

VICTORIA UNIVERSITY

*Victoria University Act 2010*

**Student Misconduct Regulations 2019**

The Vice-Chancellor makes the following Regulations:

Dated: 08/04/2019

THE COMMON SEAL of VICTORIA  
UNIVERSITY was affixed to this  
document at the directions of the  
VICE-CHANCELLOR in the presence of:



A handwritten signature in black ink, appearing to read 'P. Dawkins'.

.....  
Professor Peter Dawkins  
Vice Chancellor and President

A handwritten signature in black ink, appearing to read 'T. Tjia'.

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Teresa Tjia  
Vice-President (Planning) and Registrar

# STUDENT MISCONDUCT REGULATIONS - 2019

## PART 1 - PRELIMINARY

### 1. Objective

The objective of these Regulations is to define student misconduct and the applicable sanctions under the Governance, Academic and Student Affairs Statute 2013 and to provide a framework for responding to student misconduct.

### Accountability

Accountable Officer	Vice Chancellor
Responsible Officer	Vice President, (Planning)

### 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. Commencement

These Regulations will come into operation on the date they are sealed.

### 4. Definitions

In these Regulations:-

- a) **authorised officer** means any University employee or agent of the University;
- b) **complainant** means a person who makes an allegation of misconduct against a student;
- c) **exclusion** means the termination of a student's enrolment and/or candidature and a prohibition of the student from entering any University premises, using any University facilities and services, and engaging in any University activities;
- d) **high-risk person** means a person described under section 41 of the Governance, Academic and Student Affairs Statute 2013;
- e) **investigation meeting** means a hearing of the allegations of the student misconduct where the student is provided an opportunity to respond to the allegations of student misconduct;

- f) **notice** unless otherwise specified, means notice that is provided in person, or sent either by post or by email, to a student's last known postal or email address;
- g) **partial suspension** means a temporary prohibition, either until specified conditions have been met (and subject to continued compliance as appropriate) or for a specified period of time, on a student from attending any University premises but allowing the use of University services to the extent necessary to facilitate remote study;
- h) **relevant area** means the organisational unit (including a College) responsible for the course/program in which the student is enrolled at the time when the student is alleged to have committed the misconduct. Where this is unclear or where multiple organisational units may be involved, the Manager responsible for administering the student complaints and student misconduct process will nominate a relevant area for the purposes of these Regulations;
- i) **senior officer** means anyone delegated by the Vice-Chancellor to manage student misconduct matters in accordance with these regulations;
- j) **serious matter** includes, but is not limited to:
  - i. conduct which if found to occur, would likely result in a sanction that only the Student Misconduct Panel can impose under this Regulation (e.g. Exclusion from the University/termination of candidature/enrolment);
  - ii. conduct that a senior officer considers to constitute a plausible case of Research Misconduct;
  - iii. conduct which presents an unacceptable risk to the University community.
- k) **student** means:
  - i. a person enrolled at the University in a course leading to a degree, diploma, certificate, licence or other award; or
  - ii. a person whose study performance is being or is to be assessed by the University, notwithstanding that such a person is not enrolled at the University in a course leading to a degree, diploma, certificate, licence or other award;

Note: the above definition of **student** is from section 3 of the Victoria University Act 2010 and Council Resolution C2010 - 070;
- l) **student academic misconduct** has the meaning given to it in regulation 8;
- m) **student general misconduct** has the meaning given to it in regulation 6;

- n) **student misconduct** means student academic misconduct or student general misconduct;
- o) **Student Misconduct Panel** means a panel convened under Part 4 to hear and determine allegations of student misconduct.
- p) **suspension** means a temporary prohibition, either until specified conditions have been met (and subject to continued compliance as appropriate) on a student attending any University premises, using any University facilities and services and engaging in any University activities (including any teaching, learning or sports activities) but allowing, subject to the absolute discretion of the decision-maker, the use of University services to the extent necessary to facilitate remote study.

## PART 2 - STUDENT MISCONDUCT

### Division 1 - Student General Misconduct

#### 5. Purpose of this Part

The purpose of this Part is to prescribe conduct that is student general misconduct, for the purposes of section 37 of the Governance, Academic and Student Affairs Statute 2013.

#### 6. Student general misconduct

(1) **Student general misconduct** means conduct in connection with the University by a student which is, or is likely to be, detrimental to the University or its members but does **not** significantly or substantially threaten or undermine the physical or mental safety of the student or other persons at the University.

A 'connection with the University' includes conduct which occurs while the student is engaged in University activities, during activities approved by the University, whether or not on University premises or where the conduct, when viewed objectively, will likely cause serious damage to the relationship between the student and the University.

