

Definitions

Please refer to the University's Glossary of Terms for policies and procedures.

1. Purpose of procedures

These procedures:

(a) implement fair, just and timely processes, following the principles of procedural fairness (natural justice), for investigating allegations of general misconduct, and should be read in conjunction with the Student Conduct – Governing Policy, and

(b) identify general misconduct decision makers, the processes for appeals, and provide practical advice to guide those administering the process.

2. Summarily dealing with student misbehaviour and misconduct

2.1 Where a student's behaviour is considered to be disruptive during a university activity (including a teaching or research activity, examination, official meeting, ceremony or other proceeding), the staff member responsible for the conduct of that activity may direct the student to leave for the remainder of that activity. Where appropriate, the identity of the student should be established and a written record of the decision provided to the student by the staff member within one business day of the direction.

2.2 A member of the University's Executive or Senior Staff with responsibility for the operation or management of University facilities and/or premises, including the Library and the University's information technology services, is authorised to temporarily suspend a student's access to, or use of, that facility or service for a period not exceeding five business days for misuse. Within one business day of the misuse, the authorised staff member informs the student in writing of the decision and the reason for it.

2.3 Where further action is warranted for misuse of University facilities and/or premises under section 2.2, the authorised staff member informs the student that the behaviour may constitute misconduct and that it will be reported to the Pro Vice-Chancellor (Students).

2.4 The authorised staff member provides the Pro Vice-Chancellor (Students) with details of the suspected misconduct within two business days of the misuse, so that the matter may be investigated and, if warranted, an allegation of misconduct be issued to the student.

3. Reporting suspected general misconduct

3.1 Suspected general misconduct by a student must be reported, either verbally or in writing, to the Pro Vice-Chancellor (Students).

3.2 Within five business days of the suspected misconduct being reported, the Pro-Vice Chancellor (Students) will investigate and determine whether prima facie evidence of student general misconduct has occurred.

3.3 Based on the findings of the investigation, the Pro Vice-Chancellor (Students) may within 10 business days of the reported suspected misconduct either:

(a) advise the student in writing that there is no case to answer and that no further action is warranted, or

(b) if the misconduct appears minor and a first offence, the Pro Vice-Chancellor (Students) may issue an allegation letter providing an opportunity for the student to attend an interview or submit a written response, or

APPROVAL AUTHORITY

Vice-Chancellor and President

RESPONSIBLE OFFICER

Vice-Chancellor and President

DESIGNATED OFFICER

Deputy Vice-Chancellor (Academic)

FIRST APPROVED

6 December 2016

LAST AMENDED

4 June 2018

EFFECTIVE START DATE

31 January 2017

REVIEW DATE

6 December 2021

STATUS

Active

RELATED DOCUMENTS

Acceptable Use of Information Technology Resources - Governing Policy

Administration of Central Examinations - Procedures
Anti-Discrimination and Freedom from Bullying and Harassment (Staff) - Governing Policy

Anti-Discrimination and Freedom from Bullying and Harassment (Students) - Governing Policy
Anti-Discrimination and Freedom from Bullying and Harassment (Students) - Procedures

Conversion to a Fixed-term Pre-Retirement Contract - Procedures

Equity and Diversity - Governing Policy

Information Management Framework - Governing Policy

Managing and Investigating Breaches of Responsible Research Conduct - Procedures

Responsible Research Conduct - Governing Policy

Sexual Harassment Prevention (Students) - Governing Policy

Social Media - Managerial Policy

Student Academic Integrity - Governing Policy

Student Academic Misconduct - Procedures

Student Conduct - Governing Policy

RELATED LEGISLATION / STANDARDS

University of the Sunshine Coast Act 1998

USC Student Charter

(c) due to the seriousness and/or complexity of the alleged misconduct issue an allegation letter for hearing by the Student General Misconduct Hearing Panel.

4. Issuing an allegation notice of student general misconduct

4.1 All correspondence to a student must be issued to the student's University email address and by registered post marked "Private and Confidential" to their official residential address.

4.2 A notice of allegation to the student will be signed by the Pro Vice-Chancellor (Students) if minor misconduct or the Deputy Vice-Chancellor (Academic) if the matter is considered serious and complex, the latter advising of the establishment of a Student General Misconduct Hearing Panel.

