
 - i. Reprimand
 - ii. Probation
 - iii. Withdrawal of Services for a period not exceeding 3 months
 - iv. Fine not exceeding 5 Penalty units and/or a restitution payment
 - v. Exclusion from a Residential College for a period not exceeding 12 months
 - vi. Where a Student is a resident or affiliate of a Residential College, such minor penalties as specified in the Residential College Code of Conduct
 - vii. Community service, for a period not exceeding 8 hours
 - viii. Exclusion from Award for up to one year
 - b. Major Penalties**
 - i. Fine not exceeding ten Penalty units and/or a restitution payment
 - ii. Withdrawal of Services for a period not exceeding 3 months

- iii. Residential College Exclusion from all Residential Colleges
- iv. Residential College Expulsion
 - v. Exclusion from Award for up to three years
 - vi. Exclusion
 - vii. Expulsion
 - viii. Revocation of Award

- 5.2 Where a fine or the payment of restitution is imposed the Student may enter into a payment arrangement satisfactory to the Director of Financial Services or nominee, otherwise the fine or payment of restitution is payable within ten working days of the imposition of the penalty.
- 5.3 Other than Expulsion, disciplinary penalties will not form part of the Student's permanent Academic Transcript but will be part of the Student's records with the University.
- 5.4 A Student who is Excluded or Expelled after a Statutory Census Date shall have WFN (Withdrawn by Faculty and deemed to have Failed) recorded against all units in which they are enrolled in that semester and all other pre-census units cancelled from the enrolment.
- 5.5 A Student who is Excluded or Expelled before a Statutory Census Date shall have all units in which they are enrolled, cancelled from the enrolment.
- 5.6 A Student Excluded or Expelled after a Statutory Census Date shall not be entitled to remission of HECS-HELP, FEE-HELP, OS-HELP or refund of any fees including any Residential College fees that remain outstanding under a payment plan. Any unpaid fines or fees may be treated as a bad debt under the University's financial policies including the application of encumbrances and/or referral to debt collection agencies.
- 5.7 A Student who is Excluded or Expelled from the University relinquishes all positions they may occupy on committees or boards within the University.
- 5.8 A Student who is Excluded or Expelled from a Residential College relinquishes all positions they may occupy on committees within the Residential College, in addition to any affiliation or membership of the Residential College.
- 5.9 Where a University Member becomes aware of criminal activity by a Student, they must immediately advise the Deputy Vice-Chancellor (Academic) and the relevant authorities.

6. AUTHORISED INVESTIGATORS AND IMPOSITION OF PENALTIES

6.1 Investigation and determination

The following University Members are authorised to act as Investigating Officers to investigate and determine cases:

- a. Head of School or nominee;
- b. Head of Residential College or nominee;
- c. Directors or nominees thereof of:
 - i. Research Services
 - ii. Residential System

- iii. Student Administration and Services
- iv. Information Technology
- v. English Language and International Services
- d. University Librarian or nominee;
- e. Pro Vice-Chancellor and Dean of the appropriate faculty or nominee; and
- f. Deputy Vice-Chancellor (Academic) / Deputy Vice-Chancellor (Research) / Chief Development Officer / Chief Operating Officer or nominee.

6.2 **Imposition of penalties**

The University Members listed under Rule 6.1 a-d are authorised to impose minor penalties.

The University Members listed under rule 6.1 e-f are authorised to impose both minor and major penalties.

6.3 **Ratification of certain major penalties**

Once the appeal process is exhausted, the final application of the major penalties of University Exclusion and Expulsion shall be subject to the ratification of the Vice-Chancellor, who shall have the authority to uphold the penalty, vary the period or refer the penalty back to the Student Conduct Appeals Committee for reconsideration. The major penalty of Revocation of Award shall only be imposed with approval of the UNE Council made on a recommendation by the Vice-Chancellor. The Vice-Chancellor shall receive the papers of the initial investigation and appeal but shall not receive representations when making a decision.

7. **APPEALS**

7.1 **Minor penalties**

The following University Members are authorised to act as Appeal Officers to uphold appeals or uphold or vary minor penalties:

- a. Pro Vice-Chancellor and Dean of the appropriate faculty or nominee;
- b. Deputy Vice-Chancellor (Academic) / Deputy Vice-Chancellor (Research) / Chief Development Officer / Chief Operating Officer or nominee;
- c. Pro Vice-Chancellor Students and Social Inclusion or nominee, with respect to appeals from decisions made under Rule 6.1b and penalties as in Rule 5.1a iii – vi.

