



# Student Discipline RULES

## **PART 1 - PRELIMINARY**

### **1. Title**

These rules may be cited as the Student Discipline Rules 2014.

### **2. Purpose of these rules**

The purpose of these rules is to provide for the establishment and management of disciplinary procedures and related matters affecting Students and Student Organisations.

### **3. Commencement**

These rules will commence and the Repealed Disciplinary Rules will be repealed, on a day to be fixed by the Vice-Chancellor.

### **4. Authority**

These rules are made by the council of the University pursuant to section 29 of the Macquarie University Act 1989.

### **5. Dictionary of defined terms**

The dictionary at the end of these rules is part of these rules.

*[Note: The dictionary defines certain terms used in these rules.*

*A definition in the dictionary applies to all of these rules unless a contrary intention appears.*

*Terms defined in the dictionary are identified in these rules by having an upper case first letter].*

## **PART 2 –DISCIPLINARY PROCEDURES AND SANCTIONS**

### **6. Disciplinary procedures**

- (1) The Vice-Chancellor must establish procedures for dealing with Misconduct by Students or Student Organisations and related matters, including procedures:
  - (a) for the investigation and assessment of allegations of Misconduct by Students and Student Organisations; and
  - (b) for determining whether a person is guilty of Misconduct; and
  - (c) for determining the sanction (if any) that is to be imposed on a person who is found to be guilty of Misconduct; and
  - (d) for appeals from decisions relating to Misconduct.

- (2) The procedures may be different for:
  - (a) Students and Student Organisations; or
  - (b) different categories of Student or Student Organisation; or
  - (c) Students or Student Organisations who are accused of conduct which is not only Misconduct but which is also unlawful or which may give rise to criminal or civil liability; or
  - (d) different categories of Misconduct.
- (3) The procedures must enable proceedings to be conducted with as little formality and technicality and as quickly as a proper consideration of the matters under consideration permits.
- (4)
  - (a) The Vice-Chancellor must ensure that the procedures are published:
    - (i) on the website of the University; or
    - (ii) in another official publication of the University.
  - (b) Failure to comply with rule 6(4)(a) does not invalidate a decision, procedure or direction contemplated by these rules.
- (5) All Students, Student Organisations and staff of the University must comply with the procedures.
- (6) The Vice-Chancellor may from time to time vary, terminate and replace the procedures.

## **7. Sanctions for Misconduct**

- (1) Any person authorised by the Vice-Chancellor may impose sanctions on a Student or Student Organisation for Misconduct.
- (2) The Vice-Chancellor may impose limitations on the power of any person to impose sanctions under rule 7(1).
- (3) The sanctions which are able to be imposed on Students for Misconduct must be approved by the Vice-Chancellor.

## **8. Compliance and co-operation required**

- (1) All Students and Student Organisations must comply with University Regulations.
- (2) Each Student, Student Organisation and staff member of the University must:
  - (a) co-operate with the University and any person authorised by the University to conduct any investigation, assessment, meeting, hearing or other proceeding relating to a Misconduct allegation including by:
    - (i) complying with the procedures contemplated by rule 6;
    - (ii) providing and providing access to information or evidence as requested;
    - (iii) acting honestly and in good faith in dealings with the University relating to any Misconduct allegation;
    - (iv) verifying information, evidence or answers as requested;
    - (v) attending or otherwise participating in investigations, assessments, meetings, hearings and other proceedings as requested; and
  - (b) not prevent, interfere with or hinder:
    - (i) any investigation, assessment, meeting, hearing or other proceeding relating to Misconduct allegation; or
    - (ii) any person's participation in any such thing; or
    - (iii) any person's compliance with any sanction imposed in respect of any Misconduct; and

- (c) not improperly influence any person in connection with a Misconduct allegation; and
  - (d) not at any hearing make insulting or offensive statements to or about a person participating in the hearing; and
  - (e) not be party to any cover-up of Misconduct or the destruction, concealment, alteration or withholding of any evidence of Misconduct or otherwise conceal or fail to disclose the identity or whereabouts of any person who is alleged to have engaged in Misconduct; and
  - (f) not incite or assist any other person or attempt to do anything prohibited by this rule 8(2); and
  - (g) comply with and otherwise be bound by any sanction imposed on it in respect of any Misconduct.
- (3) Each Student, Student Organisation and staff member of the University must in connection with any matter relating to Misconduct, comply with any lawful direction given by a person with authority to give the direction on behalf of the University.

