

Student General Misconduct Policy (MPF1324)

1. Objective

The objectives of this policy are to:

- (a) ensure that student behavioural standards and expectations are defined and met;
- (b) ensure that student discipline procedures are transparent, consistent, equitable and fair, and consistent with the principles of natural justice;
- (c) identify responsibilities and accountabilities for decisions and processes;
- (d) define a framework of penalties which may be imposed for substantiated misconduct that is appropriate, proportionate and consistent;
- (e) ensure that decision-making on misconduct is undertaken at appropriate levels of responsibility within the University; and
- (f) provide direction for the membership of committees formed to consider student misconduct.

2. Scope

2.1. This policy applies to:

- (a) all members of the University community;
- (b) allegations of general misconduct only.

2.2. This policy does not include alleged academic misconduct or research misconduct, which are considered under the [Student Academic Integrity Policy](#) and the [Research Integrity and Misconduct Policy](#).

3. Authority

This policy is made under the *University of Melbourne Act 2009* (Vic) and the Academic Board Regulation.

4. Policy

Student Conduct

4.1. As members of the University community, students must conduct themselves in a manner consistent with the standards of behaviour that promotes the good order and management of the University.

4.2. Accordingly, students must:

- (a) make themselves aware of and comply with University statutes, regulations, policies, rules and procedures concerning their enrolment, studies and conduct at the University;

- (b) supply accurate personal and other information to the University according to the deadlines set by the University;
- (c) treat staff and other students with respect and courtesy;
- (d) comply with the Appropriate Behaviours Policy and treat others fairly and equitably, and not engage in harassing, bullying or discriminatory behaviour;
- (e) respect the rights of other members of the University community to express dissent or different political or religious views, subject to those actions or views complying with the laws of Australia and not endangering the safety of other members of the community;
- (f) behave respectfully towards other cultures;
- (g) respect the opinions of others and engage in rational debate in areas of disagreement;
- (h) respect all University property and facilities, including the library, computing and laboratory resources, and respect the rights of others to use these facilities;
- (i) take reasonable steps to secure their personal property whilst on University premises; and
- (j) not engage in frivolous or vexatious complaints or grievances.

4.3. Failure by a student to meet expected standards of behaviour may be dealt with as misconduct under this policy and the student may be subject to disciplinary action.

Allegations of General Misconduct

4.4. Allegations of general misconduct are considered by the Academic Registrar. The Academic Registrar may nominate a person to act on her or his behalf. The nomination must be made in writing and approved by the Vice-Chancellor.

4.5. Where the Academic Registrar has nominated another person to act, that person must notify the Academic Registrar of every allegation of general misconduct brought to his or her attention and of the decision he or she has made in relation to it.

4.6. If the Academic Registrar decides that it is more appropriate for an allegation of general misconduct to be investigated by another senior officer, he or she must immediately refer it to that other senior officer.

Investigating Misconduct

4.7. Allegations of general misconduct are initiated and investigated in accordance with the procedures prescribed in this policy.

4.8. The University follows transparent, fair and timely procedures for addressing allegations of misconduct in accordance with principles of natural justice, ensuring that all parties are treated equally and fairly.

4.9. The University gives students and staff who make an allegation of misconduct the opportunity to formally present their cases and they will not suffer any discrimination or reprisal as a result of raising an allegation in good faith.

4.10. University staff who are responsible for investigating an allegation of misconduct must reach conclusions based on a fair hearing of each point of view and must respect the privacy and confidentiality of all parties to the extent lawfully allowable.

Penalties

4.11. Penalties for misconduct are applied in accordance with Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.

5. Procedural principles

Investigating Misconduct Allegations

5.1. If the Academic Registrar determines that an allegation should be investigated, he or she must, within 10 working days of the allegation being brought to his or her attention:

- (a) refer the matter to a discipline committee for determination in accordance with sections 4.7-4.10 ; and
- (b) provide a notice to the student setting out the allegation of general misconduct and containing the details set out in section 4.2.

5.2. Where an allegation of general misconduct against a student is to be investigated, the Academic Registrar must provide the student with a written allegation notice:

- (a) setting out the alleged misconduct;
- (b) attaching copies of any primary supporting documents of which the Academic Registrar is aware relating to the alleged misconduct;
- (c) offering the student an opportunity to:
 - i. provide in writing an explanation or submission or evidence in response to the allegation; and/or
 - ii. be heard in relation to it,
- (d) naming the chair of the committee which will investigate the allegation of misconduct;
- (e) referring the student to the provisions of the relevant regulation and policy; and
- (f) advise the student of the provisions of section 4.9 and that they may seek independent advice from the Student Union Advocacy Service.

