

# Student Misconduct Procedure

## Section 1 - Purpose / Objectives

(1) This Procedure outlines the process by which alleged student misconduct issues will be handled and describes the penalties that will apply, if allegations are proven. This Procedure is governed by the [Student Misconduct Regulations 2019](#) and should be read in conjunction with that document.

## Section 2 - Scope / Application

(2) This Procedure applies to anyone who is a student of the University.

## Section 3 - Definitions

(3) Terms used in this Procedure have the same meaning given to them in regulation 4 of the [Student Misconduct Regulations 2019](#). The terms defined in the Regulation include what behaviour constitutes:

- a. General misconduct;
- b. Academic misconduct.

## Section 4 - Policy Statement

(4) Nil

## Section 5 - Procedures

### Introduction

(5) Victoria University is an educational institution that values equity, fairness and encourages all students to excel.

(6) The approach taken by the University to alleged student misconduct reflects this educative focus, with an emphasis on resolving matters at the local level where appropriate, and ensuring a reasonable and proportionate response to matters that impact individuals and the University as a whole.

(7) When a student allegedly behaves in a manner contrary to the standards set out in the [Student Misconduct Regulations 2019](#), the matter may be dealt with as either academic misconduct or general misconduct, or both.

(8) Any person, including another student or someone who is not a member of the University, may make allegations of misconduct against a student of the University.

(9) Allegations of misconduct will be dealt with in accordance with the procedures outlined in:

- a. Part B, which covers the initial response by an authorised officer;

- b. Part C which covers situations where a senior officer from the relevant area may deal with a matter; or
- c. Part D , which covers matters to be referred to and dealt with by the Student Misconduct Panel.

## Part A - Roles and Responsibilities

Roles	Responsibilities
Authorised officer	To give reasonable directions to address apparent student misconduct and to report alleged student misconduct to a senior officer where appropriate.
Senior officer	To make an initial assessment regarding reports of student misconduct. To liaise with the Office for Research regarding allegations involving a potential breach of the Australian Code for the Responsible Conduct of Research. To investigate allegations of student misconduct or, in serious cases, refer the matter to the Student Misconduct Panel.
Student Misconduct Panel	To investigate alleged Student Misconduct.
Student advocate	Provides advocacy, advice and assistance to the student throughout the process.
Support person	Provides assistance and support to the student, but does not actively participate in the process.

## Part B: Responding to Potential Student Misconduct

### Authorised officers to give reasonable directions

(10) As set out in regulation 9, an authorised officer may give reasonable directions to students:

- 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. for 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 conduct of -
  - i. any teaching or learning group;
  - ii. any research activity;
  - iii. examination;
  - iv. ceremony of the University;
  - v. any meeting of Council;
  - vi. a board, committee or other body properly constituted; or
- e. for the maintenance of good order.

### Reasonable directions by authorised officers

(11) What is considered a 'reasonable direction' will depend on the situation.

(12) In most cases where an authorised officer has reasonable grounds to believe that a student may be acting or may have acted contrary to the behavioural or academic standards expected (e.g. talking or failing to turn their phone off in class, or inadequate or misleading citation that does not constitute plagiarism under the [Academic Integrity Policy](#)), an 'educative response' will be appropriate.

(13) An educative response may include informing the student of the standards expected, asking the student to desist and advising the student of the consequences of continued inappropriate behaviour.

### Temporary removal by authorised officer

(14) In more serious situations, it may be appropriate for an authorised officer to temporarily withdraw permission for

the student to participate in a University activity, and/or to use or enter all or particular University premises or facilities for a period not exceeding 48 hours.

(15) In accordance with regulation 9 of the [Student Misconduct Regulations 2019](#), the temporary removal of a student should only be applied in circumstances where the authorised officer has reasonable grounds to believe that a student has or may be committing student misconduct. The temporary removal should only be applied where it is considered necessary for the maintenance of good order (for example where the student's behaviour impedes the normal functioning of an activity or where the student's behaviour is perceived as a threat to the safety of people or property). Specific examples of where this may be appropriate include, but are not limited to:

- a. continued disruption of an activity such as a lecture, tutorial, examination or field trip;
- b. behaviour contrary to the rules of use in the Library or Information Technology facilities; or
- c. vandalism or other anti-social behaviour in the general precincts of the University, including the open public spaces, grounds and car parks.

(16) The temporary removal of a student under (a) above will generally only be imposed for the duration of the particular activity and in the case of conduct under (b) or (c) can be for a period of no greater than 48 hours. The removal should be the least restrictive available to satisfy the requirements of the particular circumstances.

