

# Student Behavioural Misconduct Rules

## Section 1 - Overview

(1) UNE Representatives and Students have the right to:

- a. be treated fairly and be free from acts or threats of violence, harassment, intimidation or discrimination;
- b. have their personal property protected;
- c. live, work and study in a safe environment, and
- d. have complaints considered fairly and acted upon promptly.

(2) These rules outline the principles and expectations for the behaviour of all students at the University of New England on University premises or at activities (including excursions) sponsored, or participated in, by the University.

(3) Students should be aware that breaches of these rules may result in disciplinary action in accordance with University rules and policies.

(4) Students who are residential college residents are also subject to the Residential College Code of Conduct.

(5) These rules are informed by the requirements of the [Education Services for Overseas Students Act 2000](#), the [National Code 2007](#) and [the Higher Education Standards Framework \(Threshold Standards\) 2011](#).

## Section 2 - Scope

(6) These rules apply to all students, graduands and graduates of the University.

(7) These rules must be read in conjunction with the related documents listed below.

(8) These rules govern student misconduct arising from behavioural misconduct.

(9) These rules do not apply to:

- a. student coursework academic misconduct — see [Student Coursework Academic Misconduct Rules](#) and [Higher Degree Research Student Responsible Conduct Policy](#) and
- b. UNE Representative misconduct — see [UNE Code of Conduct](#) for UNE Representatives and the procedures for Unsatisfactory Performance, Misconduct/Serious Misconduct in the current UNE Academic and ELC Teaching Staff Collective Agreement.

## Section 3 - Rules

### BEHAVIOURAL MISCONDUCT

(10) Specific acts of behavioural misconduct include the following:

- a. Failure to comply with University rules or policies.

- b. Providing information known to be false.
- c. Forgery, alteration, or misuse of any University document, record, or instrument or identification.
- d. Defamatory conduct prejudicial to the reputation, good order and governance of the University.
- e. Abuse, threats, intimidation, harassment, coercion, deceit or other conduct (whether by physical, verbal or electronic means) in a context substantially connected to the University that:
  - i. threatens or endangers the health, freedom or safety of any person;
  - ii. obstructs a UNE Representative or Student in the performance of their duties, or
  - iii. interferes with teaching, research or related activity, the ability of a UNE Representative or Student to pursue their studies, examinations, official meetings, graduation or other proceedings of the University.
- f. Attempted or actual endangerment of, or damage to, or wrongful dealing with any persons and/or property, University or public property including any act of hazing arising from initiation, affiliation, or continued membership of any group or organisation.
- g. Failure to comply with reasonable direction of staff (including safety and security staff or contractors) or officers of the public emergency services acting in performance of their duties or failure to identify oneself to these persons when requested to do so.
- h. Unauthorised possession, duplication or use of keys and/or access card to any University premises or unauthorised entry to or use of University premises.
- i. Unlawful use, possession, cultivation or distribution of drugs.
- j. Illegal or unauthorised possession or use of firearms, ammunition, explosives, other weapons or chemicals on University premises.
- k. Disorderly or indecent conduct, breach of peace, or aiding or procuring another person to breach the peace on University premises or at activities (including excursions) sponsored by, or participated in, by the University.
- l. Theft or other abuse of UNE computer time or facilities, including but not limited to:
  - i. unauthorised entry into a file;
  - ii. unauthorised transfer of, or change to, a file;
  - iii. unauthorised use of another individual's identification and password;
  - iv. use of computing facilities to interfere with the work of another University member;
  - v. use of computing facilities to send obscene or abusive messages;
  - vi. use of computing facilities to interfere with normal operations of the University's computing systems.
- m. Interference with the application of these rules or the [Student Coursework Academic Misconduct Rules](#), including:
  - i. falsification, distortion, or misrepresentation of information before an investigation or hearing;
  - ii. disruption to, or interference with, the orderly conduct of an investigation or hearing;
  - iii. attempting to discourage an individual's proper participation in the application of these rules;
  - iv. attempting to influence the impartiality of an Investigating Officer or appeal officer, or member of the student conduct appeals committee prior to, or during the course of, the investigation or hearing;
  - v. harassment or intimidation of an Investigating Officer or appeal officer or member of the Student Conduct Appeals Committee prior to, during, or after an investigation or hearing.
- n. Divulging any confidential information relating to any University intellectual property.
- o. Conduct involving acts or threats or violence, harassment, intimidation or discrimination.
- p. Influencing or attempting to influence another person to commit an act of academic or behavioural misconduct.
- q. Any form of criminal activity, or action(s) that may lead to such activity, not otherwise specified in these rules.

