

## STATUTE 13.1 - STUDENT DISCIPLINE

### TABLE OF CONTENTS

|               |  |    |
|---------------|--|----|
| <b>PART A</b> | <b>GENERAL</b>   |    |
| 13.1.1        | Interpretation   | 2  |
| 13.1.2        | Delegation   | 4  |
| 13.1.3        | Notices and General Provisions   | 4  |
| <b>PART B</b> | <b>INITIATING ALLEGATIONS OF MISCONDUCT</b>                              |    |
| 13.1.4        | General Misconduct   | 5  |
| 13.1.5        | Academic Misconduct  | 6  |
| 13.1.6        | Other Considerations Impacting on the Investigation of Misconduct        | 7  |
| <b>PART C</b> | <b>PROCEDURE FOR INVESTIGATING MISCONDUCT</b>                            |    |
| 13.1.7        | Allegation Notice and Procedure for Investigating Misconduct             | 7  |
| <b>PART D</b> | <b>PENALTIES</b>   |    |
| 13.1.8        | Penalties  | 9  |
| <b>PART E</b> | <b>APPEALS</b>   |    |
| 13.1.9        | Appeals against Findings of or Penalties for Misconduct                  | 10 |
| 13.1.10       | No Right of Appeal to Board and No Intention to Preclude External Review | 12 |
| <b>PART F</b> | <b>EMERGENCY POWER TO EXCLUDE</b>  |    |
| 13.1.11       | Emergency Power to Exclude and Suspend                                   | 13 |
| <b>PART G</b> | <b>MISCELLANEOUS</b>   |    |
| 13.1.12       | Confidentiality  | 14 |
| 13.1.13       | Undischarged Penalties   | 14 |
| 13.1.14       | Other Consequences of Suspension and Exclusion                           | 14 |
| 13.1.15       | Records  | 15 |
| 13.1.16       | Reinstatement Where Suspended and Forfeiture of Fees                     | 15 |
| 13.1.17       | Readmission Where Terminated and Forfeiture of Fees                      | 15 |
| 13.1.18       | Transitional Provisions  | 15 |

## STATUTE 13.1 - STUDENT DISCIPLINE

### PART A GENERAL

#### 13.1.1 Interpretation

(1) In this statute, unless the contrary intention appears-

**“academic misconduct”** includes, but is not limited to, cheating, plagiarism, collusion, forging or falsifying documents, academic results or records or submitting false or incorrect information for enrolment or entry into a course or subject and any other conduct by which a student seeks to gain for himself or herself, or for any other person, any academic advantage or advancement to which he or she or that other person is not entitled.

**“affiliated educational establishment”** means an educational establishment affiliated with the University where such educational establishment constitutes a school or department of the University.

**“computing and network facilities”** includes, but is not limited to, computers, computer systems, email and other communications networks and information facilities together with associated software, files and data storage and retrieval.

**“exclusion”**, except where the context indicates otherwise, means denial of access to all or specified University premises, facilities, activities, subjects, lectures, tutorials or incidents of University life and **‘exclude’** has a corresponding meaning.

**“general misconduct”** includes, but is not limited to, conduct or behaviour by a student which-

- (a) causes injury to any person or which endangers the safety of any person;
- (b) interferes with, endangers or causes damage to, or loss of, any property or facilities owned or controlled by the University or owned or controlled by any person whilst such property or facilities are lawfully on any University premises;
- (c) disrupts any University activity or inhibits the ability of any person to participate in any University activity on or off University premises;
- (d) is in breach of a statute or regulation of the University;
- (e) is in breach of a written code of practice, policy or procedure of the University which provides that such breach is to be dealt with under this statute;
- (f) is a failure to comply with any reasonable direction or request of a senior officer or any reasonable direction or request of a security officer employed or contracted by the University where that direction or request is in furtherance of safety or good order or to ensure compliance with a statute or regulation or written code of practice, policy or procedure of the University;

- (g) causes any person on or in the immediate vicinity of any University premises on reasonable grounds to feel intimidated, threatened or in fear of being attacked or to hold reasonable fears for his or her safety or physical or psychological well-being;
- (h) is lewd or obscene;
- (i) involves:
  - (i) impersonating another person or relying on the academic record or immigration papers or any other material of another person or persons;
  - (ii) concealing, misrepresenting or withholding, the whole or part of a student's academic record or using forged, false, falsified or incomplete evidence of academic standing; or
  - (iii) using incorrect, incomplete or misleading documentation related to immigration status or in connection with immigration requirements,
 

in order to seek a non-academic advantage at the University or elsewhere;
- (j) incites or persuades any other person to engage in behaviour or conduct which amounts to general misconduct; or
- (k) occurs in a situation where the student is a member of a group which engages in general misconduct of the kind described above and the student has not taken all reasonable steps to dissociate from the group as soon as practicable after becoming aware of the group conduct.

