

**GENERAL MISCONDUCT RULES**

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# CURTIN UNIVERSITY OF TECHNOLOGY ACT 1966

## GENERAL MISCONDUCT RULES

These Rules are made by the Council of the University under the powers conferred on it by section 8 of *Statute No.10 – Student Discipline* and in accordance with section 34 of the *Curtin University of Technology Act 1966*.

### PART 1 -- PRELIMINARY

#### 1.1 Citation

These Rules, made under *Statute No. 10 – Student Discipline*, may be cited as the “*General Misconduct Rules*”.

#### 1.2 Commencement

These Rules take effect:

- (a) when they are promulgated in accordance with section 2 of *Statute No.3 – Rules*; or
- (b) on the commencement of *Statute No.10 – Student Discipline* which revokes Previous Statute No.10,

whichever is the later.

*Note: section 4 of Statute No. 3 – Rules relevantly states:*

*“A Rule is promulgated by posting a copy of it on the notice board located outside the main entrance to the Administration block at the University at Bentley ...”.*

#### 1.3 Interpretation

- (1) In these Rules, unless the contrary intention appears:

“**Associate**” means a person who is not employed by the University but who provides academic or administrative services to or for the University;

“**Authorised Officer**” means a person:

- (a) whose position is identified in Schedule A; or
- (b) who is appointed by the Academic Registrar to be the Authorised Officer in respect of a particular instance of possible General Misconduct;

“**Authorised Officer’s Report**” means the report referred to in rule 2.6(4) and (5);

**“Board of Discipline”** means the board constituted in accordance with Part 3 of Schedule B;

*Note: the Board of Discipline is responsible for determining whether a Category 2 Penalty is to apply in a matter referred to it by the Academic Registrar.*

**“Category 1 Penalty”** means one or more of the following:

- (a) a formal warning or admonishment, or both;
- (b) a requirement for the Student to attend counselling or a lecture, seminar, workshop or similar activity;
- (c) a fine up to a maximum of \$500; and
- (d) suspension of all or any of a Student’s rights and privileges within the University for a period of up to 1 month, including:
  - (i) exclusion from attendance at any specified scheduled class activity, such as a lecture, seminar, or tutorial workshop;
  - (ii) exclusion from all or a specified part of a campus or education centre;
  - (iii) exclusion from participating in any activity organised or managed by the University;
  - (iv) denial of access to any or all facilities or services of the University; and
  - (v) exclusion from enrolment in any unit or admission to any course;

**“Category 2 Penalty”** means one or more of the following:

- (a) suspension of all or any of a Student’s rights and privileges within the University for a specified period, including:
  - (i) exclusion from attendance at any specified scheduled class activity, such as a lecture, seminar, or tutorial workshop;
  - (ii) exclusion from all or a specified part of a campus or education centre;
  - (iii) exclusion from participating in any activity organised or managed by the University;
  - (iv) denial of access to any or all facilities or services of the University; and
  - (v) exclusion from enrolment in any unit or admission to any course;

- (b) termination from the course in which the Student is admitted;
- (c) expulsion from the University;
- (d) prohibition from being admitted or re-admitted to any course and from enrolling in any unit; and
- (e) the rescission or withholding of any award or the withdrawal of credit for any completed unit, or both;

**“General Misconduct”** has the meaning given to it in *Statute No. 10 – Student Discipline*;

*Note: “General Misconduct” is defined in section 4 of Statute No. 10 – Student Discipline to mean:*

*“... conduct by a Student, other than conduct constituting Academic Record Fraud or Academic Misconduct:*

- (a) *which contravenes any written law of the Commonwealth of Australia, a State or Territory of Australia or any other country, and where the written law relates to an activity associated with the Student being a Student of the University;*

*Note: a breach of a University Statute, by-law or rule would be a contravention of a written law for these purposes.*

- (b) *which contravenes the provisions of the Act or any Statute, rule or by-law, or University policy or procedure;*
- (c) *which contravenes any lawful direction by a member of the staff of the University;*
- (d) *which infringes the reasonable freedom of other persons to:*
  - (i) *pursue their study, research, duties or other lawful activities on premises owned or controlled by the University, or elsewhere while engaged in an activity under the auspices of the University; or*
  - (ii) *participate in the life of the University; or*
- (e) *which is otherwise detrimental to the proper conduct of the University or the University’s reputation;”*

**“Inquiry Officer”** means the person who undertakes an inquiry under rule 2.2(2);

*Note: an Inquiry Officer may or may not be an Authorised Officer – see rule 2.2(2) and (3).*

**“Inquiry Officer’s Report”** means the report referred to in rule 2.5;

**“Relevant Student Discipline Panel”** means the particular panel that is responsible, in accordance with Part 2 of Schedule B, for determining the penalty that is to apply in a particular case of Student Misconduct;

**“Staff Member”** means a person who is employed by the University;

**“Student”** has the meaning given to it in *Statute No. 10 – Student Discipline*;

*Note: “Student” is defined in section 4 of Statute No. 10 – Student Discipline to mean:*

- “(a) an enrolled student as defined in section 4(1) of the Act;*
- (b) a person who is admitted to a course conducted by the University (including a person who is on leave, or absent without leave, from that course) – until that person has withdrawn from, or is no longer admitted to, that course or until that person:*
  - (i) has been conferred his or her award for that course; or*
  - (ii) completes any activity relating to graduation from the course,**whichever is the later; or*
- (c) a person who is enrolled in a unit – until that person is given the final results for that unit...”.*

**“Student Discipline Appeals Board”** means the board constituted in accordance with Part 4 of Schedule B; and

*Note: the Student Discipline Appeals Board is responsible for deciding an appeal against a determination of General Misconduct, or the penalty that is imposed following that determination, or both.*

**“Student Discipline Panel”** means each of the panels constituted in accordance with Part 2 of Schedule B.

*Note: a Student Discipline Panel is responsible for determining the penalty, other than a Category 2 Penalty, that is to apply in a matter reported to it by an Authorised Officer.*