## PENALTIES

(11) One or more of the following penalties may be imposed on any student found to have committed behavioural

misconduct:

(12) Minor penalties include:

- a. Reprimand
- b. Probation
- c. Written and/or public apology
- d. Withdrawal of services for a period not exceeding three months
- e. Fine not exceeding five penalty units and/or restitution payment for the full costs of, or replacement of the damaged property or compensation for personal injury as determined by the Investigating Officer.
- f. Exclusion from a residential college for a period not exceeding twelve months
- g. Where a student is a resident or affiliate of a residential college, such minor penalties as specified in the Residential College Code of Conduct.

(13) Major Penalties include:

- a. Fine not exceeding ten penalty units and/or restitution payment for the full costs of, or replacement of the damaged property or compensation for personal injury as determined by the Investigating Officer.
- b. Withdrawal of services for a period not exceeding three years.
- c. Residential college exclusion from all residential colleges not exceeding three years.
- d. Residential college expulsion.
- e. Exclusion from enrolment for up to three years.
- f. Exclusion from University premises not exceeding three years.
- g. Expulsion.
- h. Revocation of award.

(14) In addition to any penalty imposed, the student is also required to pay the costs of restoring any damaged equipment, property and/or building and any other costs in restoring the damaged item/s to their original state.

(15) Where a fine or the payment of restitution is imposed the student may enter into a payment arrangement satisfactory to the Chief Financial Officer or nominee, otherwise the fine or payment of restitution is payable within ten working days of the imposition of the penalty.

(16) Other than expulsion (13 g), and exclusion from enrolment (13 e), disciplinary penalties will not form part of the student's permanent academic transcript but will be part of the student's record with the University.

(17) A student who is excluded or expelled after a statutory census date shall have WUN (Withdrawn by the University and deemed to have Failed) recorded against all units in which they are enrolled in that semester and all other pre-census units cancelled from the enrolment.

(18) A student who is excluded or expelled before a statutory census date shall have all units in which they are enrolled, cancelled from the enrolment.

(19) A student who is excluded or expelled after a statutory census date shall not be entitled to remission from or refund of any fees including any residential college fees that remain outstanding under a payment plan. Any unpaid fines or fees may be treated as a bad debt under the University's financial policies including the application of encumbrances and/or referral to debt collection agencies.

(20) A student who is excluded or expelled from the University relinquishes all positions they may occupy on committees or boards within the University.

(21) A student who is excluded or expelled from a residential college relinquishes all positions they may occupy on committees within the residential college, in addition to any affiliation or membership of the residential college.

(22) Where a UNE Representative or Student becomes aware of criminal activity by a student, they must immediately advise the Pro Vice-Chancellor (Academic Innovation) who may notify the relevant authorities.

(23) Where a UNE Representative or Student becomes aware that a student has failed to comply with a penalty, or penalties, imposed, they must immediately notify the Pro Vice-Chancellor (Academic Innovation).

(24) Where a student who is excluded from the University, or part thereof, is found by a UNE Representative or Student to be on University premises, UNE security and/or police may be immediately notified.

## **AUTHORISED INVESTIGATORS AND IMPOSITION OF PENALTIES**

### **Investigation and Determination**

(25) The following University members are authorised to act as Investigating Officers to investigate and determine cases:

- a. Head of School or nominee;
- b. Head of a residential college or nominee;
- c. Directors or nominees thereof of:
  - i. Research Services,
  - ii. Residential System,
  - iii. Student Administration and Services,
  - iv. Information Technology, and
  - v. UNE International;
- d. University Librarian or nominee;
- e. Provost and Deputy Vice-Chancellor, Pro Vice-Chancellor (Academic Innovation), Pro Vice-Chancellor (External Relations), Chief Operating Officer or nominee.

