



# Student Misconduct procedure

## Section 1 - Preamble

(1) This Procedure comes into effect for matters arising on or after 9 July 2021.

(2) This Procedure is made for the management of student misconduct, pursuant to Part 7 of the [Deakin University Vice-Chancellor Regulations](#) (the Regulations).

## Section 2 - Purpose

(3) This document details the processes required for the investigation and management of student misconduct by Deakin University (the University) students.

## Section 3 - Scope

(4) This Procedure applies to the management of allegations of student misconduct as described in the Regulations. Allegations of academic or research integrity are managed under the [Student Academic Integrity policy and procedure](#) and the [Research Integrity Breaches procedure](#).

## Section 4 - Policy

(5) This Procedure is pursuant to the [Student Code of Conduct](#).

## Section 5 - Procedure

(6) Students are expected to adhere to behavioural standards as set out in the [Student Code of Conduct](#) and other University Policies and Procedures.

(7) Any breach of these standards is described as student misconduct and defined in Part 1(4) of the Regulations.

(8) Staff are expected to promote University values and behavioural standards in their routine interactions with students, and to respond appropriately to any deviation from these standards.

(9) Student misconduct can be managed through informal and formal interventions.

(10) The behaviours associated with alleged or substantiated student misconduct may indicate a threat to welfare, wellbeing or safety. Behavioural threat assessment and management will be considered across all informal and formal interventions.

### Informal interventions for student misconduct

(11) Informal (Level 1) interventions may be carried out by any staff member in their routine management of student behaviour, and do not require a formal allegation of student misconduct.

(12) Behaviours that may be managed by staff include, but are not limited to:

- a. rude or demanding communication with staff that is an isolated incident
- b. disrupting a class or seminar
- c. smoking on campus.

### **Level 1 interventions: directions from staff**

(13) Staff may give reasonable and lawful directions to students (Regulation 13.4), and may direct a student verbally or in writing to cease or modify concerning behaviour. A record should be maintained, by the issuing area, of any informal interventions.

(14) Informal interventions should be educative, may remind students of their obligations under the [Student Code of Conduct](#), and may include information about relevant support services.

### **Formal interventions for student misconduct**

(15) Allegations of student misconduct beyond Level 1 behaviour, which may be managed routinely by local staff, may be reported to the Vice-Chancellor's nominee at the [Office of the Dean of Students](#).

(16) The Office of the Dean of Students will record all allegations of student misconduct and the determinations and outcomes of such allegations. This will not be included on the student's academic record.

(17) Following preliminary consideration of cases in accordance with Regulation 17.2, the Office of the Dean of Students will determine whether the alleged conduct meets all of the following criteria:

- a. the alleged conduct was carried out by a student who was enrolled at the University at the time of the incident;
- b. the alleged conduct occurred on University premises (including online spaces and platforms), was at a University affiliated event or can in some other way be connected to the University;
- c. the conduct constitutes one or more of the breaches defined in Part 1(4) of the Regulations.

(18) The Office of the Dean of Students may dismiss the allegations if the reported behaviour does not constitute a breach of the Regulations, does not have substantial evidence to support an allegation (Regulation 17.2 (a)), or does not meet all criteria set out in clause 17 of this Procedure.

(19) If the Office of the Dean of Students dismisses an allegation under Regulation 17.2(a), they may notify the student who is the subject of the allegations, as well as the person who reported the behaviour.

(20) Where a report is made that relates to a serious or significant and immediate risk or threat to the safety of the University community, this matter shall be considered under Regulation 15, separate to the process for investigating the misconduct allegation.

(21) If the report meets the criteria in clause 17 of this Procedure, the Office of the Dean of Students will determine the most suitable intervention level for the misconduct reported.

(22) There are three formal intervention levels available for the management of student misconduct: Behavioural Reminders from the Dean of Students; investigation by Student Misconduct Committees (one-person); and investigation by Student Misconduct Committees (panel).

