

# Student General Misconduct Procedure



## 1 Purpose

To establish the process and responsibilities for investigating allegations of Student General Misconduct, making Decisions and applying penalties for Student General Misconduct.

## 2 Scope

This Procedure applies to all Students.

### Exclusions:

This Procedure does not apply to:

- Academic Misconduct
- Discrimination, Bullying and Harassment allegations
- Employee Misconduct
- Research Misconduct.

## 3 Procedure Overview

This Procedure establishes the process and responsibilities for reporting, investigating, Decision making and applying penalties in relation to allegations of Student General Misconduct.

## 4 Procedures

### 4.1 General Misconduct

General Misconduct is behaviour or conduct by a Student which:

- is deemed to be serious in nature; and
- is a deliberate failure to comply with the specific provisions of the Student Code of Conduct Policy; and/or

- is persistent or negligent behaviour in breach of the Student Code of Conduct Policy; and
- does not constitute as Academic or Research Misconduct, including a breach in research or failure to implement the Research Code of Conduct.

## 4.2 Reporting alleged General Misconduct

Allegations of Student General Misconduct, including evidence, may be reported in the following two ways:

1. By Students via the [Feedback, Complaints and Appeals](#) system in accordance with the Student Complaints Management Procedure.
2. By Students, Employees or members of the public by letter or email.

All Complaints which involve an allegation of General Misconduct will be referred for investigation as per the processes set out in this Procedure.

Allegations made by Employees or Authorised Representatives acting on behalf of Students must be made in writing and addressed to:

Pro Vice-Chancellor (Student Services)  
University of Southern Queensland  
West Street  
Toowoomba QLD 4350

Email: [usq.experience@usq.edu.au](mailto:usq.experience@usq.edu.au)

Employees reporting an allegation of General Misconduct must ensure that the Student's behaviour or conduct meets the criteria set out in Section 4.1 of this Procedure.

Any reported allegation of Student General Misconduct which may contain an allegation of Discrimination, Bullying and Harassment in addition to the alleged General Misconduct, will be simultaneously referred by the Pro Vice-Chancellor (Student Services), or their Delegate, for progression as per the process set out in the Harassment and Discrimination Complaint Resolution for Students Policy and Procedure.

## 4.3 Seeking help and support services

For information on where to seek help in the first instance, refer to the University's Student Complaints and Appeals Management System.

Students and Employees who are considering reporting an allegation of General Misconduct

may seek assistance and support from University support services, Student representative organisations or Mediation services. These include but are not limited to:

1. a Psychologist, Counsellor or Disability Support Officer from Student Services
2. a Welfare Officer from Student Services
3. an Advocacy Officer from the Student Guild
4. a language interpreter
5. a Student Relationship Officer
6. the Employee Assistance Program
7. Mediation support. Independent Mediation is available through the Dispute Resolution Branch, Queensland Department of Justice and Attorney-General.

#### **4.4 Emergency Powers to Exclude**

In accordance with the Student Code of Conduct Policy, where a Student's actions or behaviour involves reasonable foreseeable risk to self, others or the University, the Vice-Chancellor (or nominee) must appraise the situation and may, at their discretion, invoke the power of emergency Exclusion.

A Decision to Exclude a Student will take effect immediately.

A Decision to Exclude a Student will expire if, after 20 University Business Days of the Vice-Chancellor's or their Delegates' Decision, no allegation is given, or the matter is not referred to the Pro Vice-Chancellor (Student Services) or Student General Misconduct Committee for investigation as a case of General Misconduct. If an allegation Notice is given within 20 University Business Days, the Exclusion continues until such time as proceedings are finalised either by a Decision of the Pro Vice-Chancellor (Student Services) or the Student General Misconduct Committee.

#### **4.5 Preliminary investigation of alleged General Misconduct**

Upon receiving a report of an allegation of General Misconduct, the Pro Vice-Chancellor (Student Services) will arrange for an investigating officer to undertake a preliminary investigation, to determine if a Student should be proceeded against for alleged General Misconduct.

