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| Responsible Officer | Deputy Vice-Chancellor (Academic) | | |
| Contact Officer | Director, UNSW Student Services | | |
| Superseded Documents | Council resolution 87/118(f) on the rules and procedures relating to student misconduct | | |
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| Associated Documents | | | |
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1. Scope

1.1 The Rules in this Resolution govern student misconduct, including the procedures for determining and dealing with alleged student misconduct and for the short-term suspension of students on grounds of misconduct.

1.2 The powers vested by or by virtue of this Resolution apply in respect of misconduct by a person who was a student at the time of the misconduct whether or not that person is currently enrolled.

1.3 Nothing in this Resolution precludes the University from instituting or seeking the institution of civil or criminal proceedings against a student in respect of misconduct.

2. Definitions

2.1 "Exclusion" means the cancellation of enrolment of a student and the withdrawal for a specified time of all rights and privileges as a student of the University, including the right to re-enrol as a student and the right to enter or to be on University grounds.

2.2 "Expulsion" means the cancellation of enrolment of a student and termination of all rights and privileges as a student of the University including the right to re-enrol as a student and the right to enter or to be on University grounds.

2.3 "Member of the academic staff" means a person employed (whether full time or part time) by the University with the status of associate lecturer, lecturer, senior lecturer, associate professor or professor, and includes any person so employed on an adjunct, conjoint or visiting basis.

2.4 "Property" includes real, personal, intellectual and shared property in any (including electronic) form.

2.5 "School" includes Departments not within Schools.

2.6 "Student Academic Misconduct" means:

(a) breach of such rules or guidelines relating to student academic conduct as may be prescribed by Faculties, Boards, Schools or the Vice-Chancellor;

(b) misconduct relating to assessment or examinations; and

(c) any other conduct (the general nature of which has been made known to students) regarded as student academic misconduct according to current academic usage.

2.7 "Student misconduct" includes student academic misconduct and also encompasses conduct which impairs the reasonable freedom of other persons to pursue their studies or

research or to participate in the life of the University, including:

- (a) a breach of any rule relating to student conduct in the University;
- (b) conduct which unduly disrupts or interferes with a class, a meeting or any other official activity within the University;
- (c) conduct detrimental to University property, such as stealing, destroying or deliberately damaging laboratory equipment;
- (d) stealing, destroying, impairing the accessibility of, or defacing any part of the University Library collection;
- (e) using University computing or communications facilities in a manner which is illegal or which will be detrimental to the rights and properties of others;
- (f) acting so as to cause students or staff or other persons within, the University to fear for their personal safety;
- (g) refusing or failing to identify oneself truthfully when so required by a member of the academic staff or other officer of the University.

2.8 "Suspension" means a prohibition from entering a defined area or using a defined facility.

2.9 "University grounds" includes all land, buildings, premises and other property owned, leased or otherwise used by the University or any college of the University, and other buildings located on University land.

3. Delegation

3.1 The Vice-Chancellor, the Rector of University College, Australian Defence Force Academy, the Registrar and Deputy Principal, the Bursar and Deputy Principal, the Director of information Services and Deputy Principal, the University Librarian, the Director, Facilities Department and the Executive Head/CEO or Head (or equivalent officer) of a residential college may each appoint in writing delegates to have some or all of the powers concurrent with their own for the purposes of this Resolution, but no delegate shall have the power to redelegate.

3.2 References in this Resolution to any of the officers mentioned in paragraph 3.1 include references to their delegates and:

- (a) in the case of the University Librarian but for the purposes only of Rule 4, include references to the officer in charge of a University Library at the time;
- (b) in the case of the Director of information Services and Deputy Principal, but for the purposes only of Rule 4, include references to the officer in charge of a University computing or communications facility at the time.

4. Suspension in Urgent Circumstances

4.1 The powers conferred by this Rule are to be used only to prevent or terminate a clear and present threat by the student concerned University property, academic instruction, assessment, an examination, the physical safety or integrity of any person within the University or the proper functioning of any University activity.

4.2 Except when a power conferred by this Rule is exercised by the Vice-Chancellor, a Deputy Vice-Chancellor, a Pro-Vice-Chancellor, the Rector of University College, Australian Defence Force Academy, the Registrar and Deputy Principal, the Bursar and Deputy Principal or the Director of information Services and Deputy Principal, the threat referred to in paragraph 4.1 must have occurred in the presence of or relate to the

classes, work or duties of the person exercising the power.