4.3 An allegation letter will include:

- (a) the type of alleged misconduct according to the definition in these or relevant procedures,
- (b) the facts of the alleged misconduct including where and when it occurred,
- (c) all information relevant to the alleged misconduct
- (d) website links to the relevant policy and procedures for deciding the matter,
- (e) details of the date, time and location of a meeting with the Pro Vice-Chancellor (Students) or a hearing of the Student General Misconduct Hearing Panel, so that the student is provided with an opportunity to explain the conduct in person,
- (f) advice about a support person for the student during the interview or hearing, noting that a student is not entitled to legal representation, and
- (g) information about assistance and support the student may receive while preparing a response.

4.4 The interview with the Pro Vice-Chancellor (Students) or a hearing of the Student General Misconduct Hearing Panel will be scheduled within 15 business days of the date of the allegation letter.

5. Interview with the Pro Vice-Chancellor (Students)

5.1 The Pro Vice-Chancellor (Students) should conduct the interview with the student having regard to the principles of procedural fairness set out in section 7 below.

5.2 At the conclusion of an interview, the Pro Vice-Chancellor (Students) may decide that:

- (a) there is insufficient evidence to support a finding of misconduct and notify the student that there is no case to answer, or
- (b) there is sufficient evidence to find that minor misconduct occurred and issue the student with a formal written caution, a formal written reprimand and/or a recommendation that the student attend counselling session(s), or
- (c) evidence of more serious and complex misconduct has been disclosed, requiring referral of the matter to a Student General Misconduct Hearing Panel.

5.3 In the case of the matter requiring referral, as per section 5.2.3, the matter should be referred to the Student General Misconduct Hearing Panel within five business days of the interview and the student notified in writing via email and registered post. The Student General Misconduct Hearing Panel should issue a new allegation letter in accordance with section 4.2 above for a hearing of the Panel to be conducted within 15 business days of the date of referral.

6. Student General Misconduct Hearing Panel

6.1 The Student General Misconduct Hearing Panel is convened as required to investigate and determine cases of alleged general misconduct, where the seriousness and/or complexity of the alleged misconduct warrants a hearing of the Panel.

6.2 The Student General Misconduct Hearing Panel is chaired by a senior academic staff member, appointed by the Vice-Chancellor and President or delegate, for a period of two years.

6.3 The Pro Vice-Chancellor (Students) will maintain a register of suitably-qualified staff members and students, who have been approved annually by the Vice-Chancellor and President in consultation with the Deputy Vice-Chancellor (Academic), to serve on the Panel as required.

6.4 The Student General Misconduct Hearing Panel requires a quorum of three members, one of whom must be a student. A panel comprised solely of one gender should be avoided.

6.5 The Chairperson of the Student General Misconduct Hearing Panel will have a deliberative as well as a casting vote.

6.6 Composition of the Student General Misconduct Hearing Panel should avoid any real or perceived conflict of interest that members may have in relation to the hearing of the allegations. The Panel will disqualify any member who may have any real or perceived conflict of interest.

6.7 The Office of the Pro Vice-Chancellor (Students) will appoint a secretary to provide support and procedural advice to the Student General Misconduct Hearing Panel, and to maintain records of its hearings. To avoid any perception of bias, the secretary should not be the same person who acts as secretary to the Student Misconduct Appeals Committee.

7. Misconduct hearing

7.1 The Student General Misconduct Hearing Panel and the student will be provided with all relevant material.

7.2 If the Student General Misconduct Hearing Panel intends to invite a witness to speak at the hearing, the student should be informed at least five business days prior to the commencement of the hearing.

7.3 The student may invite witnesses to speak to the Panel, at the discretion of the Chairperson. The names and addresses of any invited witnesses must be notified to the secretary at least five business days prior to the date of the hearing.

7.4 The Chairperson may question the student and invite them to make oral presentations at the hearing. The student may also ask questions through the Chairperson, of any witness before the hearing.

7.5 The student may attend the hearing with a support person, but is not entitled to legal representation.

7.6 The student is not obliged to attend a hearing. If the student does not attend the hearing and a reasonable attempt to contact the student has been made, a decision may be made in the student's absence, and any written submission taken into account.