(23) A student who has previously had a case substantiated at intervention Levels 3 or 4 will have any subsequent allegation made against them investigated by a Student Misconduct Committee.

(24) Where required, the University may co-opt any person, with relevant expertise and experience (whether from

within or outside the University) to assist it in conducting an investigation. This may include seeking information or material from relevant parties or assisting with other aspects of the investigation.

### **Level 2 interventions: Behavioural Reminders**

(25) The Dean of Students may issue a Behavioural Reminder for lower-level, first-time conduct concerns, reminding the student of expected behavioural standards and requesting a change in behaviour. The Behavioural Reminder may also refer to relevant support services and/or direct the student to attend a meeting with a designated person/s to discuss their behaviour or other appropriate direction.

(26) Examples of behavioural concerns that may result in a Behavioural Reminder include, but are not limited to:

- a. aggressive or disrespectful communication where there is no direct threat of harm
- b. inappropriate online communication connected to the University
- c. non-compliance with a direction from staff, such as a direction to stop smoking.

(27) The Behavioural Reminder will inform students how they can respond to the communication. Students have a right to reply, may attend a meeting to discuss the behaviour, and may bring a support person to that meeting.

(28) If the student's behaviour continues, it may be referred to a Student Misconduct Committee for consideration under intervention Levels 3 or 4.

### **Level 3 interventions: investigation by Student Misconduct Committee (one-person)**

(29) A one-person Student Misconduct Committee can hear first-time allegations of student misconduct, cases resulting from a lack of engagement with a Behavioural Reminder, and lower-level conduct concerns.

(30) Level 3 matters that may be considered by a one-person Student Misconduct Committee (or Authorised Officer) include, but are not limited to:

- a. disrespectful or abusive, harassing or threatening language directed at another person (including hate speech)
- b. minor vandalism, property damage or theft.

### **Level 4 interventions: investigation by Student Misconduct Committee (panel)**

(31) All significant conduct concerns and alleged conduct breaches will be heard by a Student Misconduct Committee (panel). These matters include but are not limited to:

- a. all reported behaviours relating to sexual harm, as detailed in the [Sexual Harm Prevention and Response policy](#) and [Sexual Harm Response procedure](#)
- b. risk of, or actual, harm or injury (physical, emotional or psychological) including all physical assaults
- c. serious fraud/false representation to obtain a financial or other non-academic benefit (such as falsifying University testamur or paying fees with a fraudulent credit card)
- d. bribery or attempted bribery
- e. theft, or behaviour that causes or may cause substantial property damage and/or loss.

## **Student Misconduct Committee**

(32) The members of a Student Misconduct Committee are members of University staff identified by the Vice-Chancellor as suitable for that committee.

(33) Student Misconduct Committee members will be provided with relevant training by the Office of Dean of Students and other areas, as appropriate.

(34) The Office of the Dean of Students will provide administrative support to the Student Misconduct Committee for investigations and hearings, and may attend a hearing for such purposes.

(35) A Student Misconduct Committee may obtain assistance, advice, support, or evidence from any relevant person during an investigation or hearing, while maintaining confidentiality as far as practicable.

(36) Prior to a hearing, the Student Misconduct Committee must advise the student who is being investigated, in writing, of:

- a. the allegations;
- b. evidence obtained;
- c. an invitation to provide information, evidence or submissions in support of their case by the committee;
- d. an invitation to attend a private hearing;
- e. their ability to attend the hearing in person, by telephone or through other virtual means;
- f. the fact that the hearing may be recorded by the University only;
- g. the student's ability to request an adjournment, with the approval of the Chair;
- h. the right to bring witnesses to the meeting or hearing, present evidence and make submissions;
- i. the right to bring a support person to the hearing, but there being no right to be legally represented;
- j. relevant references to University legislation, policy or procedures;
- k. persons other than the committee members who may be present to assist or advise the committee or give evidence;
- l. the fact that the hearing and determination, including any potential outcomes, may occur without their attendance if they refuse to or do not attend; and
- m. any support services the University may make available to the student.