**“premises”** means land and/or buildings.

**“senior member of the academic staff”** means a member of staff of the rank of senior lecturer or above.

**“senior member of the professional staff”** means a member of staff appointed at or above HEW 10 level.

**“senior officer”** means a person nominated as a senior officer by the vice-chancellor from time to time for the purpose of this statute as published by the University Secretary and may include a person who is external to the University.

**“student”** includes-

- (a) a person who is enrolled in a course, a subject or a group of subjects at or offered by the University;
- (b) a person who is enrolled in a course, subject or group of subjects at or offered by an affiliated educational establishment which is approved as an award course, subject or group of subjects by the Board;

- (c) a student of another university or higher education institution who is granted temporary or on-going rights of access to University premises and facilities;
- (d) a person who was a student at the time of any alleged general misconduct or academic misconduct;
- (e) a person who became a student after having allegedly done so by misleading or false means;
- (f) a person who has consented in writing to be subject to this statute;
- (g) a person who was at the time of any alleged general misconduct or academic misconduct a member of a class of persons designated pursuant to section 9(2)(c) of the Act or pursuant to any other statute to be a student; and
- (h) a person who is on leave of absence from or who has deferred enrolment in a course, subject or group of subjects at or offered by the University or by an affiliated educational establishment which is approved as an award course, subject or group of subjects by the Board.

**“subject”** includes a subject offered on an assessed or a non-assessed basis.

**“suspension”** means the suspension of a student’s enrolment at the University for a specified period at the end of which the student’s enrolment is reinstated unless otherwise requested by the student, and “suspend” has a corresponding meaning.

**“termination”** means the cancellation of a student’s enrolment at the University, without any right to enrol or re-enrol in any particular course or subject at the University, except with the consent of the vice-chancellor as provided in section 13.1.17 and “terminate” has a corresponding meaning.

**“University”** includes any affiliated educational establishment.

**“University premises”** includes –

- (a) any premises owned or occupied by the University;
  - (b) any premises on which research, workshops, camps, field placements, examinations and any other study activities controlled or supervised by the University are carried out;
  - (c) any premises on which clinical, professional, practical work or vocational placements forming part of a course or subject offered by the University take place; and
  - (d) any other premises deemed to be University premises by the Council.
- (2) (a) Subject to section 13.1.11(10) where this statute is inconsistent with any other University statute, regulation, policy or procedure, the provisions of this statute must prevail to the extent of the inconsistency.

- (b) Notwithstanding paragraph (a), this statute does not operate to prevent allegations against students from being dealt with in accordance with a procedure prescribed in any other University statute, regulation, policy or procedure.

### **13.1.2 Delegation**

- (1) Without in any way limiting the vice-chancellor's powers under section 26(7) of the Act, the vice-chancellor may delegate any of his or her functions or powers under this statute, other than this power of delegation, to-
  - (a) the provost;
  - (b) any other deputy vice-chancellor, assistant vice-chancellor or pro-vice-chancellor;
  - (c) a senior member of the academic staff;
  - (d) a senior member of the professional staff; and
- (2) A dean may delegate any of his or her functions or powers under this statute, other than this power of delegation, to-
  - (a) a senior member of the academic staff;
  - (b) a senior member of the professional staff; and
- (3) Any officer may delegate any of his or her functions or powers under this statute, other than this power of delegation and the powers pursuant to section 13.1.3(4), to such person as the vice-chancellor approves in writing.
- (4) The university librarian and the chief information officer may delegate any of their functions or powers under this statute, other than this power of delegation, to such senior members of the professional staff as the vice-chancellor approves in writing.
- (5) Any delegation under this section must be in writing.

### **13.1.3 Notices and General Provisions**

- (1) Any notice to a student for the purposes of this statute is sufficient if it is in writing and is -
  - (a) given to the student in person;
  - (b) posted by registered or express post to the student at the address shown on the student's enrolment record as his or her postal address on the date of posting;
  - (c) delivered by courier to the address shown on the student's enrolment record as his or her address on the day of delivery;
  - (d) emailed to the student's allocated university email account; or