- (2) In particular, without limiting the effect of the definition of General Misconduct in rule 1.3(1), each of the following is General Misconduct:
  - (a) obstructing or disrupting any teaching, study, research or examination;
  - (b) obstructing or deterring, or attempting to obstruct or deter, any member of staff in his or her performance of University functions;
  - (c) obstructing or disrupting any official meeting, proceeding, ceremony or activity, conducted under the auspices of the University;
  - (d) interfering with the freedom of movement or the freedom of expression of any member of the University staff, any other Student or any person lawfully on the University’s premises or in any place where an activity is being conducted under the auspices of the University;

- (e) unlawfully discriminating against any person lawfully on the University's premises or elsewhere while engaged in any University activity;
  - (f) assaulting or attempting to assault any person in or upon the premises of the University or elsewhere while engaged in any University activity;
  - (g) being in any building or other location, to which access by the Student has been prohibited under any Statute, rule, by-law, policy or procedure, or by a duly authorised member of staff of the University;
  - (h) damaging or wrongfully dealing with:
    - (i) any University property;
    - (ii) any property for which the University has responsibility; or
    - (iii) any property of any other person, within the University premises; and
  - (i) inappropriate or prohibited use of University computing equipment, computer programs or computer networks.
- (3) Other definitions that are relevant to these Rules are contained in section 4 of *Statute No. 10 – Student Discipline*.
- (4) Where there is a reference in these Rules to a number of days, that number does not include:
- (a) the 5-day period each year that commences on Good Friday and ends on (but does not include) the Wednesday after its commencement; or
  - (b) the 16-day period each year that commences:
    - (i) where Christmas day is on a Saturday – on that Saturday; or
    - (ii) where Christmas day is not on a Saturday – on the Saturday immediately before Christmas day,
 and ends on (but does not include) the third Monday after its commencement.

#### **1.4 Delegations and authorisations**

- (1) The Vice-Chancellor may:
  - (a) delegate to a Staff Member any of the Vice-Chancellor's functions under these Rules; and
  - (b) authorise a person to carry out, on behalf of the Vice-Chancellor, any of the Vice-Chancellor's functions under these Rules.

- (2) The Academic Registrar may:
  - (a) delegate to a Staff Member any of the Academic Registrar's functions under these Rules;
  - (b) authorise a person to carry out, on behalf of the Academic Registrar, any of the Academic Registrar's functions under these Rules; and
  - (c) appoint a person to be the Authorised Officer (replacing the Authorised Officer in accordance with Schedule A) in respect of a particular instance of possible General Misconduct.

## **PART 2 -- REPORTING AND INQUIRY**

### **2.1 Reporting possible General Misconduct**

- (1) A Staff Member or Associate who has reason to believe that a Student may be guilty of General Misconduct must report the matter to an Authorised Officer.
- (2) A Student or other person who has reason to believe that a Student may be guilty of General Misconduct may report the matter to an Authorised Officer.

### **2.2 Initial action by Authorised Officer**

- (1) As soon as practicable after receiving a report of possible General Misconduct, or after becoming aware in any other way of possible General Misconduct, the Authorised Officer must determine that:
  - (a) there are insufficient grounds to warrant further investigation – and take no further action;
  - (b) there are insufficient grounds to warrant further investigation – but arrange for the Student to attend counselling or a lecture, seminar, workshop or similar activity in relation to appropriate behaviour; or
  - (c) there are sufficient grounds to warrant further investigation – and initiate an inquiry.
- (2) An inquiry initiated under rule 2.2(1)(c) may be undertaken:
  - (a) by the Authorised Officer;
  - (b) by a Staff Member or Associate appointed by the Authorised Officer to conduct the inquiry on his or her behalf; or
  - (c) by any other person appointed by the Authorised Officer to conduct the inquiry on his or her behalf.
- (3) The person who undertakes the inquiry is referred to in these Rules as the "Inquiry Officer".



## 2.3 Inquiry form and processes

- (1) The form of an inquiry, and the processes used to conduct it, must be determined, on a case by case basis, having regard to the principles set out in rule 2.4(2):
  - (a) by the Inquiry Officer – where he or she has been authorised to do so by the Authorised Officer; or
  - (b) in any other case - by the Authorised Officer.
- (2) For example, the Authorised Officer or Inquiry Officer under subrule (1), may determine, having regard to the seriousness of an allegation, that the inquiry should include a formal hearing. For a less serious matter, the Authorised Officer may determine that the proper conduct of the inquiry does not require a hearing of any type, provided always that the principles under rule 2.4 are complied with.

## 2.4 Conducting an inquiry

- (1) In this rule:

“**Allegation**” means the allegation of General Misconduct, or the suspected General Misconduct, that is the subject of the inquiry;

“**recommendation**” means a recommendation by the Inquiry Officer to the Authorised Officer; and

“**Respondent Student**” means a student who is the subject of an inquiry into possible General Misconduct.
- (2) An Inquiry Officer who is not an Authorised Officer must observe the following principles in conducting an inquiry:
  - (a) subject to confidentiality and privacy considerations, the Respondent Student must be:
    - (i) informed of the substance of the Allegation; and
    - (ii) given copies of, or access to, any relevant documents;
  - (b) the Respondent Student must be given an appropriate opportunity to respond to the Allegation before the Inquiry Officer makes a recommendation relating to the occurrence of General Misconduct;
  - (c) the Inquiry Officer:
    - (i) is not bound by the rules of evidence but may inform himself or herself on any matter in the manner that he or she considers to be appropriate;
    - (ii) must act and make recommendations fairly and according to the substantial merits of the case; and

