Managing Student Misconduct Procedure

Section 1 - Governing Policy

(1) This Procedure is governed by the Student Conduct Policy.

Section 2 - Procedural Fairness and Conduct of Proceedings

(2) Any person or committee that exercises any power or carries out any function under the Student Conduct Policy and/or this Procedure must treat the subject matter in confidence, except as necessary for the discharge of the responsibilities of that person or committee or as otherwise required by law.

(3) The decision maker must manage an allegation of student misconduct in a manner that is procedurally fair. The decision maker will:

a. act fairly, without bias and in accordance with the Student Conduct Policy and this Procedure;
b. determine the matter on the basis of evidence brought forward by the student, the University and any complainant;
c. conduct any hearings as expeditiously as practicable, consistent with the need to act fairly;
d. not be bound by legal technicalities or the rules of evidence that would apply in court proceedings in the way it conducts any investigations or hearings under this policy;
e. give the student a copy of, or an opportunity to inspect, all relevant evidence in relation to the alleged misconduct;
f. not fewer than five working days before the day on which any meeting or a hearing is to be conducted and subject to clause (11) of the Student Conduct Policy, give the student a reasonable opportunity to respond to the allegation in writing and;
g. decide, on the balance of probabilities, whether the alleged misconduct took place and, if so, given all the circumstances of the case, whether one or more of the penalties allowed should be imposed. In the case of a Discipline Committee, the decision of the majority of Committee members and voting will apply.

(4) The proceedings of any hearing will be procedurally fair. The decision maker will:

a. give the student and any complainant the opportunity to appear before the decision maker;
b. notwithstanding the operation of clause (6), give the student and any complainant at least five working days' written notice of the date, time and mode (virtual or in person) of any hearing;
c. permit the student and any complainant to be accompanied by a support person, in accordance with Section 7 of the Student Conduct Policy;
d. permit the student and any support person whom the student appoints to be present throughout the hearing, except when any complainant is appearing, and where the members of a Committee wish to confer privately among themselves or to consider their decision;

e. conduct any hearing in closed session;
f. ensure that any complainant does not see, meet with or directly engage with the student; and
g. manage any actual or imminent threat of harm.

(5) Unless there is an existing legal instrument in place, a student may not authorise a third party to act on their behalf where the decision maker is of the view that the matter cannot be investigated and determined without the direct involvement of the student concerned.

(6) Where a student provides evidence that they do not have the capacity to participate and the decision maker is unable to proceed under clause (3), proceedings under this Policy will be suspended and the matter will be:

a. subject to any safety concerns, deferred until the student has the capacity to participate with the timelines for investigation and determination adjusted accordingly; or
b. referred to be managed under the Fitness to Study Policy.

(7) The decision maker may agree to a request in writing from the student at any time to extend the limits referred to in this procedure or to reschedule the date, time and place for a hearing, with consequential adjustment to the associated timelines.

(8) The general time limits prescribed for the taking of any actions or steps referred to in this procedure may be extended by the decision maker, noting that the Education Services for Overseas Students Act 2000 (Cth) and ESOS National Code require notification to an international student in writing within 10 working days.

(9) Failure of the student to appear at the notified time will not prevent the decision maker from proceeding to investigate and determine the allegation or appeal. A student's failure to appear will be deemed as the student not wishing to make a submission in person.

(10) The decision maker has complete authority to keep order in any proceedings, including the authority to order the removal of any person, including the student and/or their support person, whose conduct is detrimental to the orderly conduct of proceedings.

(11) When two or more students are alleged to have committed misconduct arising out of the same occurrence or series of occurrences, the decision maker will decide whether their cases are to be heard separately or together.

(12) A written record of all proceedings will be maintained in accordance with Section 10 of the Student Conduct Policy.

Section 3 - Reporting Alleged Misconduct

(13) Any person may make a report of student misconduct:

a. to the Office of the Academic Registrar for assignment to a Campus Dean for investigation;
b. to an Authorised Officer listed in Schedule 1 to this Procedure where immediate action is required under Section 4 of this Procedure;
c. by making a formal report of sexual misconduct in accordance with the Student Sexual Misconduct Prevention and Response Procedure where it is an allegation of student sexual misconduct.

(14) A report of student misconduct:

a. can be made at any time but should be made as soon as possible after the person reporting becomes aware of the misconduct in question;
b. where practicable should be confirmed in writing;
c. should contain sufficient information to enable the University to investigate and for a student to respond to the allegation; and
d. should include any evidence in support of the allegation.

(15) A report of student misconduct can only be made anonymously if:

a. it is not necessary for the University to be aware of the identity of the report maker to properly respond; or
b. there is independent documentary or other evidence that allows the matter to be investigated fairly.