- (e) sent in any other form or method approved from time to time by the Board for the purposes of bringing a notice to the attention of the student.
- (2) A notice is deemed to have been received-
- (a) if sent by registered or express post to an address within Australia, on the third working day after it was sent;
  - (b) if sent by registered or express post to an address outside Australia, on the seventh working day after it was sent;
  - (c) if delivered by courier, on the date recorded in the courier's records as the date of delivery;
  - (d) if sent by email, 24 hours after the time it was sent;
  - (e) if sent in any other form or method approved from time to time by the Board, on such date as the Board prescribes as the date of deemed receipt of that notice.
- (3) A copy of any notice sent pursuant to sub-section (1)(e) must be retained by the University in such form as the Board may prescribe.
- (4) The vice-chancellor or the academic registrar may in his or her discretion extend any of the time limits or times prescribed for the taking of any actions or steps referred to in this statute for such period and on such terms, if any, as he or she considers appropriate.
- (5) A person or committee exercising any power or carrying out any function under this statute may use such administrative and professional assistance and support as is reasonable to facilitate the exercise of such powers or functions.

## **PART B INITIATING ALLEGATIONS OF MISCONDUCT**

### **13.1.4 General Misconduct**

- (1) Subject to sub-section (3), if a senior officer, in his or her discretion, decides that an allegation of general misconduct against a student, which is brought to his or her attention in a form and content that enables the senior officer to act on such allegation should be investigated, the senior officer must, subject to section 13.1.6(5), within 10 working days of the allegation being brought to his or her attention:
- (a) refer the matter to a committee for determination in accordance with the procedures set out in Part C; and
  - (b) provide a notice to the student setting out the allegation of general misconduct and containing the details set out in section 13.1.7(1).
- (2) The committee referred to in sub-section (1)(a) cannot include the senior officer who refers the allegation to the committee and must comprise three members being:

- (a) the academic registrar or his or her nominee who must be a senior member of the academic staff or a senior member of the professional staff;
  - (b) a senior member of the academic staff of the faculty in which the student is enrolled or assigned for administrative purposes; and
  - (c) a senior member of the professional staff who is not part of the faculty in which the student is enrolled or assigned for administrative purposes.
- (3) If a senior officer determines that it is more appropriate for an allegation of general misconduct which is brought to his or her attention pursuant to sub-section (1) to be handled by another senior officer, he or she must immediately refer it to that other senior officer.

### **13.1.5 Academic Misconduct**

- (1) In this statute, the “**relevant dean**” means-
- (a) where an allegation of academic misconduct relates to a single subject pertaining to or assigned for administrative purposes to a faculty, the dean of that faculty;
  - (b) where an allegation of academic misconduct relates to a group of subjects or a course pertaining to or assigned for administrative purposes to a faculty, the dean of that faculty or, where there is more than one faculty, the dean of the faculty nominated by the president of the Board;
  - (c) where an allegation of academic misconduct relates to the degree of Doctor of Philosophy or any other course administered by the School of Graduate Research, the pro-vice-chancellor (graduate research);
  - (d) where an allegation of academic misconduct relates to a course, subject or group of subjects offered at an affiliated educational establishment, the director or dean of that affiliated educational establishment; and
  - (e) where an allegation of academic misconduct relates to any other course, subject or group of subjects, the dean or other person determined by the academic registrar to be the relevant dean.
- (2) For the purposes of this Part B, the School of Graduate Research and any affiliated educational establishment are regarded as faculties of the University, but for no other purpose unless so provided.
- (3) If the relevant dean decides that an allegation of academic misconduct against a student should be investigated, he or she must, subject to section 13.1.6(5), within 10 working days of the allegation being brought to his or her attention in a form and content that enables the relevant dean to act on such allegation:
- (a) refer the matter to a committee for determination in accordance with the procedures set out in Part C; and

- (b) provide an allegation notice to the student containing the details set out in Part C.
- (4) Where the relevant dean has delegated authority under section 13.1.2 (2) to another person, that person must notify the relevant dean of every allegation of academic misconduct brought to his or her attention and of the decision he or she has made in relation to it.
- (5) Subject to the over-riding discretion of the president of the Board to determine or vary the composition of a committee established under this section at any time, the composition of the committee must be as follows-
  - (a) where the student is enrolled in an undergraduate course, subject or group of subjects or program pertaining to or assigned for administrative purposes to a faculty, two senior members of the academic staff of the faculty nominated by but otherwise not including the relevant dean (one of whom must chair the committee), and one student member nominated by the president of UMSU;
  - (b) where the student is enrolled in a graduate course subject, group of subjects or program pertaining to or assigned for administrative purposes to a faculty, two senior members of the academic staff nominated by but otherwise not including the relevant dean (one of whom must chair the committee), and one student member nominated by the president of GSA; and
  - (c) in all other cases: three persons nominated by the president of the Board (one of whom must chair the committee).