- (iii) must act speedily and with as little formality and technicality as practicable; and
  - (d) any recommendation relating to the occurrence of General Misconduct, or a finding on which that recommendation is based, must be reached on “the balance of probabilities” standard of proof.
- (3) An Inquiry Officer who is an Authorised Officer must observe the same principles in conducting an inquiry as those specified in subrule (2), except that each reference to a recommendation in that subrule is to be taken to refer to a determination by the Authorised Officer.
- (4) In respect of the Respondent Student's opportunity to respond:
  - (a) the Respondent Student must be given an opportunity to respond to the Allegation in writing;
  - (b) when permitted by the Inquiry Officer, the Respondent Student may be given an opportunity to respond orally;
  - (c) the Inquiry Officer must specify a date (and may extend the date) for the Respondent Student's response that is at least 7 days after the Respondent Student has been given the information referred to in subrule (2)(a);
  - (d) if the Respondent Student does not take up the opportunity to respond:
    - (i) the Inquiry Officer, if he or she is not the Authorised Officer, may, in the absence of that response, make a recommendation as to whether General Misconduct has occurred; or
    - (ii) the Inquiry Officer, if he or she is the Authorised Officer, may, in the absence of that response, make a determination as to whether General Misconduct has occurred; and
  - (e) a written response from the Respondent Student may comprise or include written statements from himself or herself, or any other person.
- (5) Where the Inquiry Officer decides to hold a hearing:
  - (a) the Respondent Student must be given at least 7 days notice of the date and time of the hearing;
  - (b) the Inquiry Officer may direct the Respondent Student to attend the hearing; and
  - (c) if the Respondent Student fails to attend all or part of a hearing, it may proceed in his or her absence.

- (6) In attending a hearing, or making an oral response, the Respondent Student may be accompanied by another person, but the other person may not act as an advocate unless invited to do so by the Inquiry Officer.

## **2.5 Inquiry Officer's Report**

- (1) As soon as practicable after conducting the inquiry under rule 2.4, the Inquiry Officer, if he or she is not the Authorised Officer, must:
  - (a) prepare an Inquiry Officer's Report;
  - (b) give the Inquiry Officer's Report to the Authorised Officer; and
  - (c) take whatever further action the Authorised Officer considers may be necessary to ensure compliance with rule 2.4, or to enable the Authorised Officer to make a determination under rule 2.6.
- (2) Examples of the action that may be taken under subrule (1)(c) are:
  - (a) making further investigations into, or analysis of, relevant factual issues, including additional documentation; and
  - (b) amending or replacing the Inquiry Officer's Report.
- (3) The Inquiry Officer's Report must contain:
  - (a) the reasons for each recommendation relating to the occurrence or otherwise of General Misconduct;
  - (b) the findings on material questions of fact that led to each recommendation, referring to the evidence or other material on which those findings were based; and
  - (c) the Inquiry Officer's view, and the reasons for his or her view, about the seriousness of the incidence of General Misconduct.
- (4) The factors to be taken into account in assessing the seriousness of General Misconduct in a particular case include:
  - (a) the extent to which the behaviour was planned or deliberate;
  - (b) the degree of advantage gained or potentially gained;
  - (c) the potential disadvantage to other Students;
  - (d) the potential negative impact on the University's reputation; and
  - (e) the importance of being seen to have taken clear and decisive action in relation to the matter.

## **2.6 Determination by Authorised Officer**

- (1) This rule applies where:

- (a) the Authorised Officer is given an Inquiry Officer's Report by an Inquiry Officer; or
  - (b) the Authorised Officer has conducted an inquiry under rule 2.4.
- (2) As soon as practicable after one of the events referred to in subrule (1) has occurred, the Authorised Officer must determine that:
- (a) General Misconduct has occurred;
  - (b) General Misconduct has not occurred; or
  - (c) the available information is insufficient to enable a finding whether or not General Misconduct has occurred.
- (3) Where an Authorised Officer determines that the available information is insufficient to enable a finding whether or not General Misconduct has occurred, the Authorised Officer may arrange for the Student to attend counselling or a lecture, seminar, workshop or similar activity in relation to appropriate behaviour.
- (4) Where an Authorised Officer determines that General Misconduct has occurred, he or she must, as soon as practicable:
- (a) give to the Chair of the Relevant Student Discipline Panel (identified in accordance with Part 2 of Schedule B), an Authorised Officer's Report (together with a copy of any written submissions by the Student); and
  - (b) give a copy of the Authorised Officer's Report to the Student against whom the determination of General Misconduct has been made.
- (5) The Authorised Officer's Report must contain:
- (a) the reasons for the determination that General Misconduct has occurred;
  - (b) the findings on material questions of fact that led to the determination, referring to the evidence or other material on which those findings were based; and
  - (c) the Authorised Officer's view, and the reasons for his or her view, about the seriousness of the incidence of General Misconduct.
- (6) The factors to be taken into account in assessing the seriousness of General Misconduct in a particular case include:
- (a) the extent to which the behaviour was planned or deliberate;
  - (b) the degree of advantage gained or potentially gained;
  - (c) the potential disadvantage to other Students;

- (d) the potential negative impact on the University's reputation; and
- (e) the importance of being seen to have taken clear and decisive action in relation to the matter.

### **PART 3 -- PENALTY**

#### **3.1 Penalty by Relevant Student Discipline Panel**

- (1) Where the Chair of the Relevant Student Discipline Panel has been given the Authorised Officer's Report, he or she:
  - (a) must invite the Student against whom the determination of General Misconduct has been made to make a written submission in relation to the appropriate penalty to be imposed;
  - (b) may invite the Student against whom the determination of General Misconduct has been made to make an oral submission in relation to the appropriate penalty to be imposed; and
  - (c) must specify a date (and may extend the date), that is at least 7 days after the Student has been given a copy of the report, for the receipt of any submission.
- (2) A Student who makes an oral submission may, with the consent of the Chair of the Relevant Student Discipline Panel, be accompanied by another person, but the other person may not act as an advocate unless invited to do so by the Chair of the Relevant Student Discipline Panel.
- (3) Having regard to the Authorised Officer's Report, any written submissions from the Student and any other relevant information, the Relevant Student Discipline Panel must:
  - (a) determine that one or more Category 1 Penalties are to apply to the case of General Misconduct that is before it; or
  - (b) recommend that the seriousness of the case may warrant the imposing of a Category 2 Penalty.
- (4) If the Relevant Student Discipline Panel determines that one or more Category 1 Penalties are to apply to the case of General Misconduct that is before it, it must, as soon as practicable, notify the Student and the Academic Registrar in writing of that penalty.
- (5) If the Relevant Student Discipline Panel recommends that the seriousness of the case may warrant a Category 2 Penalty, it must, as soon as practicable:
  - (a) refer the matter to the Academic Registrar to be determined by the Board of Discipline; and
  - (b) notify the relevant Pro Vice-Chancellor of the recommendation and the referral.