The preliminary investigation will normally include advice of the allegation to the Student and will:

- refer to this Procedure and the Student Code of Conduct Policy;
- offer the Student the opportunity to submit a written explanation in response; and
- specify the time by which an explanation or response must be submitted by the Student, which will normally be 10 University Business Days from the date of the Notice.

The outcome of a preliminary investigation will be to:

- dismiss the allegations; or
- refer the matter to a relevant Delegate; or
- attempt to reach an Agreed Outcome with the Student; or
- issue an allegation Notice.

#### **4.5.1 Dismiss the allegation/s**

The Pro Vice-Chancellor (Student Services) may decide to dismiss an allegation either because it is considered to have been made without cause or substantiating evidence or because it is considered insufficiently serious to be treated as General Misconduct. If an allegation is dismissed, the Pro Vice-Chancellor (Student Services) will inform the person making the allegation and may provide advice on how to respond to the matter. If the Student has been contacted and is aware of the allegation of General Misconduct, the Pro Vice-Chancellor (Student Services) must advise the Student that no action will be taken as soon as is practicable.

If an allegation is dismissed, the Pro Vice-Chancellor (Student Services) will, at their discretion, determine if any record of the allegation is added to the Student's confidential file.

Allegations which are determined by the Pro Vice-Chancellor (Student Services) to be vexatious or frivolous will be rejected. The person who has made the allegation may be subject to discipline in accordance with the Student General Misconduct Procedure or the University's Code of Conduct Policy.

#### **4.5.2 Refer the matter to a relevant Delegate**

The Pro Vice-Chancellor (Student Services) may decide to further refer the matter to a relevant Delegate or, if appropriate, the Student General Misconduct Committee.

Referral to a relevant Delegate may occur when additional information or professional advice is sought, or whether the matter requires escalation outside the Student General Misconduct Procedure.

Where any party is seeking legal counsel or taking legal action, or the Pro Vice-Chancellor (Student Services) reasonably anticipates legal action or an Appeal or Complaint to an external agency, the Pro Vice-Chancellor (Student Services) may refer the matter to the General Counsel and Director (Legal Services) or their nominee as Delegate.

Referral to the Student General Misconduct Committee will normally only occur if the Pro Vice-Chancellor (Student Services) is of the opinion that the conduct is of such a serious nature that it should be considered by the committee.

### **4.5.3 Reach an Agreed Outcome**

In deciding whether an Agreed Outcome can be reached or whether to issue an allegation Notice, the Pro Vice-Chancellor (Student Services) will give consideration to the response made by the Student as part of the preliminary investigation and the seriousness of the conduct that is the subject of the allegation.

If the Pro Vice-Chancellor (Student Services) believes an Agreed Outcome would be appropriate after the preliminary investigation has been conducted, the Pro Vice-Chancellor (Student Services) will, in consultation with the person(s) making the allegation, provide a draft Agreed Outcome Notice to the Student. The Student may provide written feedback in relation to the draft Agreed Outcome for further consideration by the Pro Vice-Chancellor (Student Services).

A final version of the Agreed Outcome shall be put into writing and signed by the Student against whom the allegation is being made and returned to the University.

Where an Agreed Outcome is reached, no further proceeding shall be undertaken unless there is a breach of the Agreed Outcome on the part of the Student.

A copy of the Agreed Outcome shall be placed on the Student's confidential file.

Failure to comply with an Agreed Outcome constitutes an independent act of General Misconduct and the Student will be issued with an allegation Notice.

Where an Agreed Outcome cannot be reached or is not signed and returned by the Student against whom the allegation is being made, the Pro Vice-Chancellor (Student Services) will deem that there has been a failure to reach an Agreed Outcome and issue an allegation Notice to the Student on the basis of the original allegation.