#### **13.1.6 Other Considerations Impacting on the Investigation of Misconduct**

- (1) Where both general misconduct and academic misconduct are alleged to have occurred by a student arising from one incident or closely related incidents, the allegation or allegations of general misconduct are to be investigated first, and the outcome of that investigation must be reported by the investigating committee to the committee subsequently established to investigate the allegation or allegations of academic misconduct.
- (2) Where a penalty is imposed in relation to a finding of general misconduct, this penalty must be taken into consideration by the committee investigating the allegation of academic misconduct prior to that committee imposing any penalty in circumstances where that committee upholds the allegation of academic misconduct, and if that committee refers the matter to the vice-chancellor under section 13.1.8(1), that committee must also advise the vice-chancellor of the outcome of the investigation of the general misconduct allegation and such penalties as were imposed.
- (3) If a committee investigating alleged general misconduct determines that the alleged misconduct is in the nature of academic misconduct not general misconduct, it must refer the matter to the academic secretary who must refer the matter to the relevant dean, and the provisions of section 13.1.5(3) shall apply.
- (4) If a committee investigating alleged academic misconduct determines that the alleged misconduct is in the nature of general misconduct not academic

misconduct, it must refer the matter to the academic registrar, and the provisions of section 13.1.4(1) shall apply.

- (5) If a senior officer or relevant dean, as the case may be, is considering whether or not an allegation of misconduct against a student should be investigated and becomes aware that there is a recommendation to the Board that the student's enrolment be terminated for unsatisfactory progress, the senior officer or relevant dean, as the case may be, may defer consideration of whether the matter ought to be referred to a committee for investigation until a determination on any unsatisfactory progress has been made in accordance with statute 11.4.

## **PART C PROCEDURE FOR INVESTIGATING MISCONDUCT**

### **13.1.7 Allegation Notice and Procedure for Investigating Misconduct**

- (1) Where an allegation of general misconduct or academic misconduct against a student is to be investigated, the senior officer or the relevant dean, as the case may be, must provide the student with a written notice (the "allegation notice"):
  - (a) setting out the alleged general misconduct or academic misconduct, as the case may be;
  - (b) in the case of academic misconduct, attaching copies of any documents of which the relevant dean is aware relating to the alleged academic misconduct, and in the case of general misconduct informing the student of any evidence of which the senior officer is aware relating to the alleged misconduct;
  - (c) offering the student an opportunity-
    - (A) to provide in writing an explanation or submission or evidence in response to the allegation; and/or
    - (B) to be heard in relation to it;
  - (d) naming the chair of the committee which will investigate the allegation of misconduct;
  - (e) referring the student to the provisions of this statute; and
  - (f) advising the student of the provisions of sub-section (2).
- (2) If a student who is the subject of an allegation notice wishes to take up any of the opportunities set out in the allegation notice the student must notify the chair of the committee in writing accordingly within 10 days after receipt or deemed receipt of the allegation notice. If no notice requiring a hearing is given by the student, the committee will proceed to deal with the allegation, including the conduct of a hearing if deemed necessary or appropriate by the committee, in the absence of the student.
- (3) If the student gives the notice referred to in sub-section (2), the chair of the committee must convene a meeting of the committee to determine the

allegation of misconduct within 20 working days after receipt or deemed receipt of the allegation notice by the student. The committee must give the student the opportunity nominated in his or her notice. If the student requires a hearing, he or she must be given at least seven days notice of the time and place of the committee meeting during which the hearing will be conducted.

- (4) The student and the chair of the committee may agree in writing at any time to extend or shorten the time limits referred to in this section or to reschedule the date, time and place for any meeting of the committee. The chair of the committee may, as the case requires, adjourn and reconvene any meeting of the committee.
- (5) The student may, no later than 24 hours before the commencement of a meeting of the committee at which the hearing is to take place, notify the academic registrar in the case of alleged general misconduct or the academic secretary in the case of alleged academic misconduct or the chair of the committee, that he or she wishes to have a specified person present at the hearing (in this Part called the “**support person**”) to assist the student in presentation of his or her case, subject to sub-section (7). The support person may not be-
  - (a) a person who was involved in, associated with, or alleged to have been involved in or associated with the misconduct alleged in the allegation notice; or
  - (b) a qualified legal practitioner unless permitted by the chair of the committee.
- (6) In determining an allegation of misconduct under this section, the committee-
  - (a) may follow any procedure it considers appropriate;
  - (b) is not bound by the rules of evidence or other technicalities or legal forms, and may inform itself in relation to any matter in any manner it thinks fit;
  - (c) must act fairly in all the circumstances, having regard to the requirements of natural justice;
  - (d) must, unless the matter is dealt with in the absence of the student, inform the student of the evidence it intends to take into account in making its decision and give the student the opportunity to present the student’s case and to respond to any relevant evidence or allegations orally and/or in writing; and
  - (e) must allow the student to be accompanied by a support person nominated in accordance with sub-section (5).
- (7) The support person accompanying the student in a committee meeting under this section has no right to be heard, except with the permission of the chair of the committee, and may be excluded from the hearing by the chair of the committee if he or she disrupts or unreasonably impairs the conduct of the hearing.