(17) Where an authorised officer temporarily removes a student, she or he must report the incident to the Student Matters Office within 2 University business days so that a central record can be made.

### **Reporting the alleged student misconduct**

(18) In accordance with regulation 10 of the [Student Misconduct Regulations 2019](#), where an authorised officer believes that action taken in accordance Part B above is inappropriate or insufficient to adequately address the alleged conduct, they must promptly report the matter to a senior officer within the relevant area. The sorts of alleged misconduct that should be escalated to a senior officer include, but are not limited to:

- a. any other potential general or academic misconduct matter where an educative response would be insufficient or inappropriate to adequately deal with the alleged behaviour;
- b. any matters involving a potential breach of the University's [Research Integrity Policy and Procedures](#); and
- c. alleged plagiarism or collusion issues that could be considered 'plagiarism' or 'serious plagiarism' under the [Academic Integrity Policy](#).

(19) As a general rule, anything other than potential low-level/ minor misconduct should be escalated to a senior officer. Further, where an authorised officer is in any doubt, advice should be sought from a senior officer.

### **Alleged general misconduct in the student residences**

(20) As set out in sub-regulation 10(3), all allegations of misconduct arising out of incidents occurring in or under the auspices of the Student Residences should at first instance be determined in accordance with the Student Residences specific rules and associated procedures.

(21) Where the Manager of the Student Residences believes that the action is insufficient to address the behaviour (e.g. where the conduct may have a wider implication for the safety and wellbeing of the University community), she or he may report the matter to the senior officer responsible for the Student Residences. The matter will then be addressed in accordance with the [Student Misconduct Regulations 2019](#) and this Procedure.

### **Alleged misconduct while a student is studying with a host institution**

(22) Similarly, when VU students are studying with a host institution (eg. on an exchange overseas), they will be

subject to the host institution's rules and procedures.

(23) As set out in sub-regulation 10(3), where any response (including a lack of response) by a host institution is considered insufficient to address the alleged conduct, the matter may be referred to a senior officer from the relevant area at the University. The matter will then be addressed in accordance with the [Student Misconduct Regulations 2019](#) and this Procedure.

### **High-risk behaviour**

(24) If a student's conduct causes any person to be concerned for his or her or another person's physical safety, they should contact the Police and University Security.

(25) If an authorised officer believes that, taking into consideration any relevant circumstances, the alleged misconduct suggests that the student may be a high-risk person, they must refer the matter to the University Safety and Triage team for consideration under the [Exclusion for Safety Reasons Regulations 2014](#) and relevant procedures. High-risk behaviour is described in section 41 of the [Governance, Academic and Student Affairs Statute 2013](#).

(26) Where a student is referred to the University Safety and Triage team, the misconduct process will be suspended pending the outcome of that process. Where the matter is considered by the senior officer of the relevant area to have been adequately dealt with under that process (e.g. where a student has been excluded under that Regulation), the misconduct process may be dismissed.

## **Part C - Response to alleged misconduct by senior officer**

### **Preliminary fact-finding/consideration of the allegation**

(27) As set out in regulation 11, where a senior officer receives a report of alleged student misconduct he or she should inform themselves as they see fit in order to make a decision as to whether the alleged conduct should either be:

- a. dismissed (for example, where it has already been adequately dealt with by an authorised officer or where the allegation lacks merit);
- b. referred back to an authorised officer to be dealt with in an informal, educative manner;
- c. investigated by the senior officer; or
- d. in serious cases, referred to a Student Misconduct Panel.

(28) This initial process may include undertaking some preliminary fact-finding if the senior officer does not believe that there is enough information.

(29) The preliminary fact-finding process (if required) and the forming of a preliminary view regarding how the matter should be handled should take place quickly. Unless there are unusual circumstances, this process should take no longer than 10 University business days.

### **Matters involving Research**

(30) Where the allegation involves a possible breach of the University's [Research Integrity Policy and Procedures](#), the senior officer should notify the Office for Research as soon as practicable.

(31) The senior officer will then consult with the Office for Research regarding the seriousness of the alleged conduct and the appropriate allocation of responsibilities in dealing with the matter. In particular, the Office for Research will advise whether:

- a. the matter is of a low-level or minor nature for which an educative response is appropriate;

- b. the matter should be investigated by a senior officer in accordance with the [Student Misconduct Regulations 2019](#) and this Procedure; or
- c. in cases involving a plausible case of Research Misconduct, referred to a Student Misconduct Panel.