### **3.2 Penalty by Board of Discipline**

- (1) When a matter has been referred to the Academic Registrar under rule 3.1(5), the Academic Registrar must, as soon as practicable:
  - (a) convene the Board of Discipline in accordance with Part 3 of Schedule B;
  - (b) give each member of the Board of Discipline copies of:
    - (i) the recommendation of the Relevant Student Discipline Panel;
    - (ii) the relevant Authorised Officer's Report; and
    - (iii) any written submissions made by the Student;
  - (c) notify the Student against whom the determination of General Misconduct has been made of the recommendation of the Relevant Student Discipline Panel;
  - (d) invite the Student against whom the determination of General Misconduct has been made to make a written submission in relation to the recommendation of the Relevant Student Discipline Panel and any penalty that the Board of Discipline has power to impose under rule 3.2(5)(a); and
  - (e) specify a date (and may extend the date), that is at least 7 days after the Student has been notified by the Academic Registrar of the recommendation of the Relevant Student Discipline Panel, for the receipt of any written submission.
- (2) The Board of Discipline may invite the Student against whom the determination of General Misconduct has been made to make an oral submission in relation to the appropriate penalty to be imposed.
- (3) A Student who makes an oral submission may be accompanied by another person, but that person may not act as an advocate unless invited to do so by the Chair of the Board of Discipline.
- (4) The Board of Discipline may make a determination, and carry out its functions, under this rule whether or not the Student against whom the determination of General Misconduct has been made:
  - (a) makes a written or oral submission; or
  - (b) is present at any proceedings of the Board of Discipline.
- (5) Having regard to the Authorised Officer's Report, the recommendation of the Relevant Student Discipline Panel, the submissions (if any) from the Student and any other relevant information, the Board of Discipline must:

- (a) determine that one or more of the penalties set out in either the Category 1 Penalties or the Category 2 Penalties, or both, are to apply in the case of the General Misconduct that is before it; and
- (b) notify the Student and the Academic Registrar in writing of the penalty or penalties.

## **PART 4 -- APPEALS**

### **4.1 Interpretation**

In this Part, unless the contrary intention appears:

“**Faculty**” has the same meaning as that term in clause 1.1 of Schedule B;

“**Pro Vice-Chancellor**” means the Pro Vice-Chancellor, as defined in clause 1.1 of Schedule B, of the Relevant Faculty; and

“**Relevant Faculty**” means the Faculty in which the Student who appeals under this Part is most closely associated by way of:

- (a) the course to which he or she is admitted; or
- (b) the unit or units in which he or she is enrolled.

### **4.2 Rights of appeal**

- (1) A Student may appeal against a determination of General Misconduct, or the penalty that has been imposed, or both.
- (2) The Vice-Chancellor may appeal against a determination relating to General Misconduct, or a determination relating to penalty, or both.

### **4.3 Who hears appeals?**

- (1) An appeal by a Student that relates only to:
  - (a) a determination of General Misconduct made by an Authorised Officer, other than the Academic Registrar;
  - (b) a penalty imposed by a Student Discipline Panel; or
  - (c) both (a) and (b),

is to be heard and determined by the Pro Vice-Chancellor unless the Academic Registrar, after consulting with the Pro Vice-Chancellor, refers the appeal to the Student Discipline Appeals Board.

- (2) Any other appeal by a Student is to be heard and determined by the Student Discipline Appeals Board.
- (3) An appeal by the Vice-Chancellor is to be heard and determined by the Student Discipline Appeals Board.

- (4) A person must not exercise a power or other function of the Pro Vice-Chancellor or of a member of the Student Discipline Appeals Board in relation to an appeal in respect of a matter under this Part if he or she:
- (a) has been involved in any material way in the consideration of that matter under these Rules; or
  - (b) has any other actual or perceived conflict of interest in that matter.

#### **4.4 Notice of Appeal**

- (1) A notice of appeal must:
- (a) be in writing;
  - (b) set out the grounds for the appeal;
  - (c) in the case of an appeal by a Student, and subject to subrule(2), be made within 14 days after the Student is notified of the penalty imposed by the Relevant Student Discipline Panel or the Board of Discipline;
  - (d) in the case of an appeal by the Vice-Chancellor, and subject to subrule (2), be made within 14 days after the Academic Registrar is notified of:
    - (i) the determination relating to General Misconduct (where the determination is that there has been no General Misconduct); or
    - (ii) a determination relating to penalty, by the Relevant Student Discipline Panel or the Board of Discipline; and
  - (e) be given, within the time specified in paragraph (c) or (d), as the case may be, to the Academic Registrar.
- (2) In exceptional circumstances:
- (a) the Pro Vice-Chancellor – where the appeal is to the Pro Vice-Chancellor; or
  - (b) the Chair of the Student Discipline Appeals Board – where the appeal is to the Student Discipline Appeals Board,
- may extend the time within which a notice of appeal must be made.
- (3) As soon as practicable after being given a notice of appeal that is to be heard by the Pro Vice-Chancellor, the Academic Registrar is to:
- (a) give the Pro Vice-Chancellor a copy of the notice of appeal; and
  - (b) notify the Student of the name and contact details of the Pro Vice-Chancellor to whom the appeal has been given.



- (4) As soon as practicable after being given a notice of appeal that is to be heard by the Student Discipline Appeals Board, or after being given a notice by the Pro Vice-Chancellor under rule 4.5(4), the Academic Registrar is to:
  - (a) convene the Student Discipline Appeals Board in accordance with Part 4 of Schedule B;
  - (b) give each member of the Student Discipline Appeals Board a copy of the notice of appeal;
  - (c) give a copy of the notice of appeal to the Student if the appeal is by the Vice-Chancellor; and
  - (d) notify the Student of the name and contact details of the person through whom any communications with the Student Discipline Appeals Board should be directed.