- (8) The committee must either dismiss or uphold each allegation of misconduct. The committee must dismiss an allegation of misconduct unless a majority of the members of the committee is satisfied that the allegation has been upheld. Where the committee upholds an allegation of misconduct, it may impose a penalty on the student in accordance with section 13.1.8.
- (9) Within three working days of any decision being made under sub-section (8)-
  - (a) the student must be provided with written notice of-
    - (i) the terms of the decision;
    - (ii) any penalty imposed or recommended; and
    - (iii) the right to appeal under Part E; and
  - (b) the academic registrar must be provided with a copy of the notice.

## **PART D PENALTIES**

### **13.1.8 Penalties for Misconduct**

- (1) Where a committee upholds an allegation of general misconduct against a student under section 13.1.7, it may-
  - (a) reprimand the student;
  - (b) fine the student an amount not exceeding the sum of \$1,000, or, if the misconduct of the student caused damage to property or facilities, the sum of \$1,000 plus the cost of making good that damage;
  - (c) exclude the student from all or any part of University premises for such period and on such terms and conditions as the committee considers necessary or appropriate;
  - (d) prohibit the student from bringing any motorised vehicle or non-motorised vehicle, as those expressions are defined in any regulation or policy of the University dealing with traffic and parking rules, onto all or any part of University premises either permanently or for any period and on such terms and conditions as the committee considers appropriate;
  - (e) exclude the student from using any of the University's library and computing and network facilities for a period not exceeding 28 days either absolutely or on such terms and conditions as the committee considers necessary or appropriate;
  - (f) impose a requirement that the student refrain from having any or such specified contact with particular students or members of staff of the University as the committee considers necessary or appropriate;
  - (g) impose a requirement that the student undertake such work as the committee considers appropriate on terms and conditions approved by the committee;

- (h) recommend to the vice-chancellor that the student's enrolment be suspended for any period and on such terms and conditions as the committee considers necessary or appropriate; or
  - (i) recommend to the vice-chancellor that the student's enrolment be terminated.
- (2) Where a committee upholds an allegation of academic misconduct against a student under section 13.1.7, it may-
  - (a) reprimand the student;
  - (b) deprive the student of credit for the subject or for the component of assessment of the subject to which the academic misconduct relates or is related;
  - (c) exclude the student from using any of the University's library and computing and network facilities for a period not exceeding 28 days either absolutely or on such terms and conditions as the committee considers necessary or appropriate;
  - (d) recommend to the vice-chancellor that the student's enrolment be suspended for any period and on such terms and conditions as the committee considers necessary or appropriate; or
  - (e) recommend to the vice-chancellor that the student's enrolment be terminated.
- (3) Where a matter has been referred by a committee to the vice-chancellor under sub-sections (1) or (2), the vice-chancellor must have regard to the terms of the decision and the recommendation made by the committee. The vice-chancellor is not required to accord a hearing to the student before imposing a penalty in such a case. The vice-chancellor may-
  - (a) accept the recommendation and terminate or suspend the student's enrolment (as the case requires);
  - (b) if the committee recommended that the student's enrolment be terminated, suspend the student's enrolment for such period and on such terms and conditions as the vice-chancellor considers necessary or appropriate;
  - (c) if the committee recommended that the student's enrolment be suspended, suspend the student's enrolment for a shorter period than that recommended by the committee and/or on such terms and conditions as the vice-chancellor considers necessary or appropriate, being terms and conditions which in the vice-chancellor's opinion are less onerous than those recommended by the committee; or
  - (d) refer the matter back to the committee with a recommendation that it impose one or more of the penalties referred to in sub-section (1)(a), (b), (c), (d) or (e) in the case of general misconduct or sub-section (2)(a),(b) or (c) in the case of academic misconduct.

- (4) Where a matter is referred back to a committee under sub-section (3)(d), the committee must consider the recommendation made by the vice-chancellor, and within the next 20 working days, impose one or more of the penalties referred to in sub-section (1)(a), (b), (c), (d) or (e) in the case of general misconduct or sub-section (2)(a),(b) or (c) in the case of academic misconduct.