In accordance with the Student Code of Conduct Policy, Students must comply with any reasonable request or direction from University Employees with regard to safety or compliance with Policy, Procedure or ethical requirements.

### **4.5.4 Issue an allegation Notice**

If the Pro Vice-Chancellor (Student Services) decides that there is enough evidence against a Student to further investigate the allegation, or is dissatisfied with the response made by the

Student as part of the preliminary investigation, they must within 10 University Business Days of the investigating officer's report or deemed failure to reach an Agreed Outcome, give an allegation Notice to the Student.

The allegation Notice will specify:

- that the Pro Vice-Chancellor (Student Services) and, where appropriate, relevant Delegates will conduct the hearing with the Student, either in person or by other appropriate communication method; or
- that the matter will be referred to the Student General Misconduct Committee for hearing if the Pro Vice-Chancellor (Student Services) determines that the alleged offence is of a sufficiently serious nature.

The allegation Notice must:

- provide details of the alleged General Misconduct;
- refer to this Procedure and the Student Code of Conduct Policy;
- offer the Student the opportunity to submit a further detailed written explanation or response and/or be heard in person;
- specify the date, time and place where the hearing will be conducted and/or provide options for distance participation;
- specify whether the matter will be heard before the Pro Vice-Chancellor (Student Services) or the Student General Misconduct Committee;
- inform the Student of their right to provide any relevant evidence to support their case at the time of their hearing;
- specify the time by which any additional written explanation or response must be submitted by the Student, which must be at least three University Business Days before the date of the hearing; and
- inform the Student that they have the opportunity to be represented by an Authorised Representative or to bring with them a Student Support Person or Student Advocate, in accordance with Section 4.6 below.

Where a Student does not respond to an allegation Notice or confirm their attendance, the hearing will proceed as scheduled.

## 4.6 Conducting a hearing

When conducting a hearing, the Pro Vice-Chancellor (Student Services) and the Student General Misconduct Committee:

- are not bound by the rules of evidence or other technicalities or legal forms;
- must act fairly in all circumstances, having regard to the principles of natural justice and procedural fairness;
- must give each party the opportunity to state their case and to respond to allegations and any relevant evidence; and
- must advise the Student against whom an allegation has been made, of their right to be represented by an Authorised Representative, or to bring with them to the hearing a Student Support Person or Student Advocate.

The Authorised Representative, Student Support Person or Student Advocate must not have been involved in or associated with the alleged General Misconduct or be alleged to have been involved in or associated with the alleged General Misconduct.

A hearing by the Student General Misconduct Committee must be conducted in accordance with the Student General Misconduct Committee Terms of Reference.

## 4.7 Making a Decision

Where the Pro Vice-Chancellor (Student Services) and/or the Student General Misconduct Committee conducts a hearing, they shall reach one of the following Decisions normally within five University Business Days of the hearing:

- the case of alleged General Misconduct against the Student is not proven; or
- the case of alleged General Misconduct against the Student is proven.

Where the Pro Vice-Chancellor (Student Services) conducts a hearing and a Decision is unable to be reached, he/she reserves the right to refer the matter to the Student General Misconduct Committee for further consideration.

Decisions will be made on the basis of conclusive evidence and/or balance of probabilities.

## 4.8 Application of penalty

If the case of alleged General Misconduct against the Student is proven, the Pro Vice-

Chancellor (Student Services) and/or the Student General Misconduct Committee may choose to apply one or more penalties in accordance with the Student General Misconduct Procedure Penalty Schedule.

## **4.9 Notification of Decision and penalty**

The Pro Vice-Chancellor (Student Services) or the Student General Misconduct Committee, (as appropriate) must, within five University Business Days of reaching a Decision, provide Notice of the Decision to the Student and the person/s who made the allegation of General Misconduct. The Notice must include any applicable penalty/ies, give reasons for the Decision, and specify the rights of Appeal in accordance with the Non-Academic Appeal Procedure.