### **PART 3 – HEARING AND APPEAL COMMITTEES**

#### **9. Hearing Committee establishment and function**

- (1) The Registrar may from time to time establish a committee to deal with an allegation of Misconduct against a Student or Student Organisation.
- (2) The Registrar may appoint any person he or she thinks appropriate to be a member of a Hearing Committee.
- (3) If the subject matter of a Misconduct allegation is Serious Misconduct a member of the council of the University who is not a Student or staff member of the University must preside at any meeting of the Hearing Committee which deals with it.
- (4) A Hearing Committee's functions are to:
  - (a) provide an opportunity for a hearing to the accused Student or Student Organisation in respect of a Misconduct allegation referred to the Hearing Committee; and
  - (b) decide whether the accused Student or Student Organisation is guilty of the alleged Misconduct; and
  - (c) if the Student or Student Organisation is found to be guilty of Misconduct, decide upon a sanction.
- (5) A Hearing Committee has power to do everything that may be necessary or convenient to be done for or relating to the exercise of its functions.

#### **10. Appeal Committee establishment and function**

- (1) The Registrar may from time to time establish a committee to deal with any appeal by an accused Student or Student Organisation from a decision of a Hearing Committee.
- (2) The Registrar may appoint any person he or she thinks appropriate to be a member of an Appeal Committee.
- (3) If the subject matter of a Misconduct allegation is Serious Misconduct then the Chancellor, Deputy Chancellor, Vice-Chancellor or a member of the council of the University who is not a Student or staff member of the University must preside at any meeting of the Appeal Committee which deals with it.
- (4) An Appeal Committee's functions are to:
  - (a) provide an opportunity for a hearing to the accused Student or Student Organisation in respect of an appeal of a Misconduct allegation decision referred to the Appeal Committee; and
  - (b) decide whether the appeal should be upheld; and
  - (c) if the appeal is upheld, decide what should be done as a consequence.
- (5) The grounds of appeal are limited to whether:

- (a) the procedure for dealing with the Misconduct allegation was unfair in the circumstances so as to cause substantial injustice to the accused Student or Student Organisation; or
  - (b) the sanction imposed by a Hearing Committee is inappropriate in the circumstances.
- (6) An Appeal Committee has power to do everything that may be necessary or convenient to be done for or relating to the exercise of its functions.
  - (7) The decision of an Appeal Committee in respect of a Misconduct allegation is final and there is no further right of appeal or review within the University.
  - (8) An accused Student or Student Organisation must not pursue any judicial or other review by any person outside the University until the right of appeal of the accused Student or Student Organisation under these rules is exhausted.

***[Note: A person in respect of whom a disciplinary decision has been made may apply to the New South Wales State Ombudsman for a review of the decision under the Ombudsman Act 1987 of New South Wales and judicial review may also be sought from the courts.]***

#### **11. Presiding member**

- (1) The Chancellor, Deputy Chancellor and the Vice-Chancellor are, by virtue of their office, members of any Hearing Committee or Appeal Committee.
- (2) The Chancellor may preside at any meeting of a Hearing Committee or an Appeal Committee at which he or she is present.
- (3) If the Chancellor is not present, the Deputy Chancellor may preside at any meeting.
- (4) If neither the Chancellor nor the Deputy Chancellor is present, the Vice-Chancellor may preside at any meeting.
- (5) If none of the Chancellor, the Deputy Chancellor or the Vice-Chancellor is present the Registrar may appoint one of the other members of the Hearing Committee or the Appeal Committee, as the case requires, to preside at any meeting.

### **PART 4 – MISCELLANEOUS PROVISIONS**

#### **12. Savings and transitional provisions**

- (1) The Vice-Chancellor may approve procedures of a savings or transitional nature relating to the repeal of the Repealed Student Disciplinary Rule.
- (2) Any such procedure may take effect from the repeal of the Repealed Student Disciplinary Rule or a later date determined by the Vice-Chancellor.