### **Dismissing the allegation where it has been adequately dealt with or lacks merit**

(32) If after informing her or himself as necessary, the senior officer is of the view that the alleged misconduct matter has been adequately dealt with by an authorised officer, or if she or he believes that the allegation has no merit, she or he may dismiss the allegation and take no further action. Circumstances where an allegation could be dismissed for having no merit include:

- a. where, in the opinion of the senior officer, the allegation is frivolous, vexatious, misconceived, lacks substance or is otherwise an abuse of University processes;
- b. where the allegation, if proved, clearly would not constitute general misconduct or academic misconduct ; or
- c. where the person against whom the allegation is made is not a student.

### **Addressing the alleged misconduct**

(33) In accordance with sub-regulation 11 (3), where a senior officer is of the view that the alleged misconduct may have occurred and that it requires further action, they must -

- a. refer the matter back to the authorised officer to address in accordance with regulation 9 It will be appropriate to refer a matter back to an authorised officer where the alleged misconduct is considered to be of a low-level or minor nature and which warrants an informal, educative response;
- b. investigate the alleged student misconduct in accordance with Part E below, and where the student acknowledges or is found to have committed student misconduct, impose a sanction in accordance with Part F below; or
- c. where, in the opinion of the senior officer, the alleged student misconduct is considered to be serious, refer the matter to the Student Misconduct Panel.

(34) As set out in sub-regulation 11(4), senior officers may also take any other action that is reasonable in the circumstances.

### **Temporary removal by senior officer**

(35) Depending on the situation, other reasonable action may include 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.

(36) The temporary removal of a student by a senior officer should only be applied to circumstances where it is necessary for the maintenance of good order (for example where the student's behaviour impedes the normal functioning of an activity or where the student's behaviour is perceived as a threat to the safety of people or property).

(37) Where a senior officer considers such action to be necessary, they should endeavour to impose the least restrictive period appropriate in all the circumstances. The senior officer must report the removal to the Student Matters Office within 2 University business days so that a central record can be made.

### **Referral to the Student Misconduct Panel**

(38) Whether a matter is sufficiently serious to warrant a referral by a senior officer to the Student Misconduct Panel will be a question of judgement. As a general guide, serious matters include, but are not limited to:

- a. conduct, which if found to occur, would likely result in a sanction that only the Student Misconduct Panel can impose (eg. exclusion from the University/termination of candidature);
- b. conduct that the Office for Research considers to constitute a plausible case of Research Misconduct;
- c. conduct which could be categorised as serious plagiarism under the [Academic Integrity Policy](#); or
- d. serious behavioural issues which present a high risk to the University community.

(39) A referral to the Student Misconduct Panel can be made by lodging a Student Misconduct referral form with the Academic Registrar via Student Matters Office.

(40) The referral form should clearly set out the following:

- a. The background to and details of the alleged misconduct;
- b. The specific type of misconduct that the student is alleged to have committed;
- c. The names of any witnesses and their contact details; and
- d. Any supporting documentation that may be relevant to the investigation of the allegation(s). Depending on the particular nature of the allegation(s) supporting documentation could include, witness statements, written complaints, copies of relevant communication (e.g. emails), the allegedly plagiarised work.

### **Investigation by senior officer**

(41) Where a senior officer investigates the alleged misconduct, rather than referring the matter to the Student Misconduct Panel, she or he must follow the investigation process outlined in Part E.

(42) The investigation process should commence as soon as practicable, which will generally mean no more than 10 University business days after the matter was first referred to the senior officer.

(43) Where the student admits the misconduct or, after investigation, is found to have committed misconduct, the senior officer may impose one or more of the appropriate penalties under Part F after taking into account all the particular circumstances of the case.

## **Part D - Student Misconduct Panel**

### **Student Misconduct Panel Composition**

(44) The Academic Registrar will convene and administer the Student Misconduct Panels via the Student Matters Office.

(45) The Student Misconduct Panel will be comprised of:

- a. the Academic Registrar, or his or her nominee, who will act as the Panel Chair, except in cases involving alleged Research Misconduct where the PVC Research and Research Training, or his or her nominee, will act as the panel Chair; and
- b. two other senior officers.

(46) When appointing staff to the panel or appointing nominees, the Academic Registrar and PVC Research and Research Training will take into account the nature of the allegations and ensure that the appointees have the appropriate skill and expertise to consider the matter. For instance, where the allegation involves academic misconduct, the Panel Chair or members of the Panel should include senior academics.