## **PART E APPEALS**

### **13.1.9 Appeals against Findings of or Penalties for Misconduct**

- (1) The student may appeal under this section against-
  - (a) a decision under section 13.1.7 upholding an allegation of misconduct against the student; and/or
  - (b) a penalty imposed on the student under section 13.1.8.
- (2) The only grounds on which the student may appeal under this section are that-
  - (a) there was failure to comply with procedural fairness (which may include that the student has not received a fair hearing in all the circumstances);
  - (b) there is evidence relating to an allegation of misconduct that was not reasonably ascertainable by the student at or prior to the hearing or decision, as the case may be, and that would probably have affected the decision or any penalty imposed under section 13.1.8;
  - (c) the decision under section 13.1.7 was manifestly wrong; or
  - (d) the penalty imposed under section 13.1.8 was manifestly excessive, inappropriate or not available in the circumstances.
- (3) An appeal under this section may only be commenced by the student lodging a written notice of appeal with the university secretary, in the case of a decision or penalty arising from an allegation of general misconduct, or the academic secretary, in the case of a decision or penalty arising from an allegation of academic misconduct, within 20 working days of the day on which the student received or is deemed to have received the notice referred to in section 13.1.7(9)(a) or becomes aware of the evidence referred to in section 13.1.9(2)(b) or, in special circumstances, such longer time as the university secretary or academic secretary as the case may be, allows in his or her discretion.
- (4) Where the university secretary or the academic secretary, as the case may be, extends, or refuses to extend, the time for lodging notice of appeal he or she must notify the student and the academic registrar in writing of the extended date, or of his or her decision to refuse the student's application for extended time, within five working days of receipt of the student's application.
- (5) A notice of appeal must set out the grounds of appeal, in accordance with section 13.1.9(2), and any evidence on which the student proposes to rely.

- (6) Within 10 working days of receiving a notice of appeal, the university secretary or the academic secretary, as the case may be, must establish a committee to hear and determine the appeal (in this Part called an "Appeal Committee").
- (7) Subject to section 13.1.9(8) and to the over-riding discretion of the vice-chancellor to determine or vary the composition of an Appeal Committee at any time prior to the commencement of the hearing of the appeal, the Appeal Committee must consist of three persons as follows:
  - (a) one member must be the president of GSA or a student nominated by the president of GSA if the student is enrolled in a graduate course, subject, group of subjects or program (including research higher degree) pertaining to or assigned for administrative purposes to a faculty, or the president of UMSU or a student nominated by the president of UMSU in all other cases;
  - (b) in the case of an appeal relating to an allegation of general misconduct, two members must be drawn from a panel consisting of the deans, the heads of departments, the heads of administrative departments, the deputy vice-chancellors, assistant vice-chancellors, pro vice-chancellors and the professors of Melbourne Law School. The university secretary must appoint one of those members to chair the Appeal Committee; and
  - (c) in the case of an appeal relating to an allegation of academic misconduct, two members must be drawn from the members of the Board. The academic secretary must appoint one of those members to chair the Appeal Committee.
- (8) A person who has been in any way involved in, associated with, or alleged to have been involved in or associated with the alleged misconduct or its investigation, the decision under appeal or the penalty imposed, may not be a member of the Appeal Committee and the Appeal Committee must not include a student or staff member of the faculty in which the student is enrolled or assigned for administrative purposes.
- (9) The chair of the Appeal Committee must convene a hearing of the Appeal Committee to determine the appeal within 21 days after the establishment of the Appeal Committee. The student must be given at least seven days notice of the time and place of the meeting and the name of the chair of the Appeal Committee.
- (10) The student and the chair of the Appeal Committee may agree in writing at any time to extend or shorten the time limits referred to in this section or to reschedule the date, time and place for any hearing of the Appeal Committee.
- (11) The chair of the Appeal Committee may, as the case requires, adjourn and reconvene any meeting of the Appeal Committee.
- (12) The student may, no later than 24 hours before the commencement of a meeting of the Appeal Committee, notify the chair of the Appeal Committee that he or she wishes to have a specified person present at the hearing (in this section called the "support person") to assist the student in presentation of his or her case. The support person may not be a person who was involved

in, associated with, or alleged to have been involved in or associated with the alleged misconduct.