4.3 Under this Rule, a student may be:

- (a) suspended from the University Library by the Director of information Services and Deputy Principal or by the University Librarian;
- (b) suspended from one or more classrooms or laboratories by a member of the academic staff or by any member of the University staff in charge of a class or laboratory;
- (c) suspended from the use of one or more University computing or communications facilities by a member of the academic staff or by the Director of information Services and Deputy Principal;
- (d) suspended from an examination by the Registrar and Deputy Principal, by a member of the academic staff or by any person for the time being in charge of the examination;
- (e) suspended from part or all of the University grounds by the Vice-Chancellor, a Deputy Vice-Chancellor, a Pro-Vice-Chancellor, the Registrar and Deputy Principal or the Director, Facilities Department;
- (f) suspended from part or all of a residential college by the Executive Head/CEO or Head (or equivalent officer) of that college.
- (g) suspended from part or all of the University College, Australian Defence Force Academy, by the Rector of that College.

4.4 A suspension imposed on a student under this Rule:

- (a) does not preclude the laying of a charge of student misconduct under Rule 5 or Rule 6;
- (b) shall not in the first instance exceed one working day, but this limit shall not preclude further suspension by the Vice-Chancellor under paragraph 6.2 pending the determination of any such charge.

4.5 Any exercise of a power conferred by this paragraph shall be reported in writing immediately to the Vice-Chancellor or to his/her nominee.

5. Decentralised Formal Procedures

5.1 Unless the student concerned does not agree (in which case the matter shall be referred to the Vice-Chancellor by written complaint under paragraph 6.1), the Rector of University College, Australian Defence Force Academy, each Dean of a Faculty or Board and each Head of School shall have authority to hear and determine charges of student academic misconduct (as defined in paragraph 2.6) pertaining to assessment or examinations conducted by the relevant Faculty, Board, College or School in accordance with such procedures as may be established by the relevant Faculty, Board or College. The maximum penalty which may be imposed upon a student found guilty under this procedure is a "fail" grade for the relevant subject.

5.2 The Registrar and Deputy Principal shall have authority to hear and determine charges of parking or traffic offences on University grounds or damage to University property by a student, and on finding a charge proved may impose a fine not exceeding \$1,000 and may cancel a parking permit in accordance with rules recommended by the Registrar and Deputy Principal and approved by the Vice-Chancellor.

5.3 (a) The Director of information Services and Deputy Principal and the University Librarian shall each have authority to hear and determine charges of misuse of University Library facilities by students, and on finding a charge proved may impose a fine not

exceeding \$1,000 and may withdraw or restrict borrowing privileges in accordance with rules recommended by the Director of information Services and Deputy Principal and approved by the Vice-Chancellor.

(b) The Director of information Services and Deputy Principal and the University Librarian may restrict borrowing privileges for an initial period of up to 14 days, pending the determination of a charge of misconduct, provided that the student is given the opportunity to make representations to avert this suspension. This period may be extended by the Vice-Chancellor under paragraph 6.2.

5.4 (a) The Director of information Services and Deputy Principal shall have authority to hear and determine charges of misuse of University computing and communications facilities by a student, and on finding a charge proved may impose a fine not exceeding \$1,000 and may withdraw or restrict computer access privileges in accordance with rules recommended by the Director of information Services and Deputy Principal and approved by the Vice-Chancellor.

(b) The Director of information Services and Deputy Principal may restrict computer access for an initial period of up to 14 days, pending the determination of charges of misconduct, provided that the student is given the opportunity to make representations to avert this suspension. This period may be extended by the Vice-Chancellor under paragraph 6.2.

5.5 The Executive Head/CEO or Head (or equivalent officer) of a college and the Rector of University College, Australian Defence Force Academy, shall have authority to hear and determine charges of misconduct (other than student academic misconduct as defined in paragraph 2.6) on the premises of the relevant college by a non-resident student, and on finding a charge proved may impose a fine of not more than \$1,000 and may bar future entry by the student to the college's premises.

5.6 (a) in order to ensure uniformity of penalties, an officer of the University acting under this Rule must before imposing any penalty consult an officer designated for this purpose by the Registrar and Deputy Principal.

(b) An officer acting under this Rule must make a written report to the Vice-Chancellor of any action taken.

(c) The notification of an adverse determination to a student shall include notice of the student's right of appeal under the next sub-paragraph.

(d) A student who has received such notification may within 14 days lodge a written appeal with the Registrar and Deputy Principal. The Registrar and Deputy Principal shall thereupon refer the matter to a Committee on Student Discipline constituted under Rule 7.

(e) in all other respects, action taken under this Rule is final.

6. Summary Hearing

6.1 Any student, employee or other member of the University may make a written complaint of student misconduct to the Vice-Chancellor.