#### **13. Variations**

The Vice-Chancellor may vary, suspend, revoke or replace any direction by him or her or procedure, contemplated by these rules.

#### **14. Compliance**

Any person who contravenes these rules is guilty of Misconduct making that person liable to sanctions imposed by the University.

## **PART 5 – DICTIONARY AND INTERPRETATION**

### **15. Dictionary**

In these rules:

**“Appeal Committee”** means a committee contemplated by rule 10;

**“Code of Conduct”** means a code of conduct with which the University requires Students or Student Organisations to comply;

**“Hearing Committee”** means a committee contemplated by rule 9;

**“Misconduct”** means:

- (a) conduct prohibited by any University Regulation; and
- (b) any corrupt conduct in connection with the University;

**“Repealed Student Disciplinary Rules”** means the University’s student misconduct and discipline rules which were in force immediately before these rules commenced;

**“Serious Misconduct”** means any Misconduct which in the Registrar’s opinion:

- (a) involves substantial harm or threat of substantial harm to the health or safety of any person; or
- (b) involves substantial damage or threat of substantial damage to the property of any person; or
- (c) has or may have a substantial adverse affect upon the reputation of the University;

**“Student”** includes:

- (a) a person who has been admitted as a student of the University but who has not yet enrolled in any program or unit of study or research; and
- (b) a person who is enrolled in or auditing a program or unit of study or research provided by the University; and
- (c) a person who is enrolled in a program or unit of study or research at or offered by an educational institution affiliated with the University which is approved as an award program or a unit of study or research by the University; and
- (d) a person who has completed a program or unit of study or research at the University but has not yet been awarded the applicable academic award; and
- (e) a person who became admitted or enrolled as a student of the University because of misleading or dishonest conduct by any person; and
- (f) a person who is awarded an academic or non-academic award by the University because of misleading or dishonest conduct by any person; and
- (g) any person who has been suspended from a program or unit of study or research at the University; and
- (h) a person who is on leave of absence from or who has deferred enrolment in a program or unit of study or research offered by the University or by an affiliated educational institution which is approved as an award program or unit of study or research by the University; and
- (i) any person who undertakes any examination or other academic assessment task which is part of a program or unit of study or research provided, supervised or assessed by the University,

and includes a former Student;

**“Student Organisation”** means any incorporated or unincorporated association or group of persons the majority of whom are Students which is affiliated with or otherwise associated with the University;

**“University”** means Macquarie University and where the context permits includes any one or more of the following:

- (a) its controlled entities; and
- (b) any institution affiliated with Macquarie University or any of its controlled entities; and
- (c) any college affiliated with the University or other student residential facility used predominately by Students; and
- (d) any educational institution located on premises of the University;

**“University Regulations”** means the by-laws, rules, codes of conduct, policies and directions from time to time of the University and include these rules.

## **16. Interpretation**

- (1) In these rules a reference to:
  - (a) the Vice-Chancellor includes any person deriving any function or power directly or indirectly by delegation or authorisation from the Vice-Chancellor; and
  - (b) a person includes an individual, a corporation, an unincorporated association and the trustee of a trust; and
  - (c) evidence includes any information, document or other thing which a person is required or requested to provide in connection with Misconduct by any person; and
  - (d) a Student Organisation which is unincorporated, includes its members, its management committee and any person who holds property upon trust for any of its members or past members; and
  - (e) corrupt conduct includes any conduct which is taken to be corrupt under any applicable legislation of any Australian jurisdiction dealing with misbehaviour by public officials or public sector organisations; and
  - (f) procedures includes policies, guidelines, directions, requirements and arrangements; and
  - (g) staff members of the University includes officers, employees and contractors of the University and the appointees to conjoint, adjunct, emeritus, honorary and visiting academic positions at the University.
- (2) In these rules:
  - (a) the mention of anything after the word “include” or any derivative of it does not limit the nature or class of things included; and
  - (b) a reference to anything includes a part of it.
- (3) A note included in these rules is explanatory only and is not part of these rules.

***[Note: The Interpretation Act 1987 of New South Wales applies to these rules.]***