## **4.10 Non-Academic Appeal**

There is no right of Appeal against a Decision of the Pro Vice-Chancellor (Student Services) and the Student General Misconduct Committee where:

- the claim of alleged General Misconduct is dismissed under Section 4.5.1 of this Procedure; or
- there is a signed Agreed Outcome under Section 4.5.3 of this Procedure; or
- the case of alleged General Misconduct against a Student is not proven under Section 4.7 of this Procedure; or
- a reprimand or warning only is issued.

Students may Appeal a Decision of the Pro Vice-Chancellor (Student Services) or the Student General Misconduct Committee by lodging an Appeal to the Non-Academic Appeals Committee in accordance with the Non-Academic Appeal Procedure.

## **4.11 Other jurisdictions**

Any action that is implemented as a result of this Procedure may proceed irrespective of any action involving the Student in any court, commission or tribunal and irrespective of any other external investigation of the matters giving rise to the allegations against the Student.

## **4.12 Record keeping**

The Pro Vice-Chancellor (Student Services) will ensure that a complete and accurate record of all relevant material is kept in accordance with the Records and Information Management Policy. Records will be kept of the Student General Misconduct allegation, investigation process and outcome.



## 5 References

Nil.

## 6 Schedules

This Procedure must be read in conjunction with its subordinate schedules as provided in the table below.

## 7 Procedure Information

<b>Subordinate Schedules</b>	<a href="#">Student General Misconduct Procedure Penalty Schedule</a>
<b>Accountable Officer</b>	Pro Vice-Chancellor (Student Services)
<b>Responsible Officer</b>	Director (Student and Academic Support)
<b>Policy Type</b>	University Procedure
<b>Approved Date</b>	15/6/2017
<b>Effective Date</b>	15/6/2017
<b>Review Date</b>	20/7/2018
<b>Relevant Legislation</b>	<a href="#">Anti-Discrimination Act 1991</a> <a href="#">Disability Discrimination Act 1992</a> <a href="#">Education Services for Overseas Students Act 2000</a> <a href="#">Education Services for Overseas Students Regulations 2001</a> <a href="#">Evidence Act 1977</a> <a href="#">Higher Education Support Act 2003</a> <a href="#">Information Privacy Act 2009</a> <a href="#">Right to Information Act 2009</a>
<b>Related Policies</b>	<a href="#">Acceptable use of ICT Resources Policy</a> <a href="#">Code of Conduct Policy</a> <a href="#">Delegations Policy</a>

	<p><a href="#">Fraud Corruption and Control Management Policy and Procedure</a></p> <p><a href="#">Handling Personal Student Information Policy and Procedure</a></p> <p><a href="#">Harassment and Discrimination Complaint Resolution for Students Policy and Procedure</a></p> <p><a href="#">Privacy Policy</a></p> <p><a href="#">Public Interest Disclosure Policy and Procedure</a></p> <p><a href="#">Records and Information Management Policy</a></p> <p><a href="#">Research Code of Conduct Policy</a></p> <p><a href="#">Right to Information Policy</a></p> <p><a href="#">Risk Management Policy and Procedure</a></p> <p><a href="#">Scholarships, Bursaries and Prizes Policy</a></p> <p><a href="#">Student Advice, Student Welfare and Pastoral Support Policy and Procedure</a></p> <p><a href="#">Student Code of Conduct Policy</a></p> <p><a href="#">Student Communication Policy</a></p> <p><a href="#">Student Complaint and Appeal Policy</a></p> <p><a href="#">Student Expectations and Responsibilities Policy</a></p> <p><a href="#">Travel Policy</a></p> <p><a href="#">Work Health and Safety Policy</a></p>
<p><b>Related Procedures</b></p>	<p><a href="#">Alcohol and Drugs on University Sites Procedure</a></p> <p><a href="#">Non-Academic Appeal Procedure</a></p> <p>Privacy Procedure (under development)</p> <p><a href="#">Review of Decision Procedure</a></p> <p><a href="#">Right to Information Procedure</a></p> <p><a href="#">Student Communication Procedure</a></p>

