

**GENERAL MISCONDUCT RULES 2017**

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**SCHEDULES**

- A. Reporting possible General Misconduct**
- B. Discipline Panels and Appeals Board**
- C. Temporary exclusion or denial of access**

# CURTIN UNIVERSITY ACT 1966

## GENERAL MISCONDUCT RULES 2017

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 Act 1966*.

### PART 1 -- PRELIMINARY

#### 1.1 Short title

These Rules, made under *Statute No. 10 – Student Discipline*, are the *General Misconduct Rules 2017*.

#### 1.2 Commencement

These Rules take effect when they are promulgated in accordance with *Statute No. 3 – Rules*.

*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 -

***Academic Registrar*** means the Academic Registrar ordinarily based at the Bentley campus;

***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 under rule 1.4(2)(c) to be the Authorised Officer in respect of a particular instance of possible General Misconduct;

***Award*** means a degree, diploma, certificate or honorary award of the University under section 18 of the Act;

***Award Rescission Penalty*** means the rescission of a Respondent Student’s Award;

***Category 1 Penalty*** means one or more of the following -

- (a) a formal warning or admonishment, or both;
- (b) a requirement for the Respondent Student to attend counselling or a lecture, seminar, workshop or similar activity;
- (c) a fine up to \$1,000; and
- (d) suspension of all or any of the Respondent 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 the Respondent 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 Respondent 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;
- (e) the withholding of any award or the withdrawal of credit for any completed unit, or both; and
- (f) an Award Rescission Penalty;

**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;*
- (b) *which contravenes the provisions of the Act or any Statute, rule or by-law, or a University code of conduct, 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 initiated under rule 2.2(1)(c);

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

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

**Relevant Student Discipline Panel** means the relevant Student Discipline Panel determined in accordance with Part 2 of Schedule B;

**Respondent Student** means a Student who is the subject of an inquiry or related procedures into possible General Misconduct under these Rules;

**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 person who is or was –

- (a) an enrolled student as defined in section 4(1) of the Act;
- (b) admitted, or applying to be admitted, to a course or unit conducted by the University; or
- (c) engaged, or applying to be engaged, in a structured program of learning provided by or for the University ...”.

**Student Discipline Appeals Board** means the board constituted in accordance with Part 3 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 whether, in a particular case, General Misconduct has occurred and, if so, the penalty to be applied.*

- (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), either for a specified period or 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 suspects on reasonable grounds that a Student may be guilty of General Misconduct must report the matter to an Authorised Officer.
- (2) A Student or other person who suspects on reasonable grounds 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.

*Note: the person who undertakes the inquiry is referred to in these Rules as the Inquiry Officer.*

- (3) Where the Authorised Officer -
  - (a) is not the Academic Registrar; and
  - (b) determines under rule 2.2(1)(c) that there are sufficient grounds to warrant further investigation,



the Authorised Officer must consider whether the instance of possible General Misconduct, if established, would be serious enough for an Award Rescission Penalty to be considered by the Relevant Student Discipline Panel.

- (4) If the Authorised Officer considers, under subrule (3), that an Award Rescission Penalty could be considered by the Relevant Student Discipline Panel, the Authorised Officer must inform the Academic Registrar (to enable the Academic Registrar to exercise his or her functions under clause 2.1(3) and (4) of Schedule B).

### 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 an Inquiry Officer who has been appointed under rule 2.2(2)(b) or (c) – 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 the matter, 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; and

**recommendation** means a recommendation by the Inquiry Officer to the Relevant Student Discipline Panel.
- (2) An Inquiry 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;

*Note: section 5 of the Interpretation Act 1984 defines a 'document' (and also defines a 'publication' which is included in the definition of a 'document') .*
  - (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.

*Note: under the 'Briginshaw principle', the strength of the evidence necessary to reach a finding on the balance of probabilities may vary according to the circumstances, including the seriousness of the suspected misconduct (Briginshaw v Briginshaw (1938) 60 CLR 336, 362).*

- (3) 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 and any documents referred to in subrule (2)(a);
  - (d) if the Respondent Student does not take up the opportunity to respond, the Inquiry Officer, in the absence of that response, may make a recommendation 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.
- (4) 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.