### **Imposition of Penalties**

(26) The University members listed under Rules 25 a-d are authorised to impose minor penalties.

(27) The University members listed under Rule 25 e are authorised to impose both minor and major penalties.

## **CONDUCT OF INVESTIGATIONS AND DETERMINATIONS**

### **General**

(28) Although initial complaints of behavioural misconduct against a Student can be made verbally, a formal investigation under these rules can only be conducted on the basis of a written complaint.

(29) Any person may report a complaint of behavioural misconduct by a Student. Student Assist can advise any University member or member of the public how to provide a written complaint to an Investigating Officer. Anonymous complaints will not be accepted for investigation.

(30) Investigations and appeals shall be heard in a non-adversarial form.

(31) Action taken under these rules may proceed, unless prevented by court order, irrespective of any action involving the Student in any court, commission or tribunal, and irrespective of external investigation of the matters.

(32) All notices sent to a Student shall be sent to the Student's UNE email address in the University's Student database.

(33) Students shall be granted ten (10) working days to respond to all notices sent to them.

(34) The University must take all reasonable steps through the process to ensure the Student is not academically disadvantaged while the matter is determined.

(35) The Manager, International Services and Compliance must be notified of a penalty applied and at all levels of an appeal regarding an international Student where one of the outcomes can be the termination of the Student's enrolment.

### **Investigations and Determinations**

(36) In the first instance, the complaint will be referred to a University member authorised under Rule 25 to investigate complaints, to decide whether prima facie the complaint:

- a. has merit and is within the University member's jurisdiction, or
- b. can be handled through mediation (by mutual consent of the parties), or
- c. should be referred to a higher level because a major penalty may be at issue.

(37) The Student will be provided with a copy of these rules and will be advised in writing of:

- a. the nature of the complaint including a description of the alleged behavioural misconduct and the circumstances in which the alleged behavioural misconduct occurred and be provided with a copy of all documentation and statements relevant to the complaint or advised that the documentation will be provided within a reasonable time before the Interview;
- b. the name of the Investigating Officer authorised to conduct the initial investigation;
- c. the time, date and place for the Interview;
- d. the right to be accompanied by another University member for advice and support, that person shall not have the right of audience or to question or cross-examine the witnesses;
- e. the right to make a statement, call witnesses and lead them through their evidence;
- f. the right to choose not to attend the Interview at the indicated time. They can seek to have the Interview rescheduled or to participate in a telephone conference or provide a written submission. They will be granted at least ten working days from the date of notification to prepare for the Interview or provide a response in writing to the complaint including any evidence in defence of the complaint.

(38) Within ten working days from the date of the Interview, the Student will be advised in writing of:

- a. the details and reason/s for the decision;
- b. the penalty (if any), and
- c. the right of, and method for, appeal (if relevant), and
- d. the University will maintain their enrolment while the appeal process is ongoing (if relevant).

(39) Where it is not possible to respond to the Student within ten working days as required in Rule 38, an explanation should be provided within this period.

(40) Where the Student fails to attend an Interview, provide a written submission, or participate in a telephone conference without reasonable explanation, the authorised Investigating Officer may proceed to determine the case in the absence of the Student.

(41) A record of a Student's past academic or behavioural misconduct may be taken into account when having regard to the penalty that may be imposed.

(42) Investigations will take account of a Student's special needs including the provision of an Auslan interpreter, if appropriate.

## **APPEALS**

### **Authorised Appeal Officer**

(43) The following University members are authorised to act as appeal officer to uphold appeals or to uphold or vary penalties:

- a. Minor Penalties (Rule 12):
  - i. Pro Vice-Chancellor (Academic Innovation), Provost and Deputy Vice-Chancellor, Pro Vice-Chancellor (External Relations), Chief Operating Officer or nominee.
- b. Major Penalties (Rule 13):
  - i. The Pro Vice-Chancellor (Academic Innovation) is authorised to act as appeal officer to uphold appeals or vary penalties with respect to appeals on penalties imposed through Rules 13 b-d. The Pro Vice-Chancellor (Academic Innovation) may refer cases to the Student Conduct Appeals Committee for determination; otherwise, the decision of the Pro Vice-Chancellor (Academic Innovation) is final.
  - ii. The Student Conduct Appeals Committee is authorised to uphold appeals or uphold or vary major penalties (Rules 13 a-h). The decision of the Student Conduct Appeals Committee is final (subject to the Vice-Chancellor and Chief Executive Officer's ratification of major penalties).