(16) Where the alleged misconduct has occurred on a professional experience placement, the student should be withdrawn from their placement by the Head of School under the Academic Regulations. A report of student misconduct may be made to the Office of the Academic Registrar in parallel or subsequent to the action taken by the School to withdraw the student.

Section 4 - Summary Action by an Authorised Officer

(17) On receipt of a report of alleged misconduct, the Authorised Officer will determine whether any, or a combination of, the following immediate actions are required:

a. take summary action under clause (18) to ensure that the conduct ceases or to mitigate potential harm; and/or
b. where there is a serious risk requiring an interim suspension order, refer the report to the Office of the Academic Registrar for action under Section 5 of this Procedure.

(18) Summary action may include, but is not limited to, requiring a student to leave the class, examination, facility, premises, campus or site immediately, provided that the period of such exclusion does not exceed:

a. the duration of the class, examination or other activity during which any disruption occurred; or
b. in any other case, a period of 24 hours.

(19) The Authorised Officer must refer any matter to the Office of the Academic Registrar for assignment to a Campus Dean for action under Section 6 of this Procedure within two working days.

Section 5 - Situation of Serious Risk Requiring Interim Suspension

(20) An interim suspension order may only be imposed by the Provost or the Chief Operating Officer (COO).

(21) An interim suspension order may be imposed on a student in circumstances where the alleged misconduct raises a reasonable concern the order is necessary to avert a substantial risk of:

a. injury, harassment or serious detriment to a person; or
b. serious damage to property the University's information assets or information technology resources; or
c. serious detriment to the interests or reputation of the University; or
d. serious disruption of a University activity.

(22) A student may be suspended from all or part of:

a. attendance at any campus, site or University premises; and/or
b. use of the University's computing and network facilities; and/or
c. any authorised cross institutional study, exchange or study abroad.

(23) Before imposing an interim suspension order, the Office of the Academic Registrar must make a reasonable effort, having regard to the seriousness and urgency of the risk, to provide the student with an opportunity to respond and say why the suspension or other action is not warranted or should be varied.

(24) The Office of the Academic Registrar must, within 24 hours of the Provost or COO's decision, provide a written notice to the student advising:

a. the terms of the decision;
b. the reason for the decision;
c. when the interim suspension will take effect; and
d. the provisions of the Student Conduct Policy and this Procedure.

(25) Where a decision has been made to impose an interim suspension order under this Section, the Office of the Academic Registrar must:

a. advise either the Provost or COO who did not make the decision; and
b. refer the matter to a Campus Dean for hearing by a Discipline Committee within one working day. The Discipline Committee must meet within 10 working days.

(26) The interim suspension order will continue until either:

a. 10 working days have passed since the notice is given, and the Discipline Committee has not held its first meeting; or
b. the Provost or the COO is satisfied that the risk that necessitated it has passed; or
c. the order is rescinded, or amended, by the Discipline Committee; or
d. a decision is made on the alleged misconduct including a decision on any penalty to be imposed.

Section 6 - Preliminary inquiry

(27) On receipt of a matter, the Office of the Academic Registrar will:

a. in the case of a matter that may constitute a criminal offence, and where there is not an immediate risk to personal safety, refer the matter to the Office of General Counsel for referral to the police; and/or
b. refer the matter to a Campus Dean to undertake preliminary inquiries under this section.

(28) With the exception of student sexual misconduct matters which will be investigated under the Student Sexual Misconduct Prevention and Response Procedure, the Campus Dean will make preliminary inquiries to decide whether there is sufficient evidence in support of the allegation to proceed to further investigation.

(29) The Campus Dean may either decide:

a. that no further investigation or action is warranted and advise the Office of the Academic Registrar that proceedings under this Procedure will be discontinued; or
b. that the student's behaviour and/or actions were inadvertent or unintentional and advise the Office of the

Academic Registrar that the student will be counselled and referred to remedial services as an alternative to proceedings under the Student Conduct Policy; or

c. commence an investigation into the alleged misconduct under Section 7 of this Procedure.

(30) Where a student has been counselled and referred to remedial services under clause (29)b., the Campus Dean may resume proceedings under the Student Conduct Policy if the remedial action:

a. is rejected by the student; or
b. is not undertaken within the specified timeframe.

Section 7 - Investigation of Alleged Student Misconduct

(31) With the exception of student sexual misconduct matters which will be determined in accordance with Section 8 of this Procedure, where the Campus Dean has decided to proceed to an investigation under clause (29) the Office of the Academic Registrar will, within 10 working days provide a written allegation notice to the student.