- (5) 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 must -
  - (a) prepare an Inquiry Officer's Report;
  - (b) give a copy of the Inquiry Officer's Report to the Relevant Student Discipline Panel and (if the Inquiry Officer is not the Academic Registrar) to the Academic Registrar; and
  - (c) take whatever further action the Relevant Student Discipline Panel considers may be necessary or appropriate to ensure compliance with rule 2.4, or to enable the Relevant Student Discipline Panel to make a determination under rule 3.1.
- (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; and
  - (e) the importance of taking clear and decisive action in relation to the matter.

## **PART 3 -- DETERMINATIONS BY RELEVANT STUDENT DISCIPLINE PANEL**

### **3.1 Determination of Misconduct**

- (1) After reviewing the Inquiry Officer's Report, the Relevant Student Discipline Panel may, at any time before making a determination under subrule (2), request the Inquiry Officer to take whatever action the Relevant Student Discipline Panel considers is necessary or appropriate –
  - (a) to ensure compliance with rule 2.4; or
  - (b) to enable the Relevant Student Discipline Panel to make a determination under subrule (2).
- (2) As soon as practicable after being given an Inquiry Officer's Report, the Relevant Student Discipline Panel 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) If the Relevant Student Discipline Panel determines that General Misconduct has occurred, it must also determine, subject to subrule (4), which (if any) of one or more Category 1 Penalties or Category 2 Penalties are to be imposed.
- (4) To avoid doubt, the Relevant Student Discipline Panel may determine that one or more Category 1 Penalties or Category 2 Penalties it imposes are to be suspended for a specified period of time or are to be imposed subject to any condition it considers to be appropriate.
- (5) A Relevant Student Discipline Panel cannot determine that an Award Rescission Penalty is to be imposed unless the Relevant Student Discipline Panel is constituted in accordance with clause 2.2(2) of Schedule B.
- (6) If the Relevant Student Discipline Panel determines that the available information is insufficient to enable a finding whether or not General Misconduct has occurred, it may arrange for the Student to attend counselling or a lecture, seminar, workshop or similar activity in relation to appropriate behaviour.

### **3.2 Report**

- (1) As soon as practicable after making determinations under rule 3.1(2)(a) and 3.1(3), the Relevant Student Discipline Panel must -
  - (a) prepare a report containing –

- (i) the reasons for its determination that General Misconduct has occurred;
  - (ii) the findings on material questions of fact that led to the determination that General Misconduct has occurred, referring to the evidence or other material on which those findings were based; and
  - (iii) the reasons for its determination that one or more Category 1 Penalties or Category 2 Penalties are to apply;
- (b) give a copy of the report to the Respondent Student and the Academic Registrar; and
  - (c) notify the Respondent Student of the right to appeal under Part 4 of these Rules.
- (2) As soon as practicable after making a determination under rule 3.1(2)(b) or (c), the Relevant Student Discipline Panel must give to the Respondent Student written notice of –
- (a) the determination; and
  - (b) the Vice-Chancellor’s right of appeal under Part 4 of these Rules.

## **PART 4 -- APPEALS**

### **4.1 Interpretation**

In this Part, unless the contrary intention appears -

*parties to an appeal* means –

- (a) the Respondent Student; and
- (b) the Vice-Chancellor.

### **4.2 Rights of appeal**

- (1) A Respondent 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.
- (3) To avoid doubt, an appeal under this Part -
  - (a) is to be confined to, and is to be determined by reference to, the grounds for the appeal in the notice of appeal under rule 4.4; and
  - (b) is not to be conducted as a hearing de novo.