5.3. If a student wishes to take up any of the opportunities set out in the allegation notice the student must notify the chair of the committee in writing accordingly within 10 days after receipt or deemed receipt of the allegation notice.

5.4. If no notice requiring a hearing is given by the student, the committee will proceed to deal with the allegation, including the conduct of a hearing if deemed necessary or appropriate by the committee, in the absence of the student.

Convening the Discipline Committee

5.5. If the student gives notice, the chair of the committee must convene a meeting of the committee to determine the allegation of misconduct within 20 working days after receipt or deemed receipt of the allegation notice by the student.

5.6. The committee must give the student the opportunity nominated in his or her notice. If the student requires a hearing, he or she must be given at least seven days' notice of the time and place of the committee meeting during which the hearing will be conducted.

5.7. Any additional documents relating to the alleged misconduct that could not be provided with the allegation notice must be received or be deemed to have been received by the student no less than five days prior to the committee hearing. Otherwise the committee must not have regard for these documents in making a determination.

5.8. The committee hearing may be convened at any time of the calendar year subject to the conditions outlined in sections 4.7-4.10. However, the student and the chair of the committee may agree in writing at any time to extend or shorten the time limits or to reschedule the date, time and place for any meeting of the committee.

5.9. The chair of the committee may, as the case requires, adjourn and reconvene any meeting of the committee.

Composition of Discipline Committee

5.10. The discipline committee cannot include the person who referred the allegation to the Academic Registrar and comprises the following members:

- (a) the Academic Registrar or his or her nominee; who must be a senior member of the academic staff or a senior member of the professional staff;
- (b) a senior member of the academic staff of the faculty in which the student is enrolled or assigned for administrative purposes;
- (c) a senior member of the professional staff who is not part of the faculty in which the student is enrolled or assigned for administrative purposes;
- (d) a student nominated by the recognised student organisation.

5.11. Notwithstanding requirements set in section 5.10, the Academic Registrar or nominee may vary the composition of a general misconduct committee.

Right to Support Person

5.12. The student may, no later than 24 hours before the commencement of a meeting of the committee, notify the chair of the committee, that he or she wishes to have a specified support person present at the hearing to assist the student in presentation of his or her case. The support person may not be:

- (a) a person who was involved in, associated with, or alleged to have been involved in or associated with the misconduct alleged in the allegation notice; or
- (b) a qualified legal practitioner unless permitted by the chair of the committee.

5.13. The support person has no right to be heard, except with the permission of the chair of the committee, and may be excluded from the hearing by the chair of the committee, at the chair's discretion, if he or she disrupts or unreasonably impairs the conduct of the hearing.

Committee Procedure

5.14. In determining an allegation of misconduct the committee:

- (a) may follow any procedure it considers appropriate
- (b) is not bound by the rules of evidence or other technicalities or legal forms, and may inform itself in relation to any matter in any manner it thinks fit
- (c) must act fairly in all the circumstances, having regard to the requirements of natural justice
- (d) may not take into account prior findings of misconduct when deciding whether or not to uphold an allegation of misconduct
- (e) must inform the student of the evidence it intends to take into account in making its decision and give the student the opportunity to present the student's case and to respond to any relevant evidence or allegations orally and/or in writing, and
- (f) must allow the student to be accompanied by a support person nominated in accordance with this policy.

Concurrent and Other Matters

5.15. If the Academic Registrar or senior officer is considering whether or not an allegation of misconduct against a student should be investigated and becomes aware that the student's enrolment may be terminated for unsatisfactory progress, the Academic Registrar or senior officer, as the case may be, may defer consideration of whether the matter ought to be referred to a committee for investigation until a determination on any unsatisfactory progress.

5.16. The Academic Registrar or senior officer may determine at any time that it may be appropriate to report to the police the circumstances of the misconduct, in which case the matter must first be discussed with the Academic Registrar.

5.17. If the Academic Registrar determines that the matter should be reported to the police, the Academic Registrar must also determine whether the investigation of the allegation of misconduct is to continue or is to be deferred pending the outcome of the police investigation in order to ensure the privilege against self-incrimination is preserved.