(37) The student must be given at least 10 working days' notice of the hearing.

(38) A Student Misconduct Committee may seek further information in relation to the case at any time prior to the making of a determination, and may adjourn hearings or take any other administrative step for the prompt, efficient and effective conduct of the investigation and hearing.

(39) During the hearing:

- a. the matter may be heard without the student who is the subject of the allegations being present, if the student has stated that they do not wish to be present or participate in the process, or if the committee reasonably believes the student has been notified of the hearing in accordance with clause 36, and will be heard on the evidence available and on the basis that they do not admit the allegation;
- b. if the student is present, the student will be given the opportunity to present their account, in accordance with clause 36;
- c. any material, including submissions, provided by the student, will be considered by the Student Misconduct Committee whether or not the student attends; and
- d. if the student is present, outcomes may be discussed with the student.

(40) A Student Misconduct Committee will determine whether there has been student misconduct, and outcomes, in accordance with Regulation 17.3.

(41) Where there is no majority decision, the Chair has the final decision to determine whether the allegation is substantiated or not, and any suitable outcomes.

(42) The decision is made on the balance of probabilities, will afford natural justice and be made in a fair and impartial

manner in accordance with Regulation 14.

(43) A Student Misconduct Committee may advise the student of the determination and any outcomes verbally at the hearing. A Student Misconduct Committee will produce a written determination setting out:

- a. the allegations;
- b. the evidence;
- c. relevant findings of fact;
- d. whether the allegations were substantiated;
- e. what misconduct, if any, the student was found to have committed;
- f. what outcomes or other consequences were resolved or imposed; and
- g. the date when the outcomes or other resolutions come into effect.

(44) The student will be notified of the determination in writing, together with internal appeal rights, within five working days of the hearing.

(45) The determination and relevant outcomes may be shared, under the conditions described in clause 57, with the person/s who reported the case and any other relevant person/s.

### **Standardised outcomes**

(46) For certain allegations, a standardised outcome may be offered to a student without a hearing, provided the breach meets all of the following conditions:

- a. the allegation relates to a first-time breach;
- b. the allegation relates to the submission of fraudulent or falsified documentation/ representation to obtain a financial or other non-academic benefit relating to the Regulations (Part 1(4) breaches 'a' and 'f'); and
- c. the evidence shows conclusively that the documentation submitted by the student was made fraudulently or falsified.

(47) A standardised outcome will be sent to the student/s which details the allegation against them and includes conclusive evidence supporting the allegation.

(48) The student may choose to either accept or not accept the allegation and proposed outcome.

(49) A written acceptance by the student will result in a record of student misconduct and application of the standard outcome.

(50) Where the student admits the allegation but has evidence of mitigating circumstances which led to the behaviour, the student can request to be heard by a Student Misconduct Committee.

(51) The standard outcome for a substantiated fraud/falsified documentation case will comprise one or more of the immediately applicable outcomes (pursuant to Schedule 1 of the Regulations) detailed in Table A:

### **Table A: Standardised outcome by fraud type and purpose**

Fraud type and purpose	Outcome
1. Confirmed fraudulent medical certificate to obtain a financial or other non-academic benefit such as remission of debt 2. Confirmed fraudulent document or other official record or letter (non-medical) to obtain a financial or other non-academic benefit such as to gain employment	1. A formal reprimand (outcome 4); and 2. Suspension for one teaching period (outcome 11); and 3. Place a condition on the student's enrolment that the student repays relevant fees or monies, if applicable (outcome 8); and 4. Completion of an apology letter to relevant person/company whose signature or documentation was used fraudulently, if appropriate (outcome 3).

(52) A student who does not accept the allegation and proposed outcome, or does not respond, will have their allegation heard by a Student Misconduct Committee (panel - Level 4 intervention).