- (13) In determining any appeal under this section, the Appeal Committee-
  - (a) may follow any procedure it considers appropriate;
  - (b) is not bound by the rules of evidence or other technicalities or legal forms, and may inform itself in relation to any matter in any manner it thinks fit;
  - (c) must act fairly in all the circumstances, having regard to the requirements of natural justice;
  - (d) must give the student the opportunity to present material and submissions in support of the appeal and to respond to any other material relating to the appeal;
  - (e) must consider any material presented or made available pursuant to paragraph (d) hereof; and
  - (f) must allow the student to be accompanied by a support person nominated in accordance with sub-section (12).
- (14) The support person accompanying the student in an Appeal Committee meeting under this section, may act as an advocate on the student's behalf, with the permission of the chair of the Appeal Committee, which must not be unreasonably withheld, and the student. The chair of the Appeal Committee may exclude the support person from the hearing if he or she disrupts or unreasonably impairs the conduct of the hearing.
- (15) The Appeal Committee must either dismiss or allow the appeal in whole or in part. The Appeal Committee must dismiss the appeal unless a majority of the members of the Appeal Committee is satisfied that a ground of appeal has been established.
- (16) If the Appeal Committee dismisses the whole or any part of an appeal, it must confirm, set aside or vary any penalty imposed, or substitute another penalty, but must not-
  - (a) increase the period of any suspension imposed under section 13.1.8(3); or
  - (b) impose any penalty which, in the opinion of the Appeal Committee, is more onerous than the penalty imposed on the student under section 13.1.8.
- (17) Within three working days of any decision by the Appeal Committee under this section-
  - (a) the student must be provided with written notice of the terms of the decision and any penalty imposed; and
  - (b) the academic registrar must be provided with a copy of the notice.

- (18) In the case of an appeal relating to an allegation of academic misconduct, the chair of the Appeal Committee must report any decision made under this section to the next full meeting of the Board.

### **13.1.10 No Right of Appeal to Board and No Intention to Preclude External Review**

- (1) Notwithstanding the provisions of statute 4.1.2(2)(b), there is no right of appeal to the Board from any decision made under the provisions of this Part by an Appeal Committee.
- (2) Nothing in this statute is intended to preclude a student from exercising any right to external review of any decision.

## **PART F EMERGENCY POWER TO EXCLUDE AND SUSPEND**

### **13.1.11 Emergency Power to Exclude and Suspend**

- (1) Notwithstanding any other provision of this statute-
- (a) the vice-chancellor may in his or her discretion immediately exclude and/or suspend a student for such period and on such terms and conditions as he or she considers necessary; and
  - (b) the head of an affiliated educational establishment may in his or her discretion immediately exclude a student from all or specified premises or facilities of that establishment, or all or any activities, subjects, lectures, tutorials or incidents of University life carried out or conducted at or in any part of those premises or facilities on such terms and conditions as he or she considers necessary.
- (2) The powers conferred by sub-section (1) may not be exercised unless the vice-chancellor or the head of an affiliated educational establishment (as the case requires) has determined that the student has acted or behaved or is acting or behaving in a way which involves or might involve a risk of-
- (a) injury to the student or to any other person;
  - (b) serious damage to property; or
  - (c) serious disruption of any activity sanctioned by the University or affiliated educational establishment (as the case requires).
- (3) A decision to exclude and/or suspend a student under this section may be made summarily by the vice-chancellor or a head of the affiliated educational establishment. The vice-chancellor or head of the affiliated educational establishment (as the case requires)-
- (a) is not required to accord a hearing to the student before making a decision under this section; and
  - (b) may inform himself or herself in relation to any matter in any manner he or she thinks fit.

- (4) Where the vice-chancellor or the head of an affiliated educational establishment decides to exclude and/or suspend a student under this section, he or she must, within 24 hours, provide a written notice to the student-
  - (a) setting out the terms of the decision;
  - (b) setting out in summary form the reason or reasons for the decision;
  - (c) advising the student of the provisions of this section; and
  - (d) referring the student to the provisions of this statute.
- (5) A decision to exclude and/or suspend a student under this section takes effect immediately. A student must comply with such a decision.
- (6) Where the vice-chancellor or a head of an affiliated educational establishment decides to exclude and/or suspend a student under this section, he or she must, as soon as practicable, refer the matter to a senior officer who must initiate an investigation into the matter expeditiously in accordance with the provisions of sections 13.1.4 and 13.1.7.
- (7) The vice-chancellor or the head of an affiliated educational establishment (as the case requires) may at any time revoke or vary a decision to exclude and/or suspend a student under this section.
- (8) A decision to exclude and/or suspend a student under this section continues to operate unless or until-
  - (a) it is revoked or varied by the vice-chancellor or the head of an affiliated educational establishment (as the case requires);
  - (b) the alleged general misconduct has been dismissed under section 13.1.7(8);
  - (c) the alleged general misconduct has been upheld under section 13.1.7(8) and any penalty imposed in accordance with section 13.1.8; or
  - (d) it expires in accordance with its terms.
- (9) Where the vice-chancellor decides to exclude and/or suspend a student under section 13.1.8 he or she must provide a report to the next meeting of Council setting out in summary form the terms of and the reason or reasons for the decision.
- (10) Nothing in this statute derogates from the power of security officers approved as authorised officers by the vice-chancellor pursuant to the University's security policy, to revoke a person's right to remain on University premises in accordance with the security policy of the University.

