

Exclusion for Safety Reasons Regulations 2014

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VICTORIA UNIVERSITY

Victoria University Act 2010

Exclusion for Safety Reasons Regulations 2014

The Council makes the following Regulations:

Dated: *19 March 2014*

THE COMMON SEAL of VICTORIA)
UNIVERSITY was affixed to this)
document at the direction of the COUNCIL)
in the presence of:)
)



Professor Peter Creamer
Vice-President and Chief Information Officer

Dr Steven Stern
University General Counsel

PART 1—PRELIMINARY

1. Objective

The objective of these Regulations is to make provision for refusal to enrol a student and suspension or exclusion of a student under section 41 of the *Governance, Academic and Student Affairs Statute 2013*.

2. Authorising provision

These Regulations are made under the *Governance, Academic and Student Affairs Statute 2013* and sections 28, 29 and 30 of the *Victoria University Act 2010*.

3. Definitions

In these Regulations—

applicant means a person who has applied to enrol as a student.

decision-maker means a member of staff, other than a Deputy Vice-Chancellor, nominated by the Vice-Chancellor to decide whether or not to make an exclusion decision.

conditional exclusion decision means an exclusion decision in respect of which the University has imposed a condition under regulation 8(2);

exclusion decision means a decision under section 41 of the Statute to refuse to enrol a person as a student or to suspend or exclude a student;

high risk person means a person described in paragraph (a) or (b) of section 41 of the Statute;

SAT Team means the Safety and Triage Team established under regulation 4.

Statute means the *Governance, Academic and Student Affairs Statute 2013*.

4. Establishment of the SAT Team

- (1) The University must establish a Safety and Triage Team.

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Part 1—Preliminary

- (2) The functions of the SAT Team are—
 - (a) to assess whether a student is a high risk person; and
 - (b) to make recommendations to the university.
 - (3) The SAT Team is to be nominated by the Vice-Chancellor and is to comprise five members of staff of the University, as follows—
 - (a) one member from the student counselling service;
 - (b) one member from legal services;
 - (c) one member from security;
 - (d) the Manager responsible for student support and wellbeing;
 - (e) one other member.
 - (4) The chair of the SAT Team will be the Manager responsible for student support and wellbeing.
 - (5) In performing its functions, the SAT Team may make any enquiries and consult any person it considers necessary.
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PART 2— DECISION TO REFUSE, EXCLUDE OR SUSPEND

5. Consultation with the SAT Team

The decision-maker must consult with the SAT Team before he or she makes an exclusion decision.

6. Exclusion decision

After consulting with the SAT Team, the decision-maker may make an exclusion decision if it appears to him or her that the applicant or a student may be a high risk person.

7. Effect of exclusion decision

- (1) A person who is subject to an exclusion decision to suspend remains a student of the university, but is prohibited from attending any teaching or assessment session.
- (2) A person who is subject to an exclusion decision to exclude remains a student of the university, but is prohibited from entering any university precincts or premises.
- (3) A person who is subject to an exclusion decision to refuse to enrol ceases to be a student of the university and is permanently debarred from enrolling or re-enrolling in any unit or course or study of the university, unless the university at any time determines otherwise.
- (4) Without otherwise affecting the operation of this regulation, a person who is subject to an exclusion decision remains a student of the university until:
 - (a) the expiration of the time allowed by regulation 10(2) for the lodging of a notice of appeal; or
 - (b) where a notice of appeal is lodged, until the appeal process is concluded.

8. Conditional exclusion decision

- (1) If it appears to the University that an applicant or a student may be a high risk person, it may make an exclusion decision which is suspended in its operation.

Part 2— Decision to Refuse, Exclude or Suspend

- (2) If a decision is made under this regulation, the University may impose a condition that the appellant complies, to the satisfaction of the University, with specified requirements.