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

- (1) An appeal by a Respondent Student that relates only to -
  - (a) a determination of General Misconduct, other than a determination for which a Category 2 Penalty was imposed;
  - (b) a Category 1 Penalty; or
  - (c) both (a) and (b),is to be heard and determined by Academic Registrar, unless the Academic Registrar refers the appeal to the Student Discipline Appeals Board.
- (2) Any other appeal by a Respondent 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 Academic Registrar 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 Respondent Student, and subject to subrule (2), be made within 14 days after the Respondent Student is given a copy of the Relevant Student Discipline Panel's report under rule 3.2(1)(b);
  - (d) in the case of an appeal by the Vice-Chancellor, and subject to subrule (2), be made within 14 days after the Vice-Chancellor is given -
    - (i) a copy of the Relevant Student Discipline Panel's report under rule 3.2(1)(b); or
    - (ii) written notice of a determination under rule 3.2(2),as the case may be; 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 Academic Registrar – where the appeal is to the Academic Registrar; 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 him or her, the Academic Registrar is to –
- (a) give a copy of the notice of appeal to the Vice-Chancellor; and
  - (b) notify each of the parties to the appeal that the appeal is to be heard by the Academic Registrar and that any communications about the appeal should be made directly with the Academic Registrar.
- (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 referring an appeal under rule 4.3(1), the Academic Registrar is to -
- (a) convene the Student Discipline Appeals Board in accordance with Part 3 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 Respondent Student if the appeal is by the Vice-Chancellor;
  - (d) give a copy of the notice of appeal to the Vice-Chancellor if the appeal is by the Respondent Student; and
  - (e) notify each of the parties to the appeal 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 Academic Registrar**

- (1) An appeal that is to be heard by the Academic Registrar 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 Academic Registrar.
- (2) Each of the parties to an appeal -

- (a) must be given at least 7 days notice in writing by the Academic Registrar of the date and time of the hearing;
  - (b) may make written submissions – provided those submissions are given to the Academic Registrar at least 3 clear days before the hearing;
  - (c) is to have the right of appearance before the Academic Registrar; 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 Academic Registrar.
- (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 Academic Registrar may make a decision,
- in the absence of the party.
- (4) The Academic Registrar is to consider the appeal and either –
- (a) where he or she considers that the conduct which is the subject of the determination may warrant a Category 2 Penalty – refer the appeal to the Student Discipline Appeals Board; or
  - (b) uphold, vary or set aside the determination relating to General Misconduct or the determination relating to the penalty, or both determinations.
- (5) For the avoidance of doubt, the Academic Registrar may impose, or substitute, one or more Category 1 Penalties even where the appeal concerned only the determination relating to General Misconduct.
- (6) The Academic Registrar is to give written notice of his or her decision to each of the parties.
- (7) The decision of the Academic Registrar 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 3 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 determinations.
- (5) To avoid 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 Respondent 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 Respondent 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 University (including the health and welfare of Students and Staff Members);
  - (b) is necessary or appropriate to minimise the risk of further misconduct;
  - (c) is necessary or appropriate to minimise any opportunity for the Respondent 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 Respondent 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 takes effect; or
    - (ii) any appeal against a determination has been finalised by the Academic Registrar 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, Chair of a Student Discipline Panel 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, the Academic Registrar, a Student Discipline Panel and the Student Discipline Appeals Board are to have regard to the guidelines, and are to act in accordance with the procedures, issued under this rule.

### **5.5 Repeal**

The *General Misconduct Rules*, made in accordance with –

- (a) Council Resolution C145/09 on 21 October 2009;
- (b) Council Resolution C70/14 on 14 May 2014; and
- (c) Council Resolution C20/16 on 17 February 2016,

is repealed.

## SCHEDULE A – REPORTING POSSIBLE GENERAL MISCONDUCT

### 1. Interpretation

(1) In this Schedule -

**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;

**Director, Properties, Facilities and Development** 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;

**Faculty** means any of the following –

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

however each may be described from time to time;

**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 Faculty - the senior academic position in charge of each School in the Faculty

who is located at the Bentley campus and with whom the Respondent 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;

**Off-shore Campus** means a campus of the University that is not in Australia; and

**Pro Vice-Chancellor of an Off-shore Campus** means the person occupying the office that most closely corresponds with the position of Pro Vice-Chancellor, whether it is described, for example, as President or as Pro Vice-Chancellor and President.