#### **4.5 Hearing of appeals by the Pro Vice-Chancellor**

- (1) An appeal that is to be heard by the Pro Vice-Chancellor is to be heard within 28 days of the receipt of the notice of appeal or within such further time as is approved by the Pro Vice-Chancellor.
- (2) Each of the parties to an appeal:
  - (a) must be given at least 7 days notice in writing by the Pro Vice-Chancellor of the date and time of the hearing;
  - (b) may make written submissions – provided those submissions are given to the Pro Vice-Chancellor at least 2 clear days before the hearing;
  - (c) is to have the right of appearance before the Pro Vice-Chancellor; and
  - (d) may be accompanied by any other person, but the other person may not act as an advocate unless invited to do so by the Pro Vice-Chancellor.
- (3) If a party to the appeal fails to attend all or part of an appeal hearing:
  - (a) the hearing may proceed; and
  - (b) the Pro Vice-Chancellor may make a decision in the absence of the party.
- (4) The Pro Vice-Chancellor is to consider the appeal and either –
  - (a) uphold, vary or set aside the determination relating to General Misconduct or the determination relating to the penalty, or both; or
  - (b) where the Pro Vice-Chancellor considers that the conduct which is the subject of the determination may warrant a Category 2 Penalty, notify

the Academic Registrar that the appeal is to be heard by the Student Discipline Appeals Board.

- (5) For the avoidance of doubt, the Pro Vice-Chancellor may impose, or substitute, one or more Category 1 Penalties even where the appeal concerned only the determination relating to General Misconduct.
- (6) The Pro Vice-Chancellor is to give written notice of his or her decision to each of the parties and to the Academic Registrar.
- (7) The decision of the Pro Vice-Chancellor is final.

#### **4.6 Hearing of appeals by the Student Discipline Appeals Board**

- (1) An appeal that is to be heard by the Student Discipline Appeals Board is to be heard within 28 days of the receipt of the notice of appeal or within such further time as is approved by the Chair of the Student Discipline Appeals Board.
- (2) Each of the parties to an appeal:
  - (a) must be given at least 7 days notice in writing by the Student Discipline Appeals Board of the date and time of the hearing;
  - (b) may make written submissions – provided that the written submissions are given to the Chair of the Student Discipline Appeals Board at least 2 clear days before the hearing;
  - (c) is to have the right of appearance before the Student Discipline Appeals Board; and
  - (d) may be accompanied by another person, but the other person may not act as an advocate unless invited to do so by the Chair of the Student Discipline Appeals Board.
- (3) If a party to the appeal fails to attend all or part of an appeal hearing:
  - (a) the hearing may proceed; and
  - (b) the Student Discipline Appeals Board may make a decision, in the absence of the party.
- (4) The Student Discipline Appeals Board is to consider the appeal and may uphold, vary or set aside the determination relating to General Misconduct or the determination relating to penalty, or both.
- (5) For the avoidance of doubt, the Student Discipline Appeals Board may impose or substitute one or more Category 1 Penalties or Category 2 Penalties, or both, even where the appeal concerned only the determination relating to General Misconduct.
- (6) The Student Discipline Appeals Board is to give written notice of its decision to each of the parties and to the Academic Registrar.

- (7) The decision of the Student Discipline Appeals Board is final.

## **PART 5 -- GENERAL**

### **5.1 Schedules**

Schedules A, B and C have effect.

### **5.2 Temporary exclusion or denial of access**

- (1) This rule applies where a Student:
- (a) is the subject of an inquiry into possible General Misconduct; or
  - (b) has had an adverse determination of General Misconduct against him or her.
- (2) Where this rule applies, the Vice-Chancellor or a member of staff specified in Schedule C may direct that the Student:
- (a) be excluded, on a temporary basis, from all or a specified part of a campus or an education centre;
  - (b) be excluded, on a temporary basis, from participating in any activity organised or managed by the University (such as a field or work experience placement); or
  - (c) be denied access, on a temporary basis, to any or all facilities or services of the University.
- (3) A direction under subrule (2) may be given where the person giving the direction is satisfied that it:
- (a) is necessary or appropriate to protect the reputation of the University;
  - (b) is necessary or appropriate to minimise the risk of further misconduct;
  - (c) is necessary or appropriate to minimise any opportunity for the Student to cover up possible General Misconduct; or
  - (d) is otherwise in the interests of the University.
- (4) A direction given under subrule (2) must:
- (a) specify the nature and period of the exclusion or the denial of access;
  - (b) be in writing, a copy of which is to be given to the Student; and
  - (c) be reported in accordance with Schedule C.
- (5) The period of the exclusion or the denial of access, to be specified under subrule (4)(a):

- (a) is to commence on the date that the direction is given or on the commencement date specified in the direction, whichever is the later; and
- (b) is to end on the end date specified in the direction or, if no end date is specified, when:
  - (i) any penalty imposed by the Relevant Student Discipline Panel or the Board of Discipline takes effect; or
  - (ii) an appeal against a determination has been finalised by the Pro Vice-Chancellor or the Student Discipline Appeals Board,

whichever is the later.

- (6) A direction under this rule may be amended or withdrawn at any time by the Vice-Chancellor or a member of staff specified in Schedule C.
- (7) A direction under this rule is not, and is not to be taken to be, a penalty.

### **5.3 Reporting to the Academic Registrar**

Each Authorised Officer, Pro Vice-Chancellor, Chair of a Student Discipline Panel, Chair of the Board of Discipline and Chair of the Student Discipline Appeals Board must give to the Academic Registrar information relating to the administration of these Rules of the type, in the form and within the time that may be specified by the Academic Registrar.

### **5.4 Guidelines or procedures**

- (1) Guidelines or procedures, not inconsistent with *Statute No. 10 – Student Discipline* or these Rules, may be approved and issued by the Academic Board or Academic Registrar, to assist in the handling of cases of possible General Misconduct.
- (2) An Authorised Officer, an Inquiry Officer, a Pro Vice-Chancellor, a Student Discipline Panel, the Board of Discipline and the Student Discipline Appeals Board are to act in accordance with guidelines or procedures issued under this rule.