## **PART G MISCELLANEOUS**

### **13.1.12 Confidentiality**

Subject to section 13.1.3(5), any person or committee who exercises any power or carries out any function under this statute or hears any appeal must treat the subject matter thereof in the strictest confidence, save where necessary for the discharge of that person's or committee's responsibilities pursuant to this statute or as otherwise required or permitted by law.

### **13.1.13 Undischarged Penalties**

- (1) While any penalty imposed in accordance with this statute remains outstanding, unfulfilled or unpaid (as the case requires), or while a student is suspended or excluded from all of the University premises, the student must not, without the written consent of the vice-chancellor or the provost-
  - (a) enrol;
  - (b) receive any results of assessment;
  - (c) graduate or receive a diploma or any certificate stating that the student is qualified to graduate or receive a diploma in the University, or
  - (d) receive a certificate of academic record.

### **13.1.14 Other Consequences of Suspension and Exclusion**

- (1) While a student is suspended he or she must not, without the written consent of the vice-chancellor or the provost-
  - (a) attend any classes;
  - (b) sit any examinations;
  - (c) submit any work for assessment;
  - (d) gain any credit; or
  - (e) access the University's library or computing and network facilities.
- (2) While a student is excluded he or she must not-
  - (a) attend any classes relating to any subject or group of subjects from which the student has been excluded;
  - (b) sit any examinations relating to any subject or group of subjects from which the student has been excluded;
  - (c) submit any work for assessment in any subject or group of subjects from which the student has been excluded;
  - (d) gain any credit for work submitted in any subject or group of subjects from which the student has been excluded; or

- (e) seek to have access to, enter upon or otherwise use or enjoy any University premises, facilities, activities, subjects, tutorials or incidents of University life specified in any notice of exclusion issued in accordance with the terms of this statute.
- (3) A student is not entitled to receive any credit for any studies undertaken by the student at the University or any other institution during a period when the student's enrolment is or was suspended without the written consent of the vice-chancellor or the academic registrar.

#### **13.1.15 Records**

- (1) The academic registrar must keep a record of-
  - (a) all findings of general misconduct and academic misconduct made under this statute; and
  - (b) all penalties imposed in respect of such findings.
- (2) The records referred to in sub-section (1) form part of the student's disciplinary record and must form part of a student's file which will be made available to persons within the University or outside the University in accordance with the University's privacy policy.
- (3) The records referred to in sub-section (1) may be taken into account for the purposes of assessing what penalty, if any, should be imposed or recommended under the provisions of this statute in any case where an allegation of general misconduct or academic misconduct has been upheld or confirmed against a student.

#### **13.1.16 Reinstatement Where Suspended and Forfeiture of Fees**

- (1) A student's enrolment must be automatically reinstated after the expiration of any period of suspension, provided that the student has complied with any terms and conditions imposed as part of the suspension.
- (2) The vice-chancellor or the academic registrar may, in their discretion, reinstate a student's enrolment after the expiration of any period of suspension even though the student has failed to comply with any terms or conditions imposed as part of the suspension.
- (3) No fees paid by a student relating to any period of suspension shall be refundable.

#### **13.1.17 Readmission Where Terminated and Forfeiture of Fees**

- (1) A student whose enrolment has been terminated in accordance with this statute may not enrol in any course, subject or group of subjects at the University without the written consent of the vice-chancellor, which consent will only be granted at the discretion of the vice-chancellor in exceptional circumstances.
- (2) No fees paid by a student shall be repayable to the student upon or by reason of termination.

### **13.1.18 Transitional Provisions**

- (1) Any proceedings for general misconduct or academic misconduct that have been commenced but not completed before the commencement of this statute must be completed in accordance with the provisions of Statute 13.1 – Student Discipline in effect at the time the proceedings commenced.
- (2) Any allegation of misconduct that relates to general misconduct or academic misconduct which was alleged to have occurred prior to the commencement date of this statute but in respect of which proceedings had not started at the commencement of this statute must be dealt with under the replaced statute unless the student and the senior officer or relevant dean, as the case may be, to whose attention the general misconduct or academic misconduct has been brought agree in writing that the matter is to be dealt with under this statute.

[Repealed and re-enacted by Council 8/11/2010 – approved by the Minister  
11/1/2011]