9. Notice of refusal, suspension or exclusion

- (1) If the University makes an exclusion decision, it must give written notice of the action taken to the person excluded.
- (2) The notice must be given not later than seven days after the action is taken.
- (3) The notice must set out—
- (a) the person’s right of appeal under these Regulations;
 - (b) subject to sub-regulation (5), a statement of grounds for the exclusion decision.
- (4) The notice must be served on the person personally or by post or electronic means to his or her last known postal address or email address.
- (5) The University may omit from the notice the statement of grounds for the decision if—
- (a) it serves a statement of grounds for the decision on—
 - (i) an immediate family member within the meaning of the *Health Records Act 2001*; or
 - (ii) a registered medical practitioner who is advising or treating the person; and
 - (b) it is authorised to do so by Health Privacy Principle 2 of the *Health Records Act 2001*.
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PART 3—APPEAL RIGHTS

10. Appeal from an exclusion decision

- (1) A person who is the subject of an exclusion decision may appeal from the decision by lodging a Notice of Appeal in accordance with the Procedures to these Regulations, giving a notice of appeal to the University.
- (2) A notice of appeal must be given within 3 weeks after the person is given the notice of decision.

11. Appeal Committee

- (1) The University must establish an Appeal Committee for the purposes of considering an appeal.
- (2) An Appeal Committee must comprise—
 - (a) a Deputy Vice-Chancellor or a member of staff nominated by him or her;
 - (b) a member of staff nominated by the Manager responsible for student administration;
 - (c) a member of the academic staff nominated by the Dean of the College in which the student is enrolled.
- (3) An Appeal Committee may also include an additional member co-opted by the Appeal Committee.
- (4) The Deputy Vice Chancellor or a member of staff nominated by him or her appointed under clause 11(2)(a) is the Chair of the Committee.
- (5) An Appeal Committee must not include a member who has been involved with the appellant in relation to any matter covered by this Regulation.

12. Procedure for considering an appeal

- (1) An Appeal Committee considering an appeal under these Regulations—

Part 3—Appeal Rights

- (a) must provide opportunity to the decision-maker and the appellant to submit written evidence for consideration by the Committee;
 - (b) may require the decision-maker or the appellant or both to attend before it.
- (2) If the decision-maker or the appellant appears before the Committee, he or she may be accompanied and assisted, but not represented, by a staff member or student or other person approved by the Committee.

13. Powers and duties of Appeals Committee

- (1) An Appeal Committee considering an appeal under these Regulations may—
- (a) make such enquiries and consult such persons as it thinks fit;
 - (b) require persons with special knowledge of the state of health or disability of the appellant to report to or consult with the Committee;
 - (c) require the appellant to undergo medical examination or psychological assessment by persons specified by the Committee.
- (2) An examination or assessment under sub-regulation (1) is at the expense of the University.

14. Determination of the appeal

- (1) After considering the appeal, an Appeal Committee may—
- (a) allow the appeal;
 - (b) allow the appeal on condition that the appellant complies, to the satisfaction of the University, with specified requirements;
 - (c) confirm or vary the decision;
 - (d) refuse enrolment or suspend or exclude the student.
- (2) A decision of an Appeal Committee is final.

PART 4 — ONGOING MANAGEMENT

15. Compliance with conditions

- (1) In this regulation condition requiring ongoing management means a condition imposed—
 - (a) by the decision-maker under regulation 7; or
 - (b) by an Appeal Committee under regulation 14(1)(b).
- (2) If a condition requiring ongoing management applies to a student, the University may—
 - (a) require the person to report to a person nominated by the Vice Chancellor at specified intervals on his or her compliance with the conditions;
 - (b) if professional assistance is a condition, require a report to be made to the University at specified intervals from the professional.
- (3) If it appears to the decision-maker that a condition requiring ongoing management has not been complied with, the decision-maker may—
 - (a) allow enrolment to continue subject to amended conditions; or
 - (b) make an exclusion decision.
- (4) If the decision-maker makes an exclusion decision under this Regulation—
 - (a) he or she must give written notice of the action taken in accordance with regulation 9(1);
 - (b) the right of appeal under regulation 10(1) applies to the decision.