(47) As set out in regulation 12, 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. A bias or a conflict of interest may include, but is not limited to:

- a. Anyone who has been involved in, or associated with, (or alleged to be involved in, or associated with) the circumstances relating to the alleged misconduct;
- b. They have, or have in the past had, a close association with:
  - i. The student who is the subject of the allegation;
  - ii. any person who made the allegation; or
  - iii. a close relative of either.

(48) Once a referral of alleged student misconduct has been received by the Student Matters Office, the Student Matters Office will send all the relevant material to the Academic Registrar or, where the matter involves alleged Research Misconduct, to the PVC Research and Research Training.

### **Student Misconduct Panel functions**

(49) Once the appointed Chair of the Panel receives a report of alleged student misconduct, she or he may inform themselves as necessary to form a view as to whether the allegation has any merit. This may include seeking further information if the referral form does not contain sufficient information.

(50) If, after forming a preliminary view, the Chair believes that the allegation has no merit, they may dismiss the allegation and take no further action. Circumstances where an allegation a matter could be dismissed for having no merit include -

- a. where, in the opinion of the Chair, the allegation is frivolous, vexatious, misconceived, lacks substance or is otherwise an abuse of University processes;
- b. where the allegation, if proved, clearly would not constitute general misconduct or academic misconduct; or
- c. Where the person against whom the allegation is made is not a student;

(51) If the Chair dismisses an allegation on the basis it has no merit, they must notify the student and the Student Matters Office of their decision and the reasons for it.

(52) If the Chair of the Student Misconduct Panel is of the view that the alleged misconduct may have occurred, the Chair must, in accordance with regulation 13, appoint a Student Misconduct Panel to investigate allegation(s) of student misconduct.

(53) When appointing the two other senior officers to the Student Misconduct Panel, the Chair should ensure that where the matter involves alleged academic misconduct, that at least one senior officer is an academic member of staff.

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

(54) As set out in regulation 14 of the [Student Misconduct Regulations 2019](#), the Student Misconduct Panel Chair may also take any other action that is reasonable in the circumstances. This may include withdrawing permission for the student to participate in a University activity, use or enter all, or particular University premises or facilities or services, pending the completion of the investigation process and notification of the decision.

(55) The temporary removal of a student from all or part of University activity pending the outcome of the misconduct process should only be applied to circumstances where it is necessary for the maintenance of good order (for example where the student's behaviour impedes the normal functioning of an activity or where the student's behaviour is perceived as a threat to the safety of people or property).

(56) Where the Student Misconduct Panel Chair, considers such action to be necessary, she or he should endeavour to impose the least restrictive period appropriate in all the circumstances.



## **Investigation by Student Misconduct Panel**

(57) Once the Chair of the Student Misconduct Panel determines to investigate alleged student misconduct, the Student Misconduct Panel must follow the investigation process outlined in the [Student Misconduct Regulations 2019](#) and Part E of this Procedure. The investigation process should commence as soon as practicable and generally no more than 10 University business days after the matter was first referred.

(58) Where the student admits the misconduct, or, after conducting an investigation, is found to have committed misconduct, the Student Misconduct Panel will either -

- a. impose one or more of the appropriate sanctions under the Regulation Part F of this Procedure; or
- b. in cases involving Research Misconduct, recommend to the Vice-Chancellor that she or he impose a sanction in accordance Part F of this Procedure.

## **Part E - Investigation**

### **Investigation**

#### **Commencing the investigation process**

(59) As set out in regulation 15 of the [Student Misconduct Regulations 2019](#), prior to the investigation meeting, the senior officer or Student Misconduct Panel will provide the student with written notice, including:

- a. particulars of the alleged student misconduct;
- b. copies of any documents in their possession that may be relied upon when making a decision;
- c. the date, time and location of the investigation meeting;
- d. information regarding the student's right to be either be heard orally or by submitting a written response; and
- e. information regarding their right to be accompanied by a support person and/or assisted student advocate.

(60) Where a student is located overseas or where it would be inappropriate for them to attend in person, efforts should be made to enable the student to appear by video or other telecommunication device.

#### **Conducting the investigation**

(61) Where practicable, the student should be provided with at least 10 University business days' notice of the investigation meeting.

(62) The senior officer 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

(63) 'Acting fairly and impartially' will include giving the student an opportunity to comment on any documents or statements that are likely to be relied upon by the decision maker(s) in reaching their decision, before the decision is made.