(32) The allegation notice must:

a. set out the alleged misconduct;
b. give the student the opportunity to respond to the allegation of misconduct, providing the date by which any such response must be submitted; such date must be no less than five working days after receipt or deemed receipt of the allegation notice by the student;
c. refer the student to the Student Conduct Policy and this Procedure; and
d. notify the student of the availability of confidential, independent advice from the Student Advocacy Service.

(33) Where a student has been given an allegation notice, the Office of the Academic Registrar may, until the proceedings (including any appeal) are finalised, withhold:

a. any assessment results or final grades; and/or
b. approval for the student to graduate or receive any statement indicating eligibility to graduate or to receive an award of the University.

(34) The student must respond within the prescribed time and must say whether they admit or deny the alleged misconduct.

(35) If the student does not respond within the prescribed time, the decision maker must proceed to consider and determine the matter. A student's failure to respond within the prescribed time period will be deemed as the student not wishing to provide a response in relation to the alleged misconduct.

Section 8 - Determining an Allegation of Student Misconduct

(36) The Campus Dean will consider any response by the student and:

a. may discontinue the misconduct action against the student. No record of the matter will be recorded on the student's file; or
b. may proceed to consider and determine the matter; or

c. may refer the matter to the Discipline Committee for consideration or determination; and
d. in all cases will advise the student of the action to be taken in writing within 10 working days.

(37) The Campus Dean must advise the Office of the Academic Registrar of the decision on the allegation within 20 working days of receipt or deemed receipt of the allegation notice by the student.

Section 9 - Determining an allegation of student sexual misconduct

(38) A formal report of student sexual misconduct will be investigated in accordance with the Student Sexual Misconduct Prevention and Response Procedure. This includes that:

a. the student against whom the formal report of sexual misconduct is made has been provided with the details of the alleged misconduct;
b. the student has been provided with an opportunity to participate in an investigation;
c. an external investigator has conducted a full external investigation; and
d. the report from the external investigator has been considered by the Director, Student Experience and a decision has been made to commence student discipline proceedings under the Student Conduct Policy.

(39) Any formal report of student sexual misconduct which has been referred for action under the Student Conduct Policy must be referred to a Discipline Committee.

(40) The Office of the Academic Registrar will write to the student to advise that the external investigator's report has been received and that the process for determining the allegation will commence. The student will be provided with an allegation notice that:

a. sets out the alleged misconduct;
b. includes a copy of the external investigator's report;
c. advises that the matter is being referred to a Discipline Committee ;
d. gives an opportunity to respond to the allegation in accordance with clause (41);
e. provides details of the procedural fairness provisions of clauses (3) and (4);
f. refers to the Student Conduct Policy and this Procedure; and
g. gives notice of the availability of confidential, independent advice from the Student Advocacy Service.

(41) A student's response to the allegation should state whether:

a. they accept or do not accept the outcome of the external investigation;
b. they have any further reflection on, or a response to the outcome of the external investigation; or
c. there is new information or evidence that was not available at the time of the external investigation which must be accompanied by an explanation as to why it has only now become available.

(42) A Discipline Committee:

a. will consider but is not bound by any findings or recommendations in the external investigator's report; and
b. may take into account any other information considered relevant in the circumstances of the matter.

(43) The Campus Dean must advise the Office of the Academic Registrar of the decision on the allegation within 20 working days of the receipt or deemed receipt of the allegation notice by the student.

Section 10 - Notification of decision

(44) The Office of the Academic Registrar must, within five working days of the decision being made, advise the student in writing of:

a. the process undertaken;
b. the decision reached;
c. the reasons for the decision;
d. any penalty imposed, the time within which any payment is to be made and/or remedial action to be taken by the student, and any conditions thereon;
e. the right to appeal under Section 11 of this Procedure.

(45) A copy of the notification to the student will be provided to the Campus Dean and in the case of a student sexual misconduct matter, to the Director, Student Experience.

(46) Where action is required as an outcome of the decision, the Office of the Academic Registrar will provide a summary of the outcome to the relevant member of the Executive who has responsibility for that action. The summary will not include any sensitive information or personal information of any complainant except where this is required for the relevant action to be taken.

(47) The Office of the Academic Registrar will advise the person who made the original allegation, in writing, that action under this Policy was taken and has concluded. This will not include the details of the outcome, any sensitive information or personal information of any student.

Section 11 - Appeals

(48) Any student wishing to appeal a decision made under the Student Conduct Policy may appeal to the University Appeals Committee in accordance with the Student Appeals Policy.

Section 12 - Implementation and Enforcement of Penalties

Fines

(49) A fine imposed under this Procedure:

a. must be paid within 10 working days of receipt or deemed receipt by the student of notification; and
b. will be paid into the general funds of the University.