(2) Without limiting sub-regulation (1) **student general misconduct** includes, but is not limited to-

- a) breaching a Statute, Regulation, policy or rule of the University;
- b) disrupting the orderly conduct of a University activity;
- c) disobeying any reasonable order or direction given by an authorised officer of the University;

- d) threatening personal injury or harm of any kind to a student or any other person connected with the University;
- e) engaging in a single instance of conduct which causes or may cause personal injury or harm to a student or any other person connected with the University or damage or loss of property;
- f) without authorisation, using or obtaining access to University property, premises, facilities or services;
- g) without authorisation, using or obtaining access to electronic information, including computing programs, belonging to the University or another person's University records or information;
- h) providing false or misleading information to the University or falsifying a University record or document;
- i) publishing, distributing or making available (in any form or forum) any confidential information of or held by the University or improperly using such information;
- j) without authorisation, accessing or distributing information that breaches a person's privacy;
- k) harassing, stalking, bullying or intimidating a student or any other person connected with the University, including by telephone or any other technology;
- l) failing to adhere to policies, procedures or rules of external organisations while on placement, practicum, or undertaking research or work experience;
- m) distribution of highly offensive, intimidating or inflammatory comment;
- n) inciting another person to commit student general misconduct; or
- o) failure to comply with a direction issued under sub-regulation 9(1) or sub-regulation 11(3).

## **Division 2 - Student Academic Misconduct**

### **7. Purpose of this Part**

The purpose of this Part is to prescribe conduct that is student academic misconduct, for the purposes of section 36 of the Governance, Academic and Student Affairs Statute 2013.

### **8. Student academic misconduct**

(1) **Student academic misconduct** means -

- a) conduct by a student that is designed or calculated to, or has the effect of, providing a misleading basis for admission, assessment or academic progress;
- b) conduct by a student in connection with research or learning activities that is dishonest, reckless, or seriously deviates from accepted standards within the scientific and scholarly community.

(2) Without limiting sub-regulation 8(1), **student academic misconduct** includes but is not limited to -

- a) cheating or attempting to gain an unfair academic advantage in an examination or an assessment task;
- b) plagiarism, collusion or otherwise breaching the academic integrity requirements of the University;
- c) asking another person to complete assessable work or knowingly enabling another student to plagiarise his or her work;
- d) failing to comply with examination or assessment rules or directions;
- e) impersonating, or allowing herself or himself to be impersonated by another for any assessment task;
- f) forging or falsifying academic results, data or records;
- g) taking into an examination or using in connection with any assessment task, any material or device other than material or a device specifically permitted by the University; or
- h) research misconduct as described in the Australian Code for the Responsible Conduct of Research and/or a breach of the University's published standards for conduct of ethical and responsible research.

### **PART 3 - RESPONDING TO POTENTIAL STUDENT MISCONDUCT**

#### **9. Authorised officers to give reasonable orders and directions**

(1) Authorised officers have the power to give students reasonable directions (including, if appropriate, issuing a reasonable direction to not make contact with certain persons for a specified time) -

- a) to ensure the safety of the student or of any other person;
- b) to prevent damage to or destruction of University property or facilities;

- c) to facilitate the proper performance of the staff member's duties regarding the custody, maintenance or use of University property or facilities;
- d) to ensure the orderly and proper conduct of -
  - i. any teaching or learning group;
  - ii. research activity;
  - iii. examination;
  - iv. ceremony of the University;
  - v. any meeting of Council; or
  - vi. a board, committee or other body constituted by or pursuant to the Victoria University Act 2010, Statutes or regulations, policies or procedures or appointed by any such body which has been so constituted; or
- e) for the maintenance of good order.

(2) Without limiting sub-regulation 9(1), where an authorised officer has reasonable grounds to believe that a student has committed or may be committing student misconduct, they may, where they consider it necessary for the maintenance of good order or to prevent the continuation of student misconduct, temporarily withdraw permission for the student to participate in a University activity, use or enter all or particular University premises or facilities for a reasonable period that does not exceed 48 hours.

## **10. Reporting Student Misconduct**

(1) Where an authorised officer believes that a direction in accordance with regulation 9 is insufficient or inappropriate to fully address the alleged conduct, the authorised officer must promptly report the matter to a senior officer within the relevant area of the University.

(2) All allegations of misconduct arising out of incidents occurring in or in connection with -

- a) the Student Residences; or
- b) a host institution

should, in the first instance, be determined in accordance with the Student Residences or the host institutions rules and associated procedures. Where an authorised officer considers the alleged misconduct is better addressed under this Regulation, the authorised officer may refer the matter to a senior officer from the relevant area who will then deal with the matter in accordance with these Regulations.

## **11. Response to alleged student misconduct by senior officer**

(1) When a senior officer from the relevant area receives a report of alleged student misconduct, the senior officer will inform themselves as they see fit, in order to make a preliminary decision under sub-regulations 11(2) and 11(3).