Outcomes of Investigations

5.18. The committee must make a decision on whether it is more likely than not, on the balance of probability, that the allegation is either proved or not proved.

5.19. The committee must either dismiss or uphold each allegation of misconduct.

5.20. The committee must dismiss an allegation of misconduct unless a majority of the members of the committee is satisfied that the allegation has been upheld.

5.21. Where the committee upholds an allegation of misconduct, it may impose a penalty on the student in accordance with Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.

5.22. Within three working days of any decision being made under clause 5.18:

- (a) the student must be provided with:
 - i. written notice of the terms of the decision;
 - ii. any penalty imposed or recommended; and
 - iii. the right to appeal under section 5.49; and
- (b) the Academic Registrar must be provided with a copy of the notice.

Notices and General Provisions

5.23. Any notice to a student for the purposes of this policy is sufficient if it is in writing and is:

- (a) given to the student in person;
- (b) posted by registered or express post to the student at the address shown on the student's enrolment record as his or her postal address on the date of posting;
- (c) delivered by courier to the address shown on the student's enrolment record as his or her address on the day of delivery;
- (d) emailed to the student's allocated university email account; or
- (e) sent in any other form or method approved from time to time by the Vice-Chancellor for the purposes of bringing a notice to the attention of the student.

5.24. A notice is deemed to have been received if:

- (a) sent by registered or express post to an address within Australia, on the third working day after it was sent;
- (b) sent by registered or express post to an address outside Australia, on the seventh working day after it was sent;
- (c) delivered by courier, on the date recorded in the courier's records as the date of delivery;
- (d) sent by email, 24 hours after the time it was sent; and
- (e) sent in any other form or method approved from time to time by the Vice-Chancellor, on such date as the Vice-Chancellor prescribes as the date of deemed receipt of that notice.

5.25. A copy of any notice sent to a student must be retained by the University in such form as the Vice-Chancellor may prescribe.

5.26. The Vice-Chancellor or the Academic Registrar may in his or her discretion extend any of the time limits or times prescribed for the taking of any actions or steps referred to in this policy for such period and on such terms, if any, as he or she considers appropriate.

5.27. A person or committee exercising any power or carrying out any function under this policy may use such administrative and professional assistance and support as is reasonable to facilitate the exercise of such powers or functions.

Penalties for General Misconduct

5.28. Where a committee upholds an allegation of general misconduct against a student, it may apply a penalty in accordance with Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.

5.29. Where the committee refers a matter to the Vice-Chancellor, the Vice-Chancellor must have regard to the terms of the decision and the recommendation of the committee. The Vice-Chancellor is not required to accord a hearing to the student before imposing a penalty. The Vice-Chancellor may:

- (a) accept the recommendation and terminate or suspend the student's enrolment (as the case requires);
- (b) if the committee recommended that the student's enrolment be terminated, suspend the student's enrolment for such period and on such terms and conditions as the Vice-Chancellor considers necessary or appropriate;
- (c) if the committee recommended that the student's enrolment be suspended, suspend the student's enrolment for a shorter period than that recommended by the committee and/or on such terms and conditions as the Vice-Chancellor considers necessary or appropriate, being terms and conditions which in the Vice-Chancellor's opinion are less onerous than those recommended by the committee; or
- (d) refer the matter back to the committee with a recommendation that it impose one or more of the penalties referred to in Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.

5.30. Where the Vice-Chancellor refers a matter back to the committee, the committee must consider the recommendation made by the Vice-Chancellor, and within the next 5 working days, impose one or more of the penalties referred to in Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.

Undischarged Penalties

5.31. While any penalty imposed in accordance with this policy remains outstanding, unfulfilled or unpaid, or while a student is suspended or excluded due to undischarged penalties, the student must not, without the written consent of the Vice-Chancellor:

- (a) enrol;
- (b) attend any classes;
- (c) receive any results of assessment;
- (d) graduate or receive a degree, diploma or any certificate stating that the student is qualified to graduate or receive a degree or diploma in the University;

- (e) receive a certificate of academic record; or
- (f) access the University's library or computing and network facilities.

5.32. Where any penalty imposed takes some time to discharge, the Vice-Chancellor may provide written consent for the student to engage in specific activities in section 5.31.