7.7 The Panel's findings should be based on established facts, sound reasoning and relevant evidence which, on the balance of probabilities, indicates whether the student's behaviour constituted misconduct.

7.8 Relevant factors for the Panel to take into consideration when making an appropriate finding and decision include:

- (a) the nature and extent of the misconduct
- (b) the impact of the conduct on other people
- (c) whether it is reasonable to believe that the student did not intend to commit the misconduct
- (d) whether there is evidence of a deliberate and premeditated decision to engage in misconduct
- (e) the student's tertiary experience.

7.9 The student's previous disciplinary record should only be given to the Student General Hearing Misconduct Panel when making a recommendation under section 8.1 (b).

7.10 Where possible a student should be informed at the conclusion of a hearing, the findings of the Panel and its decisions.

8. Determination

8.1 Based on the information presented to a hearing of the Student General Misconduct Hearing Panel it may find that there is:

- (a) insufficient evidence to support a finding of misconduct, or
- (b) sufficient evidence to find that misconduct occurred and make a recommendation based on the range of possible decisions set out in Schedule A of the Student Conduct – Governing Policy.

8.2 Within five business days of a hearing of the Student General Misconduct Hearing Panel, the Chairperson of the Student General Misconduct Hearing Panel will provide its findings and recommendation in writing to the Pro Vice-Chancellor (Students).

8.3 Within 10 business days of a student meeting with the Pro Vice-Chancellor (Students), or a hearing of the Student General Misconduct Hearing Panel, the Pro Vice-Chancellor (Students) will make a determination on a course of action, and sends a notice to the student by both email and registered post. The notice of determination will include details of the findings, the reasons for the determination and the decided course of action as per Schedule A of the Student Conduct – Governing Policy.

8.4 Where the Panel recommends expulsion of the student, or to rescind an award, the Pro Vice-Chancellor (Students) will make a recommendation to the Deputy Vice-Chancellor (Academic). The Deputy Vice-Chancellor (Academic), will decide the matter on delegation from the Council based on the advice of the Pro Vice-Chancellor (Students) and the Student General Misconduct Hearing Panel findings.

8.5 The letter advising of the determination must include information for the student on the relevant appeals processes.

9. Appeals

9.1 Where a student is dissatisfied with a general misconduct finding, the decision imposed, and/or the process which was followed, the student may lodge an appeal with the Office of the Deputy Vice-Chancellor (Academic), within 20 business days of the date of the notice of the misconduct finding.

9.2 To lodge an appeal, the student must outline grounds for appeal as to why the findings and/or decision were unfair, disproportionate or incorrect, by presenting any new or expanded information which has not been considered previously, and/or by demonstrating where the process failed to follow the University's published policies and procedures.

9.3 Before lodging an appeal, students are encouraged to seek advice and support from the USC Student Guild. Students may also seek procedural guidance from the Student Ombudsman.

9.4 Within five business days of receipt of a written appeal, the secretary to the Student Misconduct Appeals Committee must acknowledge receipt of the appeal. The Committee will commence consideration of the appeal not later than 10 business days after receipt of the appeal.

10. Student Misconduct Appeals Committee

10.1 The Student Misconduct Appeals Committee is convened as required to consider appeals regarding findings and decisions on general misconduct and the failure to follow published policies and procedures. The Student Misconduct Appeals Committee makes a recommendation to the Vice-Chancellor and President.

10.2 The register of possible members for the Student Misconduct Appeals Committee is the same as the Student General Misconduct Hearing Panel, as set out in section 6, but members cannot serve on both committees in relation to the same student misconduct matter.

10.3 The Office of the Vice-Chancellor and President appoints a secretary to provide support and procedural advice to the Student Misconduct Appeals Committee, and to maintain records of its hearings. To avoid any perception of bias, the secretary should not be the same person who acts as secretary to the Student General Misconduct Hearing Panel.

10.4 The secretary to the Student Misconduct Appeals Committee must give each of the parties to the appeal not less than five business days' notice of the date, time and place of the appeal.