	<p><a href="#">Student Complaint Management Procedure</a></p> <p><a href="#">Student Debt Management Procedure</a></p>
<p><b>Related forms, publications and websites</b></p>	<p><a href="#">Student Disability Resources</a></p> <p><a href="#">Employee Assistance Program and eapdirect</a></p> <p><a href="#">Feedback, Complaints and Appeals</a></p> <p><a href="#">Health Counselling and Wellbeing</a></p> <p><a href="#">Queensland Government's Department of Justice and Attorney-General</a></p> <p><a href="#">Student General Misconduct Committee Terms of Reference</a></p> <p><a href="#">USQ Register of Languages</a></p> <p><a href="#">USQ Student Guild Advocacy Service</a></p> <p><a href="#">Your Student Relationship Officer</a></p>
<p><b>Definitions</b></p>	<p><b>Terms defined in the Definitions Dictionary</b></p> <p><a href="#">Academic Misconduct</a></p> <p>Academic Misconduct involves providing aid or assistance in relation to, creating or making, obtaining or acquiring, or using information, services or equipment that may unfairly give a Student an unauthorised advantage relative to other Students with regard to a Formal Examination or other Assessment Item. 'Unauthorised advantage' includes any advantage not identified for the Formal Examination or Assessment work. Academic Misconduct includes but is not limited to Collusion, Plagiarism, contract cheating, impersonation of a Student or University Employee, and Failure to Comply with Formal Examination or Assessment Instructions.</p> <p><a href="#">Appeal</a></p> <p>A formal, written request made by a Student or Employee to a higher authority to have a Decision overturned.</p> <p><a href="#">Authorised Representative</a></p> <p>A representative who has been authorised to represent or act on behalf of a Student and acknowledged as such by the University in writing and in compliance with relevant University policy.</p>

### Bullying

Bullying occurs where an individual or group of individuals repeatedly behaves unreasonably towards a person or group of persons (in this instance, a Student or group of Students), and that behaviour creates a risk to health and safety.

### Council

Council means the governing body, the University of Southern Queensland Council.

### Decision

A determination made by an Employee, contractor or other authorised delegate in the course of their duties on behalf of the University.

### Delegate (noun)

Delegate (noun) means the officer, Employee or committee of the University to whom, or to which, a delegation of authority has been made under this Policy.

### Employee

A person employed by the University and whose conditions of employment are covered by the USQ Enterprise Agreement and includes persons employed on a continuing, fixed term or casual basis. Employees also include senior Employees whose conditions of employment are covered by a written agreement or contract with the University.

### Enrolment

The process of admitting Students to one or more Courses for the current Academic Year.

### Exclusion

Prohibition from enrolling in a Course or a program for a specified period.

### General Misconduct

Behaviour or conduct by a Student which: is deemed to be serious in nature; and is a deliberate failure to comply with the specific provisions of the Student Code of Conduct; and/or is persistent or negligent behaviour in breach of the Student Code of Conduct; and

does not constitute as Academic or Research Misconduct, including a breach in research or failure to implement the Research Code of Conduct.

### [Mediation](#)

A process in which parties to a dispute, with the assistance of a neutral third party ('the Mediator'), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The Mediator has no advisory or other determinative role with regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted.

### [Non-Academic Appeal](#)

A formal, written request made by a Student to a higher authority to have a Decision, in relation to a non-academic matter, overturned.