## Appeals

(53) A student may appeal a decision of the Student Misconduct Committee on the grounds set out in the [Academic Board Regulations](#).

(54) A student must lodge the appeal with the University Appeals Committee in writing within 20 working days of being notified of the outcome of the hearing, as required by the [Student Appeals procedure](#).

## Potential criminal cases

(55) Where allegations of student misconduct are also potential criminal matters which may be, or are being investigated by the police, the Student Misconduct Committee may vary the requirements of clauses 36 and 39 so as to ensure procedural fairness.

(56) If the police or any other body investigating a potential criminal offence by a student requests the University to suspend any investigation of student misconduct, the Student Misconduct Committee will comply with such a request.

## Privacy and confidentiality

(57) The Office of the Dean of Students will keep and maintain records of each case reported to it under this Procedure. The Vice-Chancellor may disclose such records only to the extent necessary for the purposes of managing the University's affairs, or managing any student/s affected by the case, or otherwise in accordance with law. Maintenance, storage and disclosure of such records will comply with the University [Privacy policy](#) or other relevant policy.

(58) If it is determined that information from a student misconduct case should be disclosed to any person, details identifying victims and witnesses will be redacted as far as possible, while affording procedural fairness.

## Allegations of misconduct against students with a disability

(59) Where there is an allegation of student misconduct against a student with an impairment or disability, the Chair, Student Misconduct Committee may defer the hearing in accordance with Regulations 14.2 and 14.3 where they are satisfied that it is in the student's best interests.

# Section 6 - Definitions

(60) For the purpose of this Procedure:

- a. Behavioural Reminder: directions issued by the Dean of Students reminding the student of the [Student Code of Conduct](#) and requesting a change in behaviour.

- b. Determination: a Student Misconduct Committee's decision about whether an allegation is substantiated (whether the alleged misconduct was more likely than not to have occurred) or not substantiated (whether the alleged misconduct was more likely not to have occurred than to have occurred).
- c. Direction: an instruction given by a staff member of the University requiring action from the student, this may be informal or formal and given verbally or in writing.
- d. Informal interventions: a local level intervention designed to engage with the student and proactively discuss the witnessed behaviours of concern. This may be done in person, on the phone or in writing and may require an action from a student.
- e. Outcome: the conditions given to students in accordance with Schedule 1 of the [Vice-Chancellor Regulations](#) following a substantiated case of student misconduct being determined. This may include educative, rehabilitative, restorative or punitive outcomes.
- f. Record: keeping a note on file regarding the conduct and any relevant intervention.
- g. Report - informing relevant staff of conduct concerns and/or any intervention undertaken by the reporting area to manage the conduct.
- h. Student: a person who was enrolled as a student at the University at the time the relevant conduct occurred (whether or not deferred, intermitted or on leave of absence).
- i. Student misconduct: conduct by a student (not being a breach of academic or research integrity standards established by the [Academic Board Regulations](#)), which is determined under the [Vice-Chancellor Regulations](#) to be student misconduct.
- j. Student Misconduct Panel: two or more persons nominated to sit on a Student Misconduct Committee.
- k. Student Misconduct Committee: the committee convened to hear Level 3 and 4 allegations of student misconduct (includes one-person and panel committees)
- l. Support person: a person entitled to accompany a student to a hearing. This may include a Deakin University Students' Associate or University representative, a friend or family member. The person must not be a practising lawyer.
- m. Witness: a person who has witnessed a behaviour of concern and may be required to submit evidence or a statement in relation to the case.

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	9th July 2021
<b>Review Date</b>	9th July 2022
<b>Approval Authority</b>	Vice-Chancellor
<b>Approval Date</b>	5th July 2021
<b>Expiry Date</b>	To Be Advised
<b>Responsible Executive</b>	Liz Johnson Deputy Vice-Chancellor Academic +61 3 92468303
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