(2) If, after informing themselves as they see fit, the senior officer believes that the matter has been adequately dealt with by the authorised officer, or that the allegation does not warrant further investigation or response, the senior officer may dismiss the allegation or take no further action.

(3) Where a senior officer is of the view that the alleged misconduct may have occurred and requires further action, the senior officer may -

- a) refer the matter back to the authorised officer to address in accordance with regulation 9;
- b) investigate the alleged student misconduct themselves (or cause the alleged student misconduct to be investigated by an appropriate investigator) in accordance with regulation 15; or
- c) where the alleged student misconduct is considered to be a serious matter, refer the matter to the Student Misconduct Panel via the Integrity Office (or such other University body or person which from time to time manages the student misconduct procedure); or
- d) if the senior officer considers that, the alleged misconduct suggests that the student may be a high-risk person as defined under section 41 of the Governance, Academic and Student Affairs Statute 2013, the senior officer may refer the matter to the University Safety and Triage team for consideration under the Exclusion for Safety Reasons Regulations 2019 and relevant procedures.

(4) If a senior officer issues a direction under sub-regulation 11(3)(a) and, in the reasonable opinion of the senior officer, the student fails to follow that direction, the failure to follow the direction may be treated as a separate instance of potential student misconduct and dealt with under sub-regulation 11(3)(b),(c) or (d).

(5) Senior officers may also take any other action reasonable in the circumstances, including, where they consider it necessary for the maintenance of good order or to prevent the continuation of student misconduct, temporarily withdrawing permission for the student to participate in a University activity, use or enter all or particular University premises or facilities for a reasonable period not exceeding one week.



## **PART 4 - STUDENT MISCONDUCT PANEL**

### **12. Student Misconduct Panel composition**

(1) The Student Misconduct Panel will be comprised of -

- a) the Vice President (Planning) and Registrar, or their nominee, who will act as the panel Chair except in cases involving alleged Research Misconduct where the Vice-President (Research), or their nominee, will act as the panel Chair; and
- b) two other senior officers who will be appointed by the Chair in accordance with the relevant procedures.

(2) The Student Misconduct Panel must not include anyone who has, or may be perceived to have, a bias or conflict of interest in the matter.

### **13. Student Misconduct Panel functions**

(1) Where a report of alleged student misconduct is received, the Chair of the Student Misconduct Panel must consider the report and make any further inquiries they believe may be necessary in order to make a decision under sub-regulations 13 (2) and 13(3).

(2) If, after informing themselves as they see fit, the Chair believes that the allegation has no merit, they may dismiss the allegation or take no further action.

(3) If the Chair of the Student Misconduct Panel is of the view that the alleged misconduct may have occurred and requires further action, the Chair will -

- a) where the Chair does not consider the alleged misconduct to be serious, refer the matter back to the senior officer to address in accordance with regulation 11 with guidance as to the appropriate response; or
- b) convene a Student Misconduct Panel and cause the alleged student misconduct to be investigated by an appropriate and suitably qualified/experienced investigator in accordance with regulation 15; or
- c) convene a Student Misconduct Panel to investigate the allegation in accordance with regulation 15.

### **14. Temporary removal pending completion of process**

Where the Student Misconduct Panel Chair considers it necessary for the maintenance of good order or to prevent the continuation of student misconduct, the Chair may withdraw permission for the student to participate in a University activity or use or enter all or particular

University premises or facilities or services pending the completion of the investigation process and notification of the decision.

## **PART 5 - INVESTIGATION**

### **15. Investigation**

(1) Prior to the investigation meeting, the senior officer, investigator or Student Misconduct Panel will provide the student with written notice, including -

- a) particulars of the alleged student misconduct;
- b) copies of all relevant material such as to ensure procedural fairness;
- c) the date, time and location of the investigation meeting; and
- d) information regarding the student's:-
  - i. right to be heard orally or by submitting a written response; and
  - ii. right to be accompanied by a support person and/or assisted by a student advocate (excluding a legal practitioner).

(2) The senior officer, investigator or Student Misconduct Panel in conducting the investigation will -

- a) act fairly and impartially;
- b) inform themselves as they think fit;
- c) make all enquiries they believe to be relevant;
- d) not be bound by legal rules of evidence, technicalities or legal forms; and
- e) consider the health and safety of any person.

(3) When the investigation is complete, the senior officer or Student Misconduct Panel will make a majority rule decision as to whether the allegation of student misconduct is substantiated or not.

(4) If a student acknowledges the alleged behaviour, or if the senior officer or the Student Misconduct Panel finds that there has been student misconduct, they may impose a sanction in accordance with Part 6 or, in cases involving research misconduct, recommend to the Vice-Chancellor that they impose a sanction in accordance with Part 6.