11. Misconduct appeal hearing

11.1 The decision being appealed and the grounds for appeal should be explained in writing clearly by the student. For example, factors that the misconduct decision did not take into account, new information relevant to the matter or procedural errors should be specified. It will not be sufficient for students to assert circumstances, performance or changes to circumstance without some evidence to substantiate or support their claims.

11.2 The Chairperson of the Student Misconduct Appeals Committee will consider whether an appeal has grounds as set out in section 11.1 above. If convinced that the appeal does not have grounds, the Chairperson will report to the Committee which may dismiss the appeal without further hearing.

11.3 When an appeal is referred to the Student Misconduct Appeals Committee for consideration, the Committee and the student will be provided with a full copy of the student's appeal, the response provided by the decision-maker whose decision is contested and the student's counter response and all other relevant material. The Committee may call for and consider any additional material. However the Committee must ensure the student is given an opportunity to comment on all material relevant to the subject matter of the appeal.

11.4 The Student Misconduct Appeals Committee will hear the appeal in accordance with the principles of natural justice. The committee will:

- (a) disqualify any member who has been involved in any previous substantive matters connected with the student's appeal, or may have any other real or perceived conflict of interest
- (b) consider all relevant material related to the student's appeal
- (c) interview the student, any respondent/s and any other parties relevant to the appeal, subject to their agreement to be interviewed
- (d) allow the student to be accompanied by a support person in any appeal hearing, noting that the student is not entitled to legal representation. Support persons cannot act as advocates.

11.5 The Student Misconduct Appeals Committee will finalise its recommendations not later than 20 business days after receipt of the appeal.

12. Appeal Decision

12.1 The Student Misconduct Appeals Committee may recommend to the Vice-Chancellor and President that the student's appeal be upheld or rejected, in part or in whole, and the original misconduct decision adjusted in accordance with the list of decisions set out in Schedule A of the Student Conduct – Governing Policy.

12.2 Within five business days of the Committee's decision, or rehearing, the Vice-Chancellor and President, based on the advice of the Committee, will issue a notice of final determination on the appeal to the student, setting out the reasons for the decision.

12.3 The written notice of determination includes information on how the student may seek an external appeal.

Staff Guidelines and Templates are available on MyUSC (staff login required).

<https://my.usc.edu.au/student-success/supporting-student-learning/managing-student-misconduct>

END of Procedures

Appendix 1 – Types of General Misconduct

Without limiting the interpretation of the Student Conduct – Governing Policy and these procedures, 'general misconduct' is conduct in which a student:

1. unreasonably disrupts or obstructs any student, staff member, guest or visitor during a teaching, research, study, examination, meeting, ceremony or other normal and lawful activity of the University
2. obstructs or deters a member of the staff of the University in the performance of their duties
3. impairs or interferes with the freedom of movement or participation in the life of the University by any student, staff member, guest or visitor when on University premises, sites or land
4. engages in conduct on a University premises, site or land which results in or involves injury to another person
5. willfully damages, misuses, loses, destroys, steals or misappropriates property or facilities of the University or the property of a person lawfully on University premises, sites or land
6. enters a part of the University premises, site or land to which entry is prohibited or permitted only with authority
7. behaves in a manner to others in the University community, either directly or through communication, which would reasonably be considered harassment, vilification, bullying, racist, abusive, threatening, assaulting or endangerment
8. knowingly withholds or falsifies information or documentation for the purpose of gaining an advantage, e.g. gaining admission or credit transfer
9. without authority obtains access to or alters information, documentation or records kept by the University in hard copy, electronic or other form
10. infringes the privacy, copyright or intellectual property rights of another member of the University community
11. without authority, discloses to a person information relating to the University or its affairs which is confidential or prejudicial to its reputation and which the student ought reasonably to know, to be confidential or prejudicial in nature
11. behaves in a manner which is prejudicial to the good reputation of the University
12. fails to comply with a reasonable direction or request given by a member of staff of the University who has, prior to giving the direction or request, and stating its purpose, been identified to the student as a member of staff
13. attempts to commit misconduct
14. contravenes or fails to comply with a provision of a Policy or Procedure of the University
15. fails to comply with or observe a finding, decision or penalty (other than a fine) imposed on the student under Policy or Procedures of the University.

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