An Appeal Officer must not have been authorised to act as an Investigating Officer or have been involved in the initial investigation or determination of the case. The decision of an Appeal Officer is final.

7.2 **Major Penalties**

- a. The Pro Vice-Chancellor Students and Social Inclusion is authorised to act as Appeal Officer to uphold appeals or vary penalties with respect to appeals on penalties imposed through Rule 5.1b ii – iv. The Pro Vice-Chancellor Students and Social Inclusion may refer cases to the Student Conduct Appeals Committee for determination; otherwise, the decision of the Pro Vice-Chancellor Students and Social Inclusion is final.

- b. The Student Conduct Appeals Committee is authorised to uphold appeals or uphold or vary major penalties. The decision of the Student Conduct Appeals Committee is final (subject to the Vice-Chancellor's ratification of major penalties).

7.3 **Student Conduct Appeals Committee**

The Student Conduct Appeals Committee is appointed for two years by the Vice-Chancellor and comprises:

- a. A Pro Vice-Chancellor and Dean from a Faculty other than that of the appellant
- b. A General Staff member (HEO7 or higher) appointed by the Vice-Chancellor (or nominee)
- c. Three members of the full-time academic Staff of at least Level C each from a different School, at least one of whom shall be a Head of School, and at least one of whom has legal qualifications;
- d. A member of the local community (who shall not be a member or former member of Staff); and
- e. Director of Residential System or Head of a Residential College.

- 7.4 In the event that a member of the Student Conduct Appeals Committee has been involved in the initial investigation or determination of the case, the Chair of the Student Conduct Appeals Committee may co-opt another person of equivalent standing to the member standing aside, to serve as a member of the Student Conduct Appeals Committee.

7.5 **Quorum**

The quorum for a Student Conduct Appeals Committee shall be four members.

7.6 **Constitution**

The Student Conduct Appeals Committee may be constituted by an even number of members, in which case the Chair will have a casting vote.

7.7 **Alternates**

There shall be two alternates for each member of the Student Conduct Appeals Committee.

8. **CONDUCT OF INVESTIGATIONS AND APPEALS**

General

- 8.1 Although initial complaints of Behavioural Misconduct against a Student can be made verbally, a formal investigation under these Rules can only be conducted on the basis of a written complaint. Student Assist can advise any University Member or member of the public on how to make a formal complaint. Anonymous complaints will not be accepted for investigation.
- 8.2 Investigations and appeals shall not be in the form of a formal legal hearing.
- 8.3 Where behaviour subject to a University investigation and/or disciplinary action is also running in another jurisdiction, any action taken under these Rules may proceed, irrespective of

any action involving the Student in any court, commission or tribunal, and irrespective of any other external investigation of the matters giving rise to the complaint against the Student.

- 8.4 All notices sent to Students shall be sent to the Student's UNE email address in the University's student database.

Investigations and Determinations

- 8.5 In the first instance, the complaint will be referred to a University Member authorised under Rule 6.1 to investigate complaints, to decide whether *prima facie* the complaint:
- a. Has merit and is within the University Member's jurisdiction; or
 - b. Can be handled through mediation (by mutual consent of the parties); or
 - c. Should be referred to a higher level because a major penalty may be at issue.
- 8.6 The Student will be provided with a copy of these Rules and will be advised in writing of:
- a. The nature of the complaint and be provided with a copy of all documentation and statements relevant to the complaint;
 - b. The name of the University Member authorised to conduct the initial investigation;
 - c. The time, date and place for the interview;
 - d. The right to be accompanied by another University Member for advice and support (but who shall not have the right of audience or of cross-examination of witnesses);
 - e. The right to make a statement, call witnesses and lead them through their evidence;
 - f. The opportunity, with the permission of the authorised University Member, to question any witness to the extent the authorised University Member deems relevant and reasonable (but not to cross-examine witnesses); and
 - g. The right to provide a written submission or participate in a telephone conference instead of attending an interview (written submissions must arrive at least one working day prior to the date of the interview as advised in the notice).
- 8.7 The Student will be granted at least ten working days to provide a response in writing to the complaint including any evidence in defence of the complaint.
- 8.8 A response to the Student should be made within ten working days; where this is not possible an explanation for the delay should be provided within this period.
- 8.9 Within ten working days from the date of the interview, the Student will be advised in writing of:
- a. The decision;
 - b. The penalty (if any); and
 - c. The right of, and method for, appeal (if relevant).
- 8.10 Where the Student fails to attend an interview, provide a written submission, or participate in a telephone conference without reasonable explanation, the authorised University Member may proceed to determine the case in the absence of the Student.

