

# Exclusion for Safety Reasons Regulations 2019

## Part 1 - Preliminary

### 1. Objective

The objective of these Regulations is to make provision for refusal to enrol a student and/or 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 \(Vic\)](#).

### 3. Commencement

These Regulations come into operation on the date this is sealed.

### 4. Definitions

In these Regulations-

- a. "applicant" means a person who has applied to enrol as a student.
- b. "authorised officer" means any University employee or agent of the University.
- c. "Chair" means the Director, Student Services or his or her nominee.
- d. "decision-maker" means Associate Provost, Students or any other staff member delegated by the Vice-Chancellor.
- e. "conditional enrolment" means that an applicant's enrolment at the University is conditional upon the applicant adhering to specified conditions.
- f. "exclusion" means the termination of a student's enrolment and/or candidature and a prohibition on the student from entering any University premises, using any University facilities and services and engaging in any University activities.
- g. "high risk person" means a person described in paragraph (a) or (b) of section 41 of the Statute;
- h. "notice", unless otherwise specified, means notice that is provided in person, or sent either by post or by email, to a student's or the applicant's (as the case may be) last known postal or email address.
- i. "refuse to enrol" is where an applicant is prevented from enrolling for an indefinite period until the University determines otherwise.
- j. "senior officer" means anyone nominated by the Vice-Chancellor to receive reports, make requests, to consult or take any other action as required under part 2 of this regulation.
- k. "SAT Team" means the Safety and Triage Team established under regulation 5.
- l. "Statute" means the [Governance, Academic and Student Affairs Statute 2013](#).
- m. "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 facilities remote study.

## **5. Establishment of the SAT Team**

(1) The University must establish a SAT Team.

(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 nominated by the Vice-Chancellor and is to comprise six members of staff of the University including the Chair.

(4) The quorum for the SAT Team is 4 members not including the Chair.

## **Part 2 - Decision to Refuse, Exclude or Suspend**

### **6. Role of authorised officer**

If an authorised officer becomes aware of information or witnesses an incident which would lead a reasonable person to consider that an applicant or a student may be a high risk person, the authorised officer should report the information or incident and the reasons for his or her concern to the senior officer.

### **7. Role of the SAT Team**

(1) If the senior officer considers that a student or applicant is a high risk person and not able to be managed via other processes of the University, the senior officer will request the Chair of the SAT Team to convene a meeting of the SAT Team as soon as possible.

(2) In the interim and before a decision is made under regulation 8, if the senior officer receives information that indicates that the applicant or student is likely to be considered a high risk person, the senior officer may consult with the Chair who may temporarily withdraw permission for the applicant or student to participate in a University activity, use or enter all or particular University premises or facilities until a decision is made under regulation 8.

(3) In performing its functions under regulation 5(2)a, the SAT Team may -

- a. make such enquiries and consult such persons as it thinks fit, including the student or applicant;
- b. request persons with special knowledge of the state of health or disability of the student or applicant to report to or consult with the SAT Team;
- c. require the student or applicant to undergo medical examination or psychological assessment by persons specified by the SAT Team.

(4) The SAT Team will make recommendations to the University as required under regulation 5(2)b after making an assessment as required under regulation 5(2)a.

(5) The SAT Team must provide its recommendations to the decision-maker as soon as possible after it has made an assessment.

### **8. Decision**

(1) After considering the SAT Team's recommendations and seeking any further information the decision-maker considers appropriate (if any), the decision-maker may make a decision to:

- a. suspend;

- b. exclude;
- c. refuse to enrol; or
- d. impose any other reasonable restriction on,

the applicant or student (as applicable) if it appears to the decision-maker that the applicant or a student may be a high risk person.

(2) The decision-maker's decision will take effect from the date of the notice to the student or applicant.

(3) Without otherwise affecting the operation of this regulation, a person who is subject to a decision under this regulation remains a student of the University (unless the person is an applicant) until:

- a. the expiration of 20 University business days after the notice of the decision is sent to the person's last known residential address or email address; or
- b. where a notice of appeal is lodged, until the appeal process is concluded.

## **9. Conditional enrolment for applicants**

(1) If it appears to the decision-maker that an applicant may be a high risk person but there is insufficient evidence to warrant a decision to refuse to enrol under regulation 8 or the decision-maker considers that the risks presented by the person may be managed, the decision-maker may make a conditional enrolment decision.

(2) If a conditional enrolment decision is made, the University may require that the applicant complies and continues to comply as necessary to the satisfaction of the University, with specified requirements as a condition of enrolment.

## **10. Notice of decision**

(1) If the University makes a decision to refuse to enrol, conditionally enrol, suspend or exclude or impose any other reasonable restriction on an applicant or student, the University must give written notice of the decision to the person concerned.

(2) The notice must be provided to the person's last known residential address and/or email address as soon as reasonably possible and in any case within 5 University business days of the decision being made.

(3) The notice must set out -

- a. the person's right of appeal under these Regulations;
- b. subject to sub-regulation (4), a statement of reasons for the decision.

(4) The University may omit from the notice the statement of reasons for the decision if -

- a. it serves a statement of reasons for the decision on -
  - i. an immediate family member within the meaning of the [Health Records Act 2001 \(Vic\)](#); 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 \(Vic\)](#); or
- c. it receives confidential information from a law enforcement officer that it is not legally permitted to disclose.

## **Part 3 - Appeal Rights**

### **11. Appeal**

A person who is the subject of a decision made under regulation 7 or 8 may appeal from the decision by lodging a notice of appeal in accordance with the 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 4 - Revocation**

### **12. Revocation and transitional arrangements**

(1) The Exclusion for Safety Reasons Regulations 2014 are revoked.

(2) Without limiting the meaning of sub-regulation (1), any process which commenced under the former regulations must be dealt with under the former regulations and as though these regulations had not been made.

## Status and Details

<b>Status</b>	Historic
<b>Effective Date</b>	8th July 2019
<b>Review Date</b>	8th July 2024
<b>Approval Authority</b>	University Council
<b>Approval Date</b>	5th July 2019
<b>Expiry Date</b>	25th May 2023
<b>Accountable Officer</b>	Adam Shoemaker Vice-Chancellor +61 3 99194011
<b>Responsible Officer</b>	Michelle Gillespie Chief Student Officer 9919 5106
<b>Enquiries Contact</b>	Michelle Gillespie Chief Student Officer 9919 5106