### [Notice](#)

A Notice from the University is a document, whether physical or electronic. A Notice may be: given by hand to the addressee or delivered to the address provided by the addressee to the University; or sent by registered or pre-paid mail to the address provided by the addressee to the University; or sent by electronic communication to the University-issued email account provided by the University to a Student during the period of Enrolment until the completion of their program; or sent by electronic communication to the email address provided to the University by an addressee not enrolled at the University. A Notice is taken to be received if: given by hand to the addressee or delivered to the address provided to the University by the addressee; or sent by registered or pre-paid mail - three University Business Days after the date of posting; or sent by electronic communication - at the time that would be the time of receipt under the Electronic Transactions Act 1999 or its succeeding legislation. A Notice that would be deemed to have been received out of business hours or on a non-University Business Day will instead be deemed received on the next University Business Day.

### [Policy](#)

A high level strategic directive that establishes a principle based approach on a subject. Policy is operationalised through Procedures that give instructions and set out processes to implement a Policy.

### [Procedure](#)

An operational instruction that sets out the process to operationalise a Policy.

### [Research Misconduct](#)

Breaches of the University Research Code of Conduct and the Australian Code for the Responsible Conduct of Research occur on a spectrum, from minor (less serious) to major (more serious). Some major/serious breaches may be regarded as 'research misconduct'. The University uses the definition recommended in the National Health and Medical Research Council Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research and defines Research Misconduct as a serious breach of the Code which is also intentional or reckless or negligent. The use of the term Research Misconduct for serious breaches will be considered in the context of other institutional processes, Regardless of whether a Code investigation and an investigation done under an employment or student disciplinary agreement are separate or integrated, the University will take all reasonable steps to ensure that these do not conflict, or hinder the timely implementation of all corrective actions. Research misconduct does not include honest differences in judgement. Unintentional errors do not usually constitute research misconduct unless they result from behaviour that is reckless or negligent. Repeated or persistent breaches will likely constitute a serious breach, which will trigger consideration of Research Misconduct.

### [Student](#)

A person who: has been Admitted or Enrolled in an Academic Program at the University, but has not yet graduated from the program; or has been Enrolled in a Course at the University but has not yet completed the Course.

### [Student Advocate](#)

A Student Support Person who has the permission of a Student who has lodged an Appeal or made a Complaint, to communicate on their behalf, including to seek clarification.

### [Student Support Person](#)

A person who can provide support to a Student who has lodged an Appeal or made a Complaint. The Student Support Person may attend any meeting with that Student as an observer but may not, unless they are the Student Advocate, participate in or express opinions at the meeting.

## University

The term 'University' or 'USQ' means the University of Southern Queensland.

## University Business Days

The days of Monday to Friday inclusive between 9am and 5pm Australian Eastern Standard Time (AEST), with the exclusion of gazetted Public Holidays for the relevant campus location, plus the closure of the University between 25 December and 1 January in the following year inclusive as specified in the USQ Enterprise Agreement, as well as any closure of the University either at one or several campuses in accordance with a direction of the Crisis Management Team.

## **Definitions that relate to this procedure only**

### **Agreed Outcome**

The mutual resolution of an allegation of General Misconduct through a process of consultation in accordance with Section 4.5 Reaching an Agreed Outcome of this Procedure.

### **Discrimination**

Unlawful Discrimination occurs when a person or a group of people are treated less favourably than another person or group because of race, colour, national or ethnic origin; gender or marital status; disability; religion or political beliefs; sexual preference; or some other central characteristic. Discrimination may occur when a person is denied the opportunity to participate freely and fully in normal day-to-day activities, for example being harassed in the workplace or being denied entry to public places and other facilities.

### **Harassment**

Unlawful harassment occurs when a person is made to feel intimidated, insulted or humiliated because of their race, colour, national or ethnic origin; sex; disability; sexual preference; or some other characteristic specified under anti-discrimination or human rights legislation. Harassment may include behaviour, comments or images which a reasonable person would consider to be offensive, humiliating, intimidating or threatening. Harassment includes all forms of sexual harassment.

## **Keywords**

General Misconduct, Misconduct, misbehaviour, conduct, behaviour, hearing, emergency power to exclude, allegation