(44) An appeal officer must not have been authorised to act as an Investigating Officer or have been involved in the initial investigation or determination of the case. The decision of an appeal officer is final.

### **Student Conduct Appeals Committee**

(45) The Student Conduct Appeals Committee is appointed for two years by the Vice-Chancellor and comprises:

- a. Chair of the Academic Board or nominee (Chair of the Student Conduct Appeals Committee);
- b. a general staff member (HEO 7 or higher) appointed by the Vice-Chancellor and Chief Executive Officer (or nominee);
- c. three members of the full-time academic staff of at least Level C, each from a different school, at least one of whom shall be a Head of School;
- d. a member of the local community (who shall not be a member or former member of staff);
- e. Director of Residential System or a head of a residential college.

(46) The chair of the committee will provide secretarial support.

(47) At least one member of the committee must have legal qualifications.

(48) In the event that a member of the Student Conduct Appeals Committee has been involved in the initial investigation or determination of the case, the Chair of the Student Conduct Appeals Committee may co-opt another person of equivalent standing to the member standing aside, to serve as a member of the committee.

### **Quorum**

(49) The quorum for a Student Conduct Appeals Committee shall be four members.

## **Constitution**

(50) The Student Conduct Appeals Committee may be constituted by an even number of members, in which case the chair has the casting vote.

## **Alternatives**

(51) There shall be at least two alternates for each member of the Student Conduct Appeals Committee.

## **Investigation**

(52) Appeals must be in writing addressed to the designated appeal officer (for minor penalties) or to the Pro Vice-Chancellor (Academic) (for penalties imposed under Rule 13 b-d or to the Chair of the Student Conduct Appeals Committee (for all other major penalties) within ten (10) working days of the receipt of the notice of imposition of a penalty. When the penalty is termination of enrolment, the appeal must be lodged within twenty (20) working days of the receipt of notice of imposition of a penalty. Appellants should structure their appeal in terms of Rules 53 a-c and provide evidence to support their appeal.

(53) Appeals review the record of the initial investigation and its supporting documents for one or more of the following reasons:

- a. to decide whether the initial investigation was conducted fairly and in conformity with these rules;
- b. to decide whether the original decision was based on sufficient and appropriate evidence to establish that behavioural misconduct occurred;
- c. to decide whether the penalty imposed was appropriate. Where it is determined that the penalty was inappropriate the appeal officer or Student Conduct Appeals Committee may vary the penalty, provided that the new penalty is not higher than the original penalty.

(54) In the case of a successful appeal under Rule 53 a, the matter may be referred back to the initial investigating body with appropriate advice from the designated appeal officer or the Chair of the Student Conduct Appeals Committee, as appropriate.

(55) Previously unconsidered material may be presented only at the discretion of the appeal officer or Chair of the Student Conduct Appeals Committee.

(56) The Student will be formally advised of:

- a. the time, date and place for the hearing;
- b. the right to be accompanied by another University member for advice and support (but who shall not have the right of audience or of cross-examination of witnesses), and
- c. the right to provide a written submission or participate in a telephone conference instead of attending a hearing (written submissions must be received not later than one working day prior to the date of the appeal hearing as advised in the notice).

(57) Appeal hearings shall:

- a. wherever possible, be heard within ten working days of receipt of the appeal;
- b. be conducted in private;
- c. be conducted separately or collectively at the chair's discretion when involving more than one appellant;
- d. admit any other person only at the appeal officer's or chair's discretion, except in respect of the University member entitled to be present under Rule 56b;
- e. grant to the Student access to relevant records, exhibits and written statements;

- f. produce a written record of all hearings which will be the property of the University, and
- g. proceed to decide the matter if the Student fails to appear or provide a submission.