(50) An extension of time for payment may be granted by the Chief Operating Officer.

(51) A student ordered to pay a fine may, within the time prescribed for its payment under clause (49)a., apply to the relevant Campus Dean to undertake campus service rather than pay the fine.

(52) The relevant Campus Dean or nominee will determine the application.

(53) If the relevant Campus Dean approves the substitution of campus service for a fine, the campus service order must be for a period that approximates the value of the fine.

This policy document may be varied, withdrawn or replaced at any time. Printed copies, or part thereof, are regarded as uncontrolled and should not be relied upon as the current version. It is the responsibility of staff printing this document to always refer to the ACU Policy Portal for the latest version.

Campus Service Orders

(54) A campus service order:

a. will be in writing and will advise the student of the number of hours, nature and conditions of the campus service, and the places and times at which it is to be performed; and
b. is not complied with until the relevant Campus Dean considers that the work required has been satisfactorily completed.

(55) Where a student has been granted a campus service order in lieu of a fine there is no avenue of appeal concerning the nature or duration of the campus service ordered.

Exclusion

(56) While a student is excluded under clause (28)d. of the Student Conduct Policy, they must not, without the prior written consent of the Provost or Chief Operating Officer:

a. attend any class;
b. sit any examination;
c. submit any work for assessment;
d. gain any credit for any studies or learning or practical experience undertaken at this University of elsewhere;
e. access the whole or any nominated part(s) of any campus or site or any of the University's Library, computing and network or other facilities or services;
f. be reimbursed any fees paid, or be relieved of responsibility to pay any fees payable, by the student in relation to any such period; or be re-enrolled.

(57) Following the expiry of the nominated period of exclusion, the following provisions apply:

a. the student may apply for readmission;
b. the student must not resume studies without first consulting the Course Coordinator regarding the requirements for completion of their program;
c. where the period of exclusion is two standard study periods, the student will normally be required to complete the program in accordance with the conditions and program rules in force at the time of the return;
d. the Course Coordinator may require the student to demonstrate professional competence and/or to complete remedial study or other requirements before enrolling in any professional experience unit or unit containing professional experience.

Undischarged Penalties

(58) While any penalty imposed under this policy remains outstanding, unfulfilled or unpaid, or while a student is excluded or suspended from any campus or site, the student is not entitled, without the written consent of the Provost or the Chief Operating Officer to:

a. re-enrol;
b. receive any results of assessment;
c. receive or be granted credit for any course or unit; or
d. graduate or receive any statement indicating eligibility to graduate or receive a diploma or certificate of the University.

Section 13 - Schedules

Schedule 1: Authorised officers, and Their Area of Responsibility

Authorised Officer	Area of Responsibility
Academic staff	For any act or behaviour which causes serious disruption to any learning, teaching, research or assessment activity
Head of School, or equivalent	For any matter relating to the learning, teaching, assessment, research, professional experience, community engagement or other activities conducted by the School or relating to the facilities of the School.
Head of a Research Institute	For any matter relating to activities conducted by that Research Institute or relating to the facilities of that Research Institute.
Executive Dean	1. For any matter relating to the learning, teaching, assessment, research, community engagement or other activities conducted by the Faculty or relating to the facilities of the Faculty; and 2. for any matter within the power of a Head of School
Pro Vice-Chancellor (Research)	For any matter relating to research students or any matter relating to research or research activities conducted within facilities of the University.
Chief Marketing Officer	For any matter arising in, or in connection with a breach of the Social Media Policy
Director, Student Experience	The provision of services to students or Student Association activities.
Library Director	For any matter arising in, or in connection with, the University's Library facilities or services.
Chief Information and Digital Officer	For any matter arising in, or in connection with, the University’s computing and network facilities or services, including a breach of the Computer and Internet Acceptable Use Policy.
Academic Registrar	For any matter arising in, or in connection with, any AskACU Centre or Student Administration, facilities or services.
Manager of a residential facility	For any matter arising in, or in connection with, that residential facility.
Director, Properties and Facilities	For any matter arising in, or in connection with the facilities or security on a campus or site.

Section 14 - Associated Information

(59) For related legislation, policies, procedures and guidelines and any supporting resources please refer to the Associated Information tab.

Status and Details

Status	Historic
Effective Date	2nd September 2024
Review Date	2nd September 2027
Approval Authority	Governance Officer
Approval Date	21st August 2024
Expiry Date	31st December 2024
Responsible Executive	Helen Murnane Academic Registrar
Responsible Manager	Helen Murnane Academic Registrar
Enquiries Contact	Catherine McKiver Senior Policy Officer Student Administration