Emergency Power to Exclude and Suspend

5.33. Notwithstanding any other provision of this policy:

- (a) the Vice-Chancellor may in his or her discretion immediately exclude and/or suspend a student for such period and on such terms and conditions as he or she considers necessary; and
- (b) the head of an affiliated educational establishment may in his or her discretion immediately exclude a student from all or specified premises or facilities of that establishment, or all or any activities, subjects, lectures, tutorials or incidents of University life carried out or conducted at or in any part of those premises or facilities on such terms and conditions as he or she considers necessary.

5.34. The powers under this section must be exercised in accordance with the provisions of Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.

5.35. Where the Vice-Chancellor or the head of an affiliated educational establishment decides to exclude and/or suspend a student under this section, he or she must, within 24 hours, provide a written notice to the student in accordance with Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation.

5.36. Where the Vice-Chancellor or a head of an affiliated educational establishment decides to exclude and/or suspend a student under this section, he or she must, as soon as practicable, refer the matter to a senior officer who must initiate an investigation into the matter in accordance with this policy by:

- (a) providing a written notice to the student, in accordance with sections 5.23-5.27 of this policy, setting out in summary form the details of the conduct or behaviour that led to the decision to exclude or suspend him or her and seeking a written response and explanation from the student within 5 working days;
- (b) establishing a committee in accordance with sections 5.5-5.11 of this policy to consider the allegation and the student's response to the notice;
- (c) advising the student of the provisions of this section of this policy and that they may seek independent advice from the Student Union Advocacy Service; and
- (d) referring the student to the provisions of this policy and the Academic Board Regulation.

5.37. The Vice-Chancellor or the head of an affiliated educational establishment may at any time revoke or vary a decision to exclude and/or suspend a student under this section.

5.38. A decision to exclude and/or suspend a student under this section continues to operate unless or until:

- (a) it is revoked or varied by the Vice-Chancellor or the head of an affiliated educational establishment;

- (b) the alleged general misconduct has been dismissed;
- (c) the alleged general misconduct has been upheld and any penalty imposed in accordance with Part 8, Division 3 - General Misconduct and High Risk Conduct of the Academic Board Regulation; or
- (d) it expires in accordance with its terms.

5.39. Where the Vice-Chancellor decides to exclude and/or suspend a student under section 5.33 of this policy he or she must provide a report to the next meeting of Council setting out in summary form the terms of and the reason or reasons for the decision.

5.40. Nothing in this policy derogates from the power of security officers approved as authorised officers by the Vice-Chancellor pursuant to the Security and Access to Property policy, to revoke a person's right to remain on University premises in accordance with the Security and Access to Property Policy.

Consequence of Suspension and Exclusion

5.41. While a student is suspended he or she must not, without the written consent of the Vice-Chancellor:

- (a) attend any classes;
- (b) sit any examinations;
- (c) submit any work for assessment;
- (d) gain any credit; or
- (e) access the University's library or computing and network facilities.

5.42. While a student is excluded he or she must not:

- (a) attend any classes relating to any subject or group of subjects from which the student has been excluded;
- (b) sit any examinations relating to any subject or group of subjects from which the student has been excluded;
- (c) submit any work for assessment in any subject or group of subjects from which the student has been excluded;
- (d) gain any credit for work submitted in any subject or group of subjects from which the student has been excluded; or
- (e) seek to have access to, enter upon or otherwise use or enjoy any University premises, facilities, activities, subjects, tutorials or incidents of University life specified in any notice of exclusion issued in accordance with the terms of this policy.

5.43. A student is not entitled to receive any credit for any studies undertaken by the student at the University or any other institution during a period when the student's enrolment is or was suspended without the written consent of the Vice-Chancellor or the Academic Registrar.

Reinstatement Where Suspended and Forfeiture of Fees

5.44. A student's enrolment must be automatically reinstated after the expiration of any period of suspension, provided that the student has complied with any terms and conditions imposed as part of the suspension.

5.45. The Vice-Chancellor or the Academic Registrar may, at their discretion, reinstate a student's enrolment after the expiration of any period of suspension even though the student has failed to comply with any terms or conditions imposed as part of the suspension.

5.46. No fees paid by a student relating to any period of suspension shall be refundable.

Readmission Where Terminated and Forfeiture of Fees

5.47. A student whose enrolment has been terminated in accordance with this policy may not enrol in any course, subject or group of subjects at the University without the written consent of the Vice-Chancellor, which must only be granted at the discretion of the Vice-Chancellor in exceptional circumstances.

5.48. No fees paid by a student shall be repayable to the student upon or by reason of termination.

Appeals

5.49. Appeals against a decision made under this policy must be made in writing to the Academic Secretary in accordance with the [Student Appeals to the Academic Board Policy](#).