## SCHEDULE A – REPORTING POSSIBLE GENERAL MISCONDUCT

### 1. Interpretation

(1) In this Schedule:

“**Head of School**” means:

- (a) in relation to the Centre for Aboriginal Studies – the Head of that Centre; and
- (b) in relation to each other School - the senior academic position in charge of the School

who is located at the Bentley Campus and with whom the Student is most closely associated by way of:

- (c) the course to which he or she is admitted; or
- (d) the unit or units in which he or she is enrolled;

“**Chief Information Officer**” means that office as so described, or such other senior office, according to the structure in place at the relevant time, responsible for the University’s information management services; and

“**Executive Director, Properties**” means that office as so described, or such other senior office, according to the structure in place at the relevant time, responsible for the management of the University’s assets.

(2) If, in a particular case, there is a doubt about who is the relevant Head of School, the Academic Registrar is to determine the matter and the Academic Registrar’s determination is final.

### 2. Authorised Officer

Possible General Misconduct	Authorised Officer
1. By a Student at Curtin Sarawak	Pro Vice-Chancellor and President, Curtin Sarawak
2. By a Student at Curtin Singapore	Pro Vice-Chancellor and President, Curtin Singapore
3. By a Student at Curtin Sydney	Campus Director, Curtin Sydney

Possible General Misconduct	Authorised Officer
4. By any other Student: 4.1. suspected breach of rule 1.3(2)(h) or (i) affecting or concerning a Faculty, or a Faculty's property 4.2. suspected breach of rule 1.3(2)(i) (not within item 4.1 above) 4.3. suspected breach of rule 1.3(2)(h) (not within item 4.1 above) 4.4. other General Misconduct	Head of School  Chief Information Officer  Executive Director, Properties  Academic Registrar

*Note: under rule 1.4, the Academic Registrar may appoint a particular person to be the Authorised Officer in respect of a particular instance of possible General Misconduct.*

## SCHEDULE B – DISCIPLINE PANELS AND APPEALS BOARD

### Part 1 - Interpretation

#### 1.1 Interpretation

(1) In this Schedule, unless the contrary intention appears:

“**Eligible Student**” means a person who is:

- (a) admitted to a course conducted by the University and is currently enrolled in units that comprise part of that course on a full-time basis; or
- (b) who is on Special Leave of Absence under the *2009 Admission and Enrolment Manual*, as amended or replaced from time to time;

“**Faculty**” means any of the following:

- (a) Curtin Business School;
- (b) Faculty of Science and Engineering;
- (c) Faculty of Humanities;
- (d) Faculty of Health Sciences; and
- (e) Centre for Aboriginal Studies;

“**Major Non-Bentley Campus**” means any of the following:

- (a) Curtin Sarawak;
- (b) Curtin Singapore; and
- (c) Curtin Sydney;

“**Pro Vice-Chancellor**” means, in relation to:

- (a) Curtin Business School – the Pro Vice-Chancellor of that School;
- (b) Faculty of Science and Engineering - the Pro Vice-Chancellor of that Faculty;
- (c) Faculty of Humanities – the Pro Vice-Chancellor of that Faculty;
- (d) Faculty of Health Sciences – the Pro Vice-Chancellor of that Faculty; and
- (e) Centre for Aboriginal Studies – the Deputy Vice-Chancellor, Academic;

“**Relevant Major Non-Bentley Campus**”, in relation to a Student at the Curtin Sarawak, Curtin Singapore or Curtin Sydney campus, means the Major Non-Bentley Campus with which the Student is most closely associated by way of:

- (a) the course to which he or she is admitted; or
- (b) the unit or units in which he or she is enrolled;

“**Relevant Faculty**” in relation to a Student at a campus other than Curtin Sarawak, Curtin Singapore and Curtin Sydney, means the Faculty with which the Student is most closely associated by way of:

- (a) the course to which he or she is admitted; or
- (b) the unit or units in which he or she is enrolled; and

“**Student Discipline Panel**” means a panel referred to in clause 2.1.

- (2) If, in a particular case, there is a doubt about which is the Relevant Faculty or Relevant Major Non-Bentley Campus, the Academic Registrar is to determine the matter and the Academic Registrar’s determination is final.

## **Part 2 - Student Discipline Panels**

### **2.1 The Panels**

The Student Discipline Panels:

- (a) in relation to a Relevant Faculty are:
  - (i) the Curtin Business School Student Discipline Panel;
  - (ii) the Faculty of Science and Engineering Student Discipline Panel;
  - (iii) the Faculty of Humanities Student Discipline Panel;
  - (iv) the Faculty of Health Sciences Student Discipline Panel; and
  - (v) the Centre for Aboriginal Studies Student Discipline Panel; and
- (b) in relation to a Major Non-Bentley Campus are:
  - (i) the Curtin Sarawak Student Discipline Panel;
  - (ii) the Curtin Singapore Student Discipline Panel; and
  - (iii) the Curtin Sydney Student Discipline Panel.

### **2.2 Jurisdiction**

- (1) A Student Discipline Panel is responsible for determining the penalty that is to apply in the case of General Misconduct by a Student from the Relevant Faculty or the Major Non-Bentley Campus referred to in the title of that Student Discipline Panel in clause 2.1.



- (2) For example:
  - (a) the Curtin Business School Student Discipline Panel is responsible for determining the penalty that is to apply in the case of General Misconduct by a Student who is admitted to a course conducted by the Curtin Business School unless that course is conducted at a Major Non-Bentley Campus; and
  - (b) the Curtin Sarawak Student Discipline Panel is responsible for determining the penalty that is to apply in the case of General Misconduct by a Student who is studying only at Curtin Sarawak.