(58) After the appeal hearing the Student will be formally advised within ten working days of:

- a. the details and reason/s for the decision;
- b. the new penalty (if any);
- c. the right to seek a review of the conduct of the disciplinary process by the New South Wales Ombudsman, and
- d. the University's intention to notify the Department of Education if they are a Student visa holder and the decision is to terminate their enrolment.

(59) If the appeal process results in a decision that supports the Student, the University will immediately implement any decision and/or correction and preventative action required and will advise the Student of the outcome.

(60) All decisions from an appeal shall be appropriately recorded in accordance with University policy.

### **Ratification of certain major penalties**

(61) Once the appeal process is exhausted, the final application of the major penalties of exclusion and expulsion from the University shall be subject to the ratification of the Vice-Chancellor, who shall have the authority to uphold the penalty, vary the period or refer the penalty back to the Student Conduct Appeals Committee for reconsideration. The major penalty of revocation of award shall only be imposed with approval of the UNE Council made on a recommendation by the Vice-Chancellor and Chief Executive Officer. The Vice-Chancellor and Chief Executive Officer shall receive the papers of the initial investigation and appeal but shall not receive representations when making a decision.

(62) If a Student excluded from the University or college/s appeals the decision, the Student will be required to abide by the exclusion until the appeal is finalised.

(63) If a Student accesses the University's appeals process, the University will maintain the Student's enrolment while the appeals process is ongoing.

### **Emergency Exclusions**

(64) Emergency exclusion may be imposed by the Pro Vice-Chancellor (Academic Innovation) or a member of the Executive when the Pro Vice-Chancellor (Academic Innovation) is absent, where, in their opinion:

- a. the physical or emotional safety and well-being of a University member, or preservation of University or a University member's property, is under immediate threat;
- b. the Student's own physical or emotional safety and well-being is under immediate threat, or
- c. the Student poses an immediate threat of disruption of or interference with the normal operations of the University.

(65) An emergency exclusion may be imposed until a complaint is heard and determined.

(66) When an emergency exclusion is imposed, the Pro Vice-Chancellor (Academic Innovation) will, at the earliest opportunity, allow the Student a reasonable opportunity to make representations, either orally or in writing, concerning the exclusion.

(67) During the emergency exclusion, the Pro Vice-Chancellor (Academic Innovation) or alternate as in Rule 64 may determine that the Student is denied access to any or all of:



- a. the residential colleges;
- b. the University premises;
- c. University activities and/or privileges for which the Student otherwise is eligible;
- d. University services.

(68) The decision to impose an emergency exclusion and the decision whether to lift the emergency exclusion before its expiry shall be final.

## **Interpretation of These Rules**

(69) Any unresolved question of interpretation regarding these rules must be referred to the Pro Vice-Chancellor (Academic Innovation).

## **Rule Administration**

(70) Amendment or revision of this rule must be approved by Academic Board.

## **Records Management**

(71) Actions relating to the implementation of this rule must be recorded and lodged with the University's Records Management Office.

(72) Actions relating to breaches of this rule and/or research misconduct must be identified and treated as confidential information for its lodgement with the Records Management Office.

## **Quality Assurance**

(73) The Academic Board will monitor that the effectiveness of this rule through:

- a. benchmarking the University's standards with those adopted elsewhere;
- b. information available from the review of records relating to the rule's implementation.

# **Section 4 - Definitions**

(74) Academic misconduct is defined in the Student Coursework Academic Misconduct Rules and Higher Degree Research policies and rules.

(75) Academic transcript means the official academic record issued to a Student by the University.

(76) Appeal officer means a University member authorised to decide whether there is a case to answer for the appeal, uphold appeals, or uphold or vary penalties, under Rule 43-63.

(77) Behavioural misconduct means behavioural misconduct specified in Rule 10.

(78) Chair means the Chair of the Student Conduct Appeals Committee as specified under Rule 45a.

(79) Complaint means a complaint of behavioural misconduct reported against a Student provided to an Investigating Officer.