- (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 Respondent Student at an Off-shore Campus	Pro Vice-Chancellor of the Off-shore Campus
2. By any other Respondent Student -	
2.1. suspected breach of rule 1.3(2)(h) or (i) affecting or concerning a Faculty, or a Faculty's property	Head of School
2.2. suspected breach of rule 1.3(2)(i) (not within item 2.1 above)	Chief Information Officer
2.3. suspected breach of rule 1.3(2)(h) (not within item 2.1 above)	Director, Properties, Facilities and Development
2.4. other General Misconduct	Academic Registrar

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

## SCHEDULE B – DISCIPLINE PANELS AND APPEALS BOARD

### Part 1 - Interpretation

#### 1.1 Interpretation

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; or
- (b) on Special Leave of Absence under the *Admission and Enrolment Manual (Coursework Students) Policy and Procedures*, as amended or replaced from time to time;

*Faculty* means any of the following –

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

however each may be described from time to time;

*Off-shore Campus* means a campus of the University that is not in Australia; and

*Pro Vice-Chancellor of an Off-shore Campus* means the person occupying the office that most closely corresponds with the position of Pro Vice-Chancellor, whether it is described, for example, as President or as Pro Vice-Chancellor and President.

### Part 2 - Student Discipline Panels

#### 2.1 The Panels

- (1) The Student Discipline Panels are -
  - (a) the Central Student Discipline Panel; and
  - (b) a Student Discipline Panel for each Off-shore Campus.
- (2) Subject to subclauses (3) and (4), the Relevant Student Discipline Panel -

- (a) for a Respondent Student who is most closely associated (by way of the course to which he or she is admitted, or the unit or units in which he or she is enrolled) with an Off-shore Campus – is the Student Discipline Panel for that Off-shore Campus; and
  - (b) in any other case – is the Central Student Discipline Panel.
- (3) If the Academic Registrar considers that an instance of possible General Misconduct by a Respondent Student, if established, would be serious enough for an Award Rescission Penalty to be considered, the Academic Registrar is to determine that the Relevant Student Discipline Panel is the Central Student Discipline Panel, constituted in accordance with clause 2.2(2).
- (4) If, in a particular case, there is a doubt about which is the Relevant Student Discipline Panel, the Academic Registrar is to determine the matter and the Academic Registrar’s determination is final.

## **2.2 Membership**

- (1) Except where clause 2.1(3) applies, the members of the Central Student Discipline Panel are to be -
- (a) the Chair – who is to be a Staff Member appointed by the Academic Registrar;
  - (b) one other Staff Member appointed by the Academic Registrar; and
  - (c) an Eligible Student appointed by the Academic Registrar –
    - (i) from the list of nominations under clause 2.3 – if subparagraph (ii) does not apply; or
    - (ii) from all Eligible Students – if the Academic Registrar considers that, having regard to the skills, experience or other attributes necessary to deal with a particular matter, none of the Eligible Students from the list of nominations under clause 2.3 is suitable.
- (2) Where clause 2.1(3) applies, the members of the Central Student Discipline Panel are to be -
- (a) the Chair – who is to be a Staff Member appointed by the Academic Registrar;
  - (b) 2 other Staff Members appointed by the Academic Registrar; and
  - (c) 2 Eligible Students appointed by the Academic Registrar –
    - (i) from the list of nominations under clause 2.3 – if subparagraph (ii) does not apply; or
    - (ii) from all Eligible Students – if the Academic Registrar considers that, having regard to the skills, experience or other attributes necessary to deal with a particular matter, none of the Eligible

Students (or none of the remaining Eligible Students) from the list of nominations under clause 2.3 is suitable.

- (3) The members of each Off-Shore Campus Student Discipline Panel are to be -
- (a) the Chair – who is to be the Pro Vice-Chancellor of the relevant Off-shore Campus or a person authorised by the Pro Vice-Chancellor to undertake this function;
  - (b) one other Staff Member appointed by the Academic Registrar; and
  - (c) an Eligible Student appointed by the Academic Registrar –
    - (i) from the list of nominations in respect of the relevant Off-shore Campus under clause 2.3 – if subparagraph (ii) does not apply; or
    - (ii) from all Eligible Students – if the Academic Registrar considers that, having regard to the skills, experience or other attributes necessary to deal with a particular matter, none of the Eligible Students from the list of nominations in respect of the relevant Off-shore Campus under clause 2.3 is suitable.