6.2 (a) Where a complaint is so made, or where extension is sought of a suspension already imposed under Rule 4, paragraph 5.3(b) or paragraph 5.4(b), the Vice-Chancellor may suspend a student for such period, not exceeding 14 days, as is necessary for one or more of the purposes set out in paragraph 4.1, pending determination of the relevant charge or charges. The suspension may be renewed by the Vice-Chancellor for a further period, not exceeding 14 days, if continuing grounds are shown.

(b) If the student has not had an opportunity in advance to show cause to the Vice-Chancellor why such a suspension or further suspension should not be made, he or she may apply to the Vice-Chancellor to quash the suspension.

6.3 Upon receiving a complaint under paragraph 6.1, the Vice-Chancellor shall appoint an appropriate officer of the University with no prior involvement in the matter to initiate preliminary inquiries from all parties concerned, and from such other people as he or she may think advisable.

6.4 (a) Following these preliminary inquiries, the officer shall prepare a report for the Vice-Chancellor, which shall contain recommendations as to how the matter should be determined.

(b) Where the officer is of the opinion that one or more charges have been proved and that one or more of the penalties set out in paragraph 6.6 are appropriate to the occasion, the report of the officer may contain a recommendation as to the appropriate finding(s) and accompanying penalty(ies).

(c) Where the officer is of the opinion that one or more charges have been proved and that the appropriate penalty in respect of any of them exceeds or may exceed the limits set out in paragraph 6.6, the officer may recommend that the matter be referred to a Committee on Student Discipline.

6.5 On receipt of the report of the officer, shall:

(a) on the advice of the officer or in the exercise of his or her own discretion, summarily dismiss any one or more of the charges;

(b) in respect of any charge or charges not so dismissed, determine that the finding(s) and accompanying penalty or penalties recommended by the officer under paragraph 6.4(b) should apply, provided that the conditions set out in paragraphs 6.6 and 6.7 are satisfied;

(c) direct that any charge or charges not resolved under subparagraph (a) or (b) of this paragraph should be referred to a Committee on Student Discipline for formal hearing and determination.

6.6 (a) A penalty which the officer may recommend under paragraph 6.4(b) and which the Vice-Chancellor may impose by means of a determination under paragraph 6.5(b) shall take one or more of the following forms: exclusion from the University for up to four whole sessions, caution, reprimand, severe reprimand, reduction in marks, and failure in one or more subjects.

(b) No such determination shall however be made by the Vice-Chancellor if through accumulation of penalties the total period of exclusion of the student from the University would exceed four whole sessions.

6.7 A determination by the Vice-Chancellor under paragraph 6.5(b) shall not take effect unless and until the report of the officer, together with notification of any summary dismissal of charges under paragraph 6.5(a) and of the determination under paragraph 6.5(b), has been given to the student and the student has within 14 days accepted the determination by notice in writing to the Vice-Chancellor. Where no such acceptance is forthcoming, the charge or charges in question shall be referred to a Committee on Student Discipline under paragraph 6.5(c).

6.8 There shall be no right of appeal against a finding or penalty determined under paragraph 6.5(b).

7. Committees on Student Discipline

7.1 Members of a Committee on Student Discipline shall be drawn from the academic members of the Academic Board and the elected student members of Council, the Academic Board or a Faculty.

7.2 A Committee shall consist of 3 members, 2 academic staff and 1 student, chosen by

the President of the Academic Board. The Committee Chairperson will also be chosen by the President of the Academic Board. In cases where the student, or the alleged incident of misconduct, is known to the President, or in any other way the President has a conflict of interest or potential conflict of interest, the Committee shall be chosen by the Presiding Member of one of the Undergraduate Studies Committee, the Postgraduate Studies Committee or the Committee on Research, as appropriate to the status of the student. No one may serve on a Committee who has a conflict of interest, or potential conflict of interest, in the matter.

7.3 The student member shall have attended the University for the equivalent of at least two years full time.

7.4 Where possible, at least one member of a Committee shall be of the same sex as the student charged.

7.5 More than one Committee on Student Discipline may be constituted and may sit at the same time if the circumstances so require.

7.6 A Committee on Student Discipline is an independent body subject to no instructions or directions on individual cases.

7.7 A Committee:

- (a) shall sit in camera;
- (b) may appoint one or more appropriately qualified persons to assist it on any maker or makers of law, procedure or technical expertise;
- (c) shall record the evidence given before it;
- (d) shall record the reasons for its determination and for any penalty that it imposes, including its findings upon any material issue of fact.