- 8.11 A record of a Student's past Academic Misconduct or Behavioural Misconduct may be taken into account when having regard to any penalty that may be imposed.
- 8.12 Investigations will take account of a Student's special needs status including the provision of an Auslan interpreter, if appropriate.

Appeals

- 8.13 Appeals must be made in writing addressed to the designated Appeal Officer (for minor penalties) or to the Pro Vice-Chancellor Students and Inclusion (for penalties imposed Rule 5.1b ii – iv) or to the Chair of the Student Conduct Appeals Committee (for all other major penalties) within ten working days of the notice of the imposition of a penalty. Appellants should structure their appeal in terms of 8.14 a – c and provide evidence to support their appeal.
- 8.14 Appeals are normally limited to a review of the record of the initial investigation and its supporting documents for one or more of the following purposes:
- To decide whether the initial investigation was conducted fairly and in conformity with these Rules;
 - To decide whether the original decision was based on sufficient and appropriate evidence to establish that Behavioural Misconduct occurred; or
 - To decide whether the penalty imposed was appropriate. Where it is determined that the penalty was inappropriate the Appeal Officer or Student Conduct Appeals Committee may vary the penalty, provided that the new penalty is not at a higher level than the original penalty.

In the case of a successful appeal under 8.14 a, the matter may be referred back to the initial investigating body with appropriate advice from the designated Appeal Officer or the Chair of the Student Conduct Appeals Committee, as appropriate.

- 8.15 Previously unconsidered material may be presented only at the discretion of the Appeal Officer or the Chair of the Student Conduct Appeals Committee.
- 8.16 The Student will be formally advised of:
- The time, date and place for any appeal hearing;
 - The right to be accompanied by another University Member for advice and support (but who shall not have the right of audience or of cross-examination of witnesses); and
 - The right to provide a written submission or participate in a telephone conference instead of attending a hearing (written submissions must be received not later than one working day prior to the date of the appeal hearing as advised in the notice).
- 8.17 Appeal hearings shall:
- Whenever possible, be heard within twenty working days of receipt of the appeal;
 - Be conducted in private;
 - Be conducted separately or collectively at the Chair's discretion when involving more than one appellant;
 - Admit any other person only at the Appeal Officer's or Chair's discretion, except in respect of the University Member entitled to be present under Rule 8.16b;

- e. Grant to the Student access to relevant records, exhibits and written statements;
- f. Produce a written record of all hearings which will be the property of the University; and
- g. Proceed to decide the matter if the Student fails to appear or provide a submission.

8.18 After the appeal hearing the Student will be formally advised within ten working days of:

- a. The decision;
- b. The new penalty (if any); and
- c. The right to seek review of the conduct of the disciplinary process by a University Ombudsman or the New South Wales Ombudsman.

8.19 All decisions of the Student Conduct Appeals Committee shall be reported to the Records Management Office.

9. EMERGENCY EXCLUSION

9.1 Emergency Exclusion may be imposed by the Deputy Vice-Chancellor (Academic) (or a member of the Executive when the Deputy Vice-Chancellor (Academic) is absent) where, in their opinion:

- a. The physical or emotional safety and well-being of a University Member, or preservation of University or a University Member's property, is under immediate threat;
- b. Where the Student's own physical or emotional safety and wellbeing is under immediate threat; or
- c. The Student poses an immediate threat of disruption of or interference with the normal operations of the University.

9.2 The Deputy Vice-Chancellor (Academic) may impose an emergency Exclusion until a complaint is heard and determined. Should the Student be found innocent, the University must take all reasonable steps to ensure the Student is not academically disadvantaged.

9.3 When emergency Exclusion is imposed, the Deputy Vice-Chancellor (Academic) will, at the earliest opportunity, allow the Student a reasonable opportunity to make representations, either orally or in writing, concerning the Exclusion.

9.4 During the emergency Exclusion, the Deputy Vice-Chancellor (Academic) may determine that the Student is denied access to any or all of:

- a. The Residential Colleges;
- b. The University's Premises; or
- c. University activities and/or privileges for which the Student might otherwise be eligible.

9.5 The decision of the Deputy Vice-Chancellor (Academic) to impose emergency Exclusion and the decision whether to lift emergency Exclusion before its expiry shall be final.

10. INTERPRETATION OF THESE RULES

Any unresolved question of interpretation regarding these Rules must be referred to the Deputy Vice-Chancellor (Academic) for determination.