### **2.3 Membership**

- (1) The members of a Student Discipline Panel in relation to a Relevant Faculty are to be:
  - (a) the Chair – who is to be a Staff Member of the Relevant Faculty appointed by the Pro Vice-Chancellor of the Relevant Faculty;
  - (b) one other Staff Member, whether or not from the Relevant Faculty, appointed by the Pro Vice-Chancellor of the Relevant Faculty; and
  - (c) an Eligible Student member appointed by the Chair from the list of nominations in respect of the particular Relevant Faculty under clause 2.4.
- (2) The members of the Curtin Sarawak Student Discipline Panel are to be:
  - (a) the Chair – who is to be the Pro Vice-Chancellor and President of Curtin Sarawak or a person authorised by the Pro Vice-Chancellor to undertake this function;
  - (b) one other Staff Member or Associate whether or not from the Curtin Sarawak campus, appointed by the Pro Vice-Chancellor and President of Curtin Sarawak; and
  - (c) an Eligible Student appointed by the Chair from the list of nominations in respect of Curtin Sarawak under clause 2.4.
- (3) The members of the Curtin Singapore Student Discipline Panel are to be:
  - (a) the Chair – who is to be the Pro Vice-Chancellor and President of Curtin Singapore or a person authorised by the Pro Vice-Chancellor to undertake this function;
  - (b) one other Staff Member or Associate whether or not from the Curtin Singapore campus, appointed by the Pro Vice-Chancellor and President of Curtin Singapore; and
  - (c) an Eligible Student appointed by the Chair from the list of nominations in respect of Curtin Singapore under clause 2.4.
- (4) The members of the Curtin Sydney Student Discipline Panel are to be:
  - (a) the Chair – who is to be the Campus Director of Curtin Sydney or a person authorised by the Campus Director to undertake this function; and

- (b) one other Staff Member or Associate whether or not from the Curtin Sydney campus, appointed by the Campus Director of Curtin Sydney; and
  - (c) an Eligible Student appointed by the Chair from the list of nominations in respect of Curtin Sydney under clause 2.4.
- (5) If, during a particular period, or for a particular matter, the Chair is temporarily unavailable, the person responsible for appointing the Chair may appoint any other qualified person to be Acting Chair for all or part of that period, or for the particular matter.
- (6) The person responsible for appointing the members of a Student Discipline Panel under this clause may, at any time:
- (a) revoke an appointment under this clause; or
  - (b) revoke or amend a term or condition of appointment under this clause.

*Note: an Authorised Officer or Inquiry Officer who has conducted an inquiry under Part 2 of these Rules in relation to an allegation of General Misconduct may be a member of the Student Discipline Panel to determine the penalty in relation to the same matter.*

## **2.4 Student member**

- (1) In this clause, “Curtin Student Guild President” includes, in relation to a Major Non-Bentley Campus, an equivalent Eligible Student representative.
- (2) If, in a particular case, there is a doubt about what or whom is the equivalent Eligible Student representative, the Academic Registrar is to determine the matter and the Academic Registrar’s determination is final.
- (3) The Curtin Student Guild President is:
- (a) to call for nominations, at least annually, of at least 6 full-time Eligible Students for each Faculty and each Major Non-Bentley Campus to be included in a list of nominations, for appointment as a member of a Student Discipline Panel for the Relevant Faculty or the Relevant Major Non-Bentley Campus; and
  - (b) to give to:
    - (i) the Pro Vice-Chancellor of the Relevant Faculty;
    - (ii) the Pro Vice-Chancellor and President of Curtin Sarawak;
    - (iii) the Pro Vice-Chancellor and President of Curtin Singapore; or
    - (iv) the Campus Director of Curtin Sydney, as the case may be,
 the list of nominations relating to that Relevant Faculty or Relevant Major Non-Bentley Campus, respectively.
- (4) If:
- (a) there is no person occupying the position of Curtin Student Guild President; or

- (b) the Curtin Student Guild President is unable or unwilling to call for nominations under subclause (3)(a),
- the nominations are to be called by the relevant person referred to in subclause (3)(b).

## **2.5 Chair**

The Chair of a Student Discipline Panel:

- (a) is to be appointed for a term of between 1 year and 2 years;
- (b) may be reappointed;
- (c) may be appointed ex officio; and
- (d) is disqualified from continuing to hold the office of Chair if he or she ceases to have the qualifications referred to in clause 2.3.

## **2.6 Quorum**

- (1) The quorum is the Chair (or Acting Chair) and one other member.
- (2) Decisions are to be made by majority and, in the case of a tied vote, the Chair is to have a casting vote.

## **Part 3 - Board of Discipline**

### **3.1 Jurisdiction**

The Board of Discipline is responsible for determining, in respect of a case referred to it, the penalty that is to apply under rule 3.2(5).

### **3.2 Membership**

- (1) The members of the Board of Discipline who are to hear a matter referred to it by the Academic Registrar are to be:
  - (a) the Chair – who is to be a legal practitioner appointed by the Vice-Chancellor;
  - (b) 2 full-time Staff Members selected at random (but subject to subclause (2)) by the Academic Registrar from a pool of at least 6 nominations under clause 3.3; and
  - (c) 2 Eligible Students selected at random (but subject to subclause (2)) by the Academic Registrar from a list of at least 6 nominations under clause 3.4.
- (2) There must be at least one male member and one female member on each Board of Discipline.
- (3) The Vice-Chancellor may, at any time, revoke the appointment of the Chair under this clause.

*Note: an Authorised Officer or Inquiry Officer who has conducted an inquiry under Part 2 of these Rules in relation to an allegation of General Misconduct may be a member of the Board of Discipline to determine the penalty in relation to the same matter.*

### **3.3 Staff members**

- (1) The Academic Registrar is to call for nominations, at least annually, for each pool of nominations referred to in clause 3.2(1)(b).
- (2) Each pool of nominations referred to in clause 3.2(1)(b) may be the same pool of nominations used to select, under these Rules, the members of the Student Discipline Appeals Board.

### **3.4 Student members**

- (1) The Academic Registrar is to call for nominations, at least annually, of at least 6 Eligible Students to be included in a list of nominations for selection as a member of the Board of Discipline.
- (2) Each pool of nominations referred to in subclause 3.2(1)(c) may be the same pool of nominations used to select, under these Rules, the members of the Student Discipline Appeals Board.

### **3.5 Quorum**

- (1) The quorum is the Chair and 2 other members, one of whom must be a full-time Staff Member and the other an Eligible Student member.
- (2) Decisions are to be made by majority and, in the case of a tied vote, the Chair is to have a casting vote.

## **Part 4 - Student Discipline Appeals Board**

### **4.1 Jurisdiction**

The Student Discipline Appeals Board is responsible for deciding appeals under Part 4 of these Rules.