*Note: the Academic Registrar is defined in rule 1.3(1) to mean the Academic Registrar ordinarily based at the Bentley campus.*

- (4) 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.
- (5) The person responsible for appointing a member 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.
- (6) A person cannot be a member of a Student Discipline Panel in respect of a particular matter if that person –
- (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.

### **2.3 Student member**

- (1) In this clause, ***Curtin Student Guild President*** includes, in relation to an Off-shore Campus, an equivalent Eligible Student representative for that Off-shore Campus.
- (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 Student Discipline Panel to be included in a list of nominations, for appointment as a member of a Student Discipline Panel; and
  - (b) to give to -
    - (i) the Academic Registrar; or
    - (ii) the Pro Vice-Chancellor of the relevant Off-shore Campus,as the case may be, the list of nominations relating to that Relevant Student Discipline Panel.
- (4) If -
- (a) there is no person holding, acting in or performing the functions of 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).

## **2.4 Chair**

The Chair of a Student Discipline Panel -

- (a) is to be appointed for a term of no more than 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 2.2.

## **2.5 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 - Student Discipline Appeals Board**

### **3.1 Jurisdiction**

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

### 3.2 Membership

- (1) The members of the Student Discipline Appeals Board are to be -
  - (a) the Chair – who is to be a legal practitioner (whether or not employed by the University) appointed by the Vice-Chancellor for a term of no more than 2 years and who –
    - (i) may be reappointed; and
    - (ii) may be appointed ex officio;
  - (b) 2 full-time Staff Members appointed (subject to subclause (2)) by the Academic Registrar; and
  - (c) 2 Eligible Students appointed (subject to subclause (2)) by the Academic Registrar –
    - (i) from the list of nominations under clause 3.3 – if subparagraph (ii) does not apply; or
    - (ii) from all Eligible Students – if the Academic Registrar considers that, having regard to the skills, experience or other attributes necessary to deal with a particular matter, none of the Eligible Students (or none of the remaining Eligible Students) from the list of nominations under clause 3.3 is suitable.
- (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) A person cannot be a member of the Student Discipline Appeals Board in respect of a particular matter if that person –
  - (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.

### 3.3 Student members

- (1) In this clause, *Curtin Student Guild President* includes, in relation to an Off-shore Campus, an equivalent Eligible Student representative for that Off-shore Campus.
- (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, for a list of at least 6 full-time Eligible Students to be included in a list of nominations for appointment as a member of the Student Discipline Appeals Board; and
  - (b) to give to the Academic Registrar the list of nominations.
- (4) If -
- (a) there is no person holding, acting in or performing the functions of 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 Academic Registrar.

*Note: under clause 3.2(4), an Eligible Student cannot be a member of the Student Discipline Appeals Board in respect of an appeal if, for example, the Eligible Student was a member of the Student Discipline Panel from which the appeal is to be heard.*

### **3.4 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 Respondent 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 Respondent 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));

*Faculty* means any of the following –

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

however each may be described from time to time;

*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 Faculty – the senior academic position in charge of each School in the Faculty,

who is located at the Bentley Campus and with whom the Respondent 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; or
- (b) the Pro Vice-Chancellor of the relevant Off-shore Campus.

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 of an Off-shore Campus** means the person occupying the office that most closely corresponds with the position of Pro Vice-Chancellor, whether it is described, for example, as President or as Pro Vice-Chancellor and President.

- (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 8 weeks	Academic Registrar	Action taken by the Academic Registrar must be reported to the Vice-Chancellor
Over 8 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 )  
 was hereto affixed on *5th* )  
*December* 2017 )  
 by the authority of the Vice-Chancellor )



*[Signature]*  
 Vice-Chancellor  
*A. Lifford*  
 Administrative Secretary

#### REVISION HISTORY

Revision / Ref. No.	Approved/ Amended/ Rescinded	Date	Committee / Board / Executive Manager	Resolution	Document Reference
	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
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