(80) Exclusion or Excluded means a Student is:

- a. excluded from entering the University premises or any defined part of the University premises or engaging in an activity as a Student, or

- b. excluded from enrolment in a particular course at the University for the specified period of the exclusion after which the Student is eligible to return to the University.

(81) Expulsion or Expelled means the permanent separation of the Student from the University.

(82) Graduand means a person who has completed the requirements for a course and who is yet to have the award conferred.

(83) Hazing means any behaviour or initiation practice that involves humiliation, degradation, or abuse.

(84) Interview means oral communication between the Student and Investigating Officer or appeal officer, and including communication by both face-to-face settings and through electronic mediating devices such as the telephone.

(85) Investigating Officer means the University member authorised to investigate and determine cases and to impose penalties under Rules 28-42.

(86) Penalty unit is a cash value that comprises a fine. The UNE Council sets the penalty unit cash value.

(87) Policy includes provisions of the by-laws, rules and regulations of the University and other policy documents issued by the University from time to time.

(88) Probation means the Student is reprimanded in writing and, if found guilty of further acts of behavioural misconduct, during a specified period not exceeding three years, further and more severe penalties may be imposed. The Student will also be formally admonished with a record held on the Student's individual file.

(89) Reprimand means an official statement confirming the fact that a finding of misconduct has been sustained, issued in writing to the Student coupled with a caution against repeating the conduct. A copy of a reprimand will be held on the Student's individual file.

(90) Revocation of award is the cancellation of a University of New England award by the UNE Council.

(91) Residential college includes any on-campus residential accommodation. This includes separate accommodation facilities associated with a college, such as on-campus houses and/or flats that are used by residents, affiliates and Students as well as the buildings, blocks, floors, courts, grounds and parking areas associated with these buildings.

(92) Residential college expulsion means permanent expulsion of the Student from one or more of the residential colleges.

(93) Residential college exclusion means the Student is prohibited from entering one or more of the residential colleges for a specified period not exceeding twelve months. On completion of the specified period of exclusion, the Student is eligible to return to a residential college although conditions on readmission may be applied.

(94) Staff means the staff retained by the University of New England, staff employed by residential colleges and University of New England associates such as Cooperative Research Centres, honorary and emeritus staff, and contractors and employees of contractors engaged by the University.

(95) Statutory census date means the date prescribed in the Higher Education Support Act 2003 (Commonwealth) at which registration in a unit of study is officially counted as an enrolment and the date by which fees or the Student contribution must be paid or deferred as published by the University as a principal date from time to time.

(96) Student means an admitted Student or an enrolled Student at the relevant time.

- a. Admitted Student means a Student who has been admitted to a UNE course of study and who is entitled to

enrol in a unit of study.

- b. Enrolled Student means a Student who has been admitted to a course of study at UNE or elsewhere and who is enrolled at UNE in a unit.

(97) Student Conduct Appeals Committee means the committee set up pursuant to Rules 45-63.

(98) University Representative means a University employee (casual, fixed term and permanent) contractor, agent, appointee, UNE Council member, adjunct, visiting academic and any other person engaged by the University to undertake some activity for or on behalf of the University. It includes corporations and other bodies falling into one or more of these categories.

(99) University premises includes all land, buildings, facilities, residential colleges, and other property (including University grounds, adjacent streets, footpaths and bicycle paths) in the possession of or owned, used or controlled by the University.

(100) Withdrawal of services means the withdrawal of specified services for a designated period as follows:

- a. UNE libraries — loss of access to electronic resources, other library resources and borrowing rights for a period not exceeding three years;
- b. computer facilities — loss of user rights and access for a period not exceeding three years;
- c. loss of access to specified buildings and precincts for a period not exceeding three years.

## Status and Details

<b>Status</b>	Historic
<b>Effective Date</b>	18th October 2016
<b>Review Date</b>	11th November 2016
<b>Approval Authority</b>	Council
<b>Approval Date</b>	18th October 2016
<b>Expiry Date</b>	19th July 2017
<b>Unit Head</b>	Richard Dobek Executive Principal Student Experience
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