(64) 'Making all enquires considered to be relevant,' will generally include reviewing statements from and/or speaking to the person who initially reported the student misconduct as well as other relevant witnesses and the student concerned. It will also include reviewing any relevant documents and, in complex cases, it may also include seeking an investigation report from a suitably qualified person or people.



## Decision

(65) When the investigation is complete, the senior officer or Student Misconduct Panel will make a decision as to whether they are persuaded that the allegation of general misconduct and/or academic misconduct is either substantiated or not.

(66) If the student acknowledges the alleged behaviour or if the senior officer or Student Misconduct Panel finds that there has been student misconduct, they may impose one or more of the sanctions set out in the [Student Misconduct Regulations 2019](#) and Part F below, or in the case of research misconduct, recommend to the Vice Chancellor that he or she impose one or more of the sanctions set out in the [Student Misconduct Regulations 2019](#) and Part F below.

(67) In making a decision as to which sanction(s) may be appropriate, the senior officer or Student Misconduct Panel should take into account all the particular circumstances of the case (for example, early acknowledgement of wrongdoing and/or genuine remorse) and endeavour to choose the least restrictive sanction that is appropriate in all the circumstances. Where the Student Misconduct Panel is considering suspending a student, they should take into account any time that the student may have been directed to spend away from the University throughout the disciplinary process.

(68) The sanction will not come into effect until the expiration of the appeal period, or where an appeal is lodged, until the appeal process has run its course.

(69) Nonetheless, the Senior Officer or Student Misconduct Panel, in consultation with each other, may make any interim directions they believe may be necessary for the maintenance of good order. For instance, where a decision is made to exclude a student for dangerous behaviour, the Senior Officer or Student Misconduct Panel, in consultation with each other, may direct that the student not participate in any University activity or use or enter University premises or facilities until the appeal period or, where an appeal is lodged, the appeal process has run its course.

(70) In the case of international students, the Academic Registrar must notify Victoria University International to ensure that the ESOS requirements are adhered to.

## Notice of decision to student

(71) In accordance with the regulation 16, the decision should be in writing and sent to the student via his or her last known postal and/or email address. The notice should be served to the email address nominated by the student, where this has occurred.

(72) The student must be informed of the outcome of the investigation decision within five University business days of the decision being made.

(73) Where a decision is made that the allegation of student misconduct is substantiated, the student must also 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 2014](#) and the time within which an appeal may be made (i.e. 20 University business days from the date the student is sent the decision).

## Part F - Sanctions

### Sanctions for student general misconduct

#### Senior officer

(74) Where a student is found to have committed 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 specified person/s;
- 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.

### **Student Misconduct Panel**

(75) Where a student is found to have committed 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 specified person/s;
- 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. imposing a charge in accordance with section 48 of the [Governance, Academic and Student Affairs Statute 2013](#);
- h. suspension from a unit or a course;
- i. suspension from the University;
- j. exclusion from the University; or
- k. termination of enrolment/higher degree candidature.

### **Sanctions for student academic misconduct**

#### **Senior officer**

(76) Where a student is found to have committed academic misconduct, one or more of the following sanctions may be imposed by a senior officer -

- 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 specified person/s 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 senior officer.

#### **Student Misconduct Panel**

(77) Where a student is found to have committed academic misconduct, one or more of the following sanctions may be imposed, or recommended to the Vice-Chancellor to impose, by the Student Misconduct Panel -

- 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 specified person/s 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. suspending the student from a Unit or a course;
- h. requiring a retraction or correction of an article;
- i. terminating higher degree candidature;
- j. recommending to the Vice-Chancellor or nominee that the award not be made;
- k. suspension from the University;
- l. termination of enrolment; and
- m. recommending to the Vice-Chancellor that the award be revoked in accordance with the [Awards Regulations 2018](#).

### **Student records and general reporting**

(78) The decision will be recorded on the student's file and stored in accordance with the University's [Records Management Policy](#) and [Procedures](#) . Aggregated and de-identified data may also be used to support the University's monitoring, reporting and continuous improvement processes with respect to student services.

## **Section 6 - Guidelines**

(79) As required.

## Status and Details

<b>Status</b>	Historic
<b>Effective Date</b>	1st October 2014
<b>Review Date</b>	31st December 2018
<b>Approval Authority</b>	University Council
<b>Approval Date</b>	1st October 2014
<b>Expiry Date</b>	9th April 2019
<b>Accountable Officer</b>	Lisa Line Deputy Vice-Chancellor Enterprise and Digital Lisa.Line@vu.edu.au
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