### **16. Notice of decision to student**

(1) The senior officer or Student Misconduct Panel must take all reasonable steps to inform the student of the outcome of the investigation within 5 University working days of the decision being made.

(2) Where a decision is made that the allegation of student misconduct is substantiated, the student must be informed of -

- a) the sanction to be imposed;
- b) the reasons for the decision, including the findings on material facts; and
- c) their right to appeal in accordance with the Student Appeals Regulations 2019 and the time within which an appeal may be made.

(3) Where, for safety reasons, it is necessary for the complainant to be aware of the outcome/s of an investigation, the senior officer or Student Misconduct Panel should inform the complainant of the outcomes. For example, if the student has been given a sanction which involves a direction not to enter a building during particular times or to alter their timetable, a complainant should be informed of this to ensure that they can avoid the relevant building at appropriate times or avoid participating in the same class as the student.

## **PART 6 - SANCTIONS**

### **17. Purpose of this Part**

The purpose of this Part is to prescribe the sanctions that may be imposed where a student is found to have committed student misconduct for the purposes of section 39 of the Governance, Academic and Student Affairs Statute 2013.

### **18. Sanctions for student general misconduct**

(1) Where a student is found to have committed student general misconduct, one or more of the following sanctions may be imposed by a **senior officer** after taking into account all the particular circumstances of the case -

- a) reprimanding and/or cautioning the student;
- b) a restorative sanction that is appropriate and proportionate in all the circumstances;
- c) requiring the student to refrain from contact with a specified person or persons;
- d) restricting or denying access to some or all of the University premises, facilities services or activities for a period of up to three months; or

- e) requiring the payment for the cost of the damage, or a contribution towards the cost of the damage, caused by the misconduct.

(2) Where a student is found to have committed student general misconduct, the **Student Misconduct Panel** may impose one or more of the following sanctions after taking into account all the particular circumstances of the case -

- a) reprimanding and/or cautioning the student;
- b) a restorative sanction that is appropriate and proportionate in all the circumstances;
- c) requiring the student to refrain from contact with a specified person or persons;
- d) restricting or denying access to some or all of the University premises, facilities, services or activities for a period of up to one month;
- e) requiring the payment for the cost of the damage, or a contribution towards the cost of the damage, caused by the misconduct;
- f) imposing a condition on enrolment in the unit or course;
- g) partial suspension from the University;
- h) suspension from the University;
- i) exclusion from University premises and/or systems; or
- j) termination of enrolment or higher degree candidature.

#### **19. Sanctions for student academic misconduct**

(1) Where a student is found to have committed student academic misconduct, one or more of the following sanctions may be imposed by a **senior officer** after taking into account all the particular circumstances of the case -

- a) reprimanding and/or cautioning the student;
- b) recording a failure or zero mark or result or other appropriate mark or result for all or any part of an assessment task;
- c) requiring the student to repeat an assessment task;
- d) requiring the student to refrain from association with a specified person or persons for the purposes of study or assessment;
- e) requiring resubmission of one or more assessment tasks; or

- f) requiring a student to undertake alternative assessment for the Unit on terms determined by the senior officer.

(2) Where a student is found to have committed student academic misconduct, the **Student Misconduct Panel** may impose, or recommend to the Vice-Chancellor to impose, one or more of the following sanctions after taking into account all the particular circumstances of the case -

- a) reprimanding and/or cautioning the student;
- b) recording a failure or zero mark or result or other appropriate mark or result for all or any part of an assessment task;
- c) requiring the student to repeat an assessment task;
- d) requiring the student to refrain from association with a specified person or persons for the purposes of study or assessment;
- e) requiring resubmission of one or more assessment tasks;
- f) requiring a student to undertake alternative assessment for the Unit on terms determined by the Student Misconduct Panel;
- g) requiring a retraction or correction of an article;
- h) recommending to the Vice-Chancellor or nominee that the award not be made;  
or
- i) recommending to the Vice-Chancellor that the award be revoked in accordance with the Awards Regulations 2018.
- j) partial suspension from the University;
- k) suspension from the University;
- l) exclusion from the University;
- m) termination of enrolment/higher degree candidature.

## **20. Sanction to be stayed pending appeal**

The sanction or sanctions will not come into effect until the expiration of the appeal period, or where an appeal is lodged, until the appeal process is complete.

## **PART 7 - APPEAL**

### **21. Appeals**

If a student is the subject of an adverse decision made under these Regulations, they may appeal the decision through the University's Appeal Process set out in the Student Appeals Regulations 2019, provided they meet the prescribed grounds and lodge the appeal application within the prescribed period.

## **PART 8 - REVOCATION**

### **22. Revocation**

- (1) The Student Misconduct Regulations 2014 are revoked.
- (2) Without limiting the meaning of sub-regulation (1) any student discipline proceedings which commenced before the making of these regulations must be dealt with as though these regulations had not been made.