Confidentiality

5.50. Any person or committee who exercises any power or carries out any function under this policy or hears any appeal must treat the subject matter thereof in the strictest confidence, save where necessary for the discharge of that person's or committee's responsibilities pursuant to this policy or as otherwise required or permitted by law.

Records

5.51. The Academic Registrar must keep a record of all:

- (a) findings of general misconduct; and
- (b) penalties imposed in respect of such findings.

5.52. The records form part of the student's disciplinary record and must form part of a student's file which will be made available to persons within the University or outside the University in accordance with the University's Privacy Policy.

5.53. Prior records may be taken into account for the purposes of assessing what penalty, if any, should be imposed or recommended under the provisions of this policy and the Academic Board Regulation in any case where an allegation of misconduct has been upheld or confirmed against a student.

6. Roles and responsibilities

<i>Role/Decision/Action</i>	<i>Responsibility</i>	<i>Conditions and limitations</i>
Provision of report to	Member of	Report should be in writing and

the Academic Registrar on student behaviour	professional or academic staff	provide sufficient details of the behaviour or incident to facilitate investigation
Establishing a student discipline misconduct committee	Member of the professional staff authorised to act by the Academic Registrar	Authorisation to act on behalf of the Academic Registrar must be given in writing. Must be in accordance with this policy
Provision of allegation notice to students	Member of the professional staff authorised to act by the Academic Registrar	Authorisation to act on behalf of the Academic Registrar must be given in writing. Must be in accordance with this policy
Ensuring appropriate conduct of student general misconduct committees	Chair of the Student discipline committee	Must be in accordance with the provisions of this policy
Ensure that records are kept of all actions taken under this policy	Member of the professional staff authorised to act by the Academic Registrar	Must be in accordance with this policy and University Records Management Policy
Application of appropriate penalty as required	Appropriate senior member of staff	Must be in accordance with the provisions of the Academic Board Regulation and this policy
Provision of outcome notice to student	Appropriate member of senior staff	Must be in accordance with this policy

7. Definitions

Academic Registrar means the office holder duly appointed with that title, or with a title including that term, and includes a person duly appointed to act in the place of that officeholder for the time being.

affiliated educational establishment means an educational or residential establishment affiliated with the University where such educational establishment constitutes a school or department of the University.

computing and network facilities means computers, computer systems, data network infrastructure, dial-in network access facilities, email and other communications and information facilities together with associated equipment, software, files and data storage and retrieval facilities, all of which are owned or operated by the University and form part of the central facilities or the local facilities.

exclusion except where the context indicates otherwise, means denial of access to all or specified university premises, facilities, activities, subjects, lectures, tutorials or incidents of university life and 'exclude' has a corresponding meaning.

general misconduct has the meaning given to it in Part 8, Division 3 - General Misconduct and High Risk Conduct - of the Academic Board Regulation.

natural justice or **procedural fairness** means that a person receives a fair and unbiased hearing before a decision is made that will impact on their rights or interests.

premises means land or buildings.

senior member of the academic staff means a member of staff of the rank of senior lecturer or above.

senior member of the professional staff means a member of the professional staff appointed at or above HEW 10 level.

senior officer means a person nominated as a senior officer by the Vice-Chancellor for the purpose of this policy and may include a person who is external to the University.

student In this policy has the meaning given to it in Part 8, Division 1 - Student Misconduct - of the Academic Board Regulation.

subject means a subject offered on an assessed or a non-assessed basis.

suspension means the suspension of a student's enrolment at the University for a specified period at the end of which the student's enrolment is reinstated unless otherwise requested by the student, and "suspend" has a corresponding meaning.

termination means course cancellation initiated by the University as the result of a serious breach of policy (such as general or academic misconduct, unsatisfactory progress). In addition to normal readmission requirements, students may need to provide evidence that the reason for the termination is no longer of concern.

University means the University of Melbourne or any affiliated educational or residential establishment.

POLICY APPROVER

Provost

POLICY STEWARD

Principal Advisor, Student Grievances and Complaints

REVIEW

This policy is to be reviewed by 21 July 2021.

VERSION HISTORY

Version	Authorised by	Approval Date	Effective Date	Sections modified
1	Provost	19 July 2016	21 July 2016	New policy arising from the Regulatory Framework Review and the Policy Consolidation Project.