7.8 Where a Committee finds that a charge is substantiated, it may decide to impose no penalty or it may impose any one or more of the following penalties:

- (a) a fine, not exceeding \$1,000;
- (b) suspension, exclusion or expulsion;
- (c) any other lesser penalty which may be appropriate.

7.9 (a) Notification of the Committee's final decision to the student shall include notice of his or her right of appeal under this paragraph.

(b) An appeal by the student may be lodged in writing with the Registrar and Deputy Principal within 14 days of such notification. The notice of appeal shall indicate whether the appeal is against the determination or the penalty or both and shall specify the grounds of appeal.

(c) Within 14 days of the Committee's decision, an appropriate officer of the University may lodge with the Registrar and Deputy Principal a written appeal against the penalty, stating the grounds of appeal.

(d) Appeals under this paragraph shall be heard by the Appeals Committee of Council. Unless the Committee determines in its discretion that the appeal should be by way of full rehearing, it shall base its decision on a transcript of the evidence taken by the Committee on Student Discipline, the Committee's record of its reasons and the arguments presented to it in writing or at the appeal hearing.

7.10 Twice each year, a written report on the matters brought to a conclusion under

paragraph 6.5(a) or (b) or heard by Committees on Student Discipline shall be submitted to the Academic Board. The report shall outline the nature of the charges brought and the determinations reached, but shall not identify any student charged or any student who was involved as a witness.

8. General

8.1 As far as possible, and except as provided by Rule 4, no person with a direct personal interest or involvement in an allegation shall exercise any of the powers conferred by this Resolution to determine an allegation of student misconduct or to impose a penalty or a period of suspension.

8.2 All proceedings shall be conducted fairly and in accordance with natural justice, but shall not be subject to the rules of evidence. A student charged shall be presumed innocent unless and until guilt is freely admitted or is proved by clear and convincing evidence or to the Committee's comfortable satisfaction.

8.3 (a) Students must appear personally at the hearings of a Committee on Student Discipline. They may, if they so wish, be represented at their own expense by an advocate (whether legally qualified or not), provided that they have given notice to this effect to the presiding member of the Committee at least 8 days before the hearing. Alternatively, they may be accompanied by a friend or adviser with whom they may consult.

(b) Students may conduct appeals to the Appeals Committee of Council in person, by an advocate (with the student present) or in writing without appearing personally.

(c) The University's case against a student may be presented in a hearing of a Committee on Student Discipline or the Appeals Committee of Council by a senior officer or by a legally qualified advocate.

8.4 Students are entitled to due notice of any charges of student misconduct made against them. Complaints and charges may be amended at any time before their determination, provided the student charged has adequate notice.

8.5 (a) A record or report of proceedings under this Resolution shall form no part of the student's official academic transcript.

(b) Subject to paragraphs 7.10 and 8.6, no information relating to such proceedings or to the circumstances giving rise to them shall be divulged by the University to persons (other than senior officers of the University) not immediately involved in the proceedings.

8.6 At the conclusion of all relevant proceedings and after any time allowed for appeal has elapsed, the Registrar and Deputy Principal may publish within the University, in such manner as he or she considers appropriate, a statement describing the nature of any offence for which a penalty was imposed (without being later annulled on appeal or remitted) and the extent of the penalty, but not the name of the person upon whom it was imposed or of any student who was a witness in relevant proceedings.

8.7 (a) During the currency of an appeal, a suspension imposed under Rule 4 or under paragraph 5.3(b), 5.4(b) or 6.2(a) may continue in operation, but no penalty (including a suspension imposed by way of penalty) shall be operative.

(b) If in the course of proceedings under these Rules (including appeal proceedings and applications under paragraph 6.2(b)), it appears that a suspension of a student under Rule 4 or under paragraph 5.3(b), 5.4(b) or 6.2(a) was not warranted, the suspension may constitute a ground on which the student may apply for special consideration in the assessment of any subject or subjects then being taken.

8.8 Where appropriate, a relevant authority or body may deal with more than one person, charge or both.

Appendix A: History

| Version | Authorised by | Approval Date | Effective Date | Sections modified |
|---------|------------------------------|---------------------|---------------------|--|
| 1.0 | UNSW Council (CL94/72(c)) | 29 August 1994 | 29 August 1994 | |
| 1.1 | UNSW Council (CL94/086) | 31 October 1994 | 31 October 1994 | |
| 1.2 | UNSW Council (CL08/3) | 21 February 2008 | 21 February 2008 | Section 7 amended and merged with rules 8.5 to 8.8. Section 9 renumbered as Section 8. |

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