### **4.2 Membership**

- (1) The members of the Student Discipline Appeals Board are to be:
  - (a) the Chair – who is to be a legal practitioner appointed by the Vice-Chancellor;
  - (b) 2 full-time Staff Members selected at random (but subject to subclause (2)) by the Academic Registrar from a pool of at least 6 nominations under clause 4.3; and
  - (c) 2 Eligible Students selected at random (but subject to subclause (2)) by the Academic Registrar from a list of at least 6 nominations under clause 4.4.
- (2) There must be at least one male member and one female member on the Student Discipline Appeals Board.

- (3) The Vice-Chancellor may, at any time, revoke the appointment of the Chair under this clause.

#### **4.3 Staff members**

- (1) The Academic Registrar is to call for nominations, at least annually, for each pool of nominations referred to in clause 3.2(1)(b).
- (2) The pool of nominations referred to in clause 4.2(1)(b) may be the same pool of nominations used to select, under these Rules, the members of the Board of Discipline.
- (3) A Staff Member cannot be a member of the Student Discipline Appeals Board in respect of an appeal if the Staff Member is a member of the Board of Discipline or Student Discipline Panel from which the appeal is to be heard.

#### **4.4 Student members**

- (1) The Academic Registrar is to call for nominations, at least annually, for a list of at least 6 Eligible Students to be included in a list of nominations for selection as a member of the Student Discipline Appeals Board.
- (2) Each pool of nominations referred to in clause 4.2(1)(c) may be the same pool of nominations used to select, under these Rules, the members of the Board of Discipline.
- (3) An Eligible Student cannot be a member of the Student Discipline Appeals Board in respect of an appeal if the Eligible Student was a member of the Board of Discipline or Student Discipline Panel from which the appeal is to be heard.

#### **4.5 Quorum**

- (1) The quorum is the Chair and 2 other members, one of whom must be a Staff Member and the other an Eligible Student member.
- (2) Decisions are to be made by majority and, in the case of a tied vote, the Chair is to have a casting vote.

## SCHEDULE C – TEMPORARY EXCLUSION OR DENIAL OF ACCESS

### 1.1 Interpretation

(1) In this Schedule:

“**denial**” means denial of access by a Student, on a temporary basis, to any or all facilities or services of the University (within the terms of rule 5.2(2)(c));

“**exclusion**” means exclusion of a Student, on a temporary basis, from –

- (a) all or a specified part of a campus or an education centre; or
- (b) participating in any activity organised or managed by the University (such as field or work experience placement) (again, within the terms of rule 5.2(2)(a) and (b));

“**Head of School**” means:

- (a) in relation to the Centre for Aboriginal Studies – the Head of that Centre; and
- (b) in relation to each other School – the senior academic position in charge of the School,

who is located at the Bentley Campus and with whom the Student is most closely associated by way of:

- (c) the course to which he or she is admitted; or
- (d) the unit or units in which he or she is enrolled; and

“**Pro Vice-Chancellor**”, in relation to a student, means:

- (a) the Pro Vice-Chancellor of the Relevant Faculty, as those terms are defined in clause 1.1 of Schedule B;
- (b) the Pro Vice-Chancellor and President of Curtin Sarawak;
- (c) the Pro Vice-Chancellor and President of Curtin Singapore; or
- (d) the Campus Director, Curtin Sydney,

with whom the student is most closely associated by way of:

- (e) the course to which he or she is admitted; or
- (f) the unit or units in which he or she is enrolled.

(2) If, in a particular case, there is a doubt about who is the relevant Head of School or relevant Pro Vice-Chancellor, the Academic Registrar is to determine the matter and the Academic Registrar’s determination is final.

## 1.2 Table – periods for exclusion or denial (rule 5.2)

In the following table, which applies in respect of rule 5.2 of these Rules, the period of exclusion or denial specified in the first column is the maximum period and includes any extension to the exclusion or denial that may apply under an amended direction under rule 5.2(6):

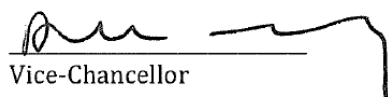
Period of exclusion or denial	Power to take action	Reporting
Up to 1 week	Head of School	Action taken by the Head of School must be reported to the Pro Vice-Chancellor and the Academic Registrar
Up to 2 weeks	Pro Vice-Chancellor	Action taken by the Pro Vice-Chancellor must be reported to the Academic Registrar
Up to 4 weeks	Academic Registrar	Action taken by the Academic Registrar must be reported to the Vice-Chancellor
Over 4 weeks	Vice-Chancellor	N/A

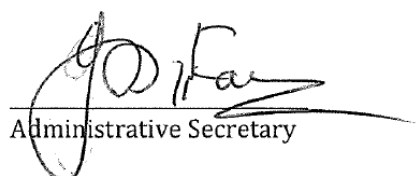
## 1.3 Power to amend or withdraw a direction

The power (under rule 5.2(6)) to amend or withdraw a direction may be exercised:

- (a) by the Academic Registrar or the Pro Vice-Chancellor – if the direction had been given by the Head of School;
- (b) by the Academic Registrar – if the direction had been given by the Pro Vice-Chancellor; and
- (c) by the Vice-Chancellor - in respect of any direction.

The Common Seal of CURTIN UNIVERSITY )  
 OF TECHNOLOGY was hereto affixed on the )  
 4 day of April 2016 )  
 by the authority of the Vice-Chancellor )

  
 Vice-Chancellor

  
 Administrative Secretary



**REVISION HISTORY**

<b>Revision / Ref. No.</b>	<b>Approved/ Amended/ Rescinded</b>	<b>Date</b>	<b>Committee / Board / Executive Manager</b>	<b>Resolution</b>	<b>Document Reference</b>
	Approved	21/10/2009	Council	C 145/09	Attachment 3 to Document No. 01477/09
	Promulgated	15/04/2010			Posted on Administration Building Notice Board
	Amended	14/05/2014	Council	C 70/14	Document No. 00383/14
	Promulgated	25/07/2014			Posted on Administration Building Notice Board
	Amended	17/02/2016	Council	C 20/16	Appendix 1 to Item 9.2.1
	Promulgated	16/05/2016			Posted on Administration Building Notice Board