

Rules for Student Conduct in the University

1. In this Rule, unless the context otherwise requires - "defendant" means a student against whom a complaint of misconduct has been made and, if more than one student is charged with misconduct arising out of the same situation or circumstance, includes all such students charged (notwithstanding that the Convenor of the Board of Conduct may order that a complaint against one defendant be heard separately from a complaint against another defendant).

"expulsion" means the cancellation of enrolment of a student and termination of all rights and privileges as a student of the University including the right to enter or to be on University grounds or premises.

"lower tribunal" means any person or body, other than the Board of Conduct, established by a statute, rule, regulation or by-law of the University, with power to impose penalties on students for misconduct.

"Mediator" means the person appointed as Mediator under clause 5 of this Rule.

"member of academic staff" means a person classified by the Council as a member of the academic staff of the University.

"member of the University" means a student, a member of the academic staff or a full-time or part-time employee of the University.

"misconduct" means any act or omission of a student prohibited by a statute, rule, regulation or by-law of the University, and any other unjustified act or omission of a student which adversely affects the University or any member of the University in his or her capacity as such. "student" means any person, other than a member of the academic staff of the University or a full-time employee of the University, enrolled as a candidate for a degree, diploma, or certificate or for any course of study offered by the University for a degree, diploma or certificate.

"suspension" means the cancellation of enrolment of a student and the suspension for a specified time of all rights and privileges as a student of the University including the right to re-enrol as a student and the right to enter or to be on University grounds or premises.

"University grounds" has the same meaning as in the University of Adelaide Act, 1971, as amended.

2. Unless another statute, regulation, by-law or rule shall provide another process any complaint of misconduct brought by a member of the University against a student shall be dealt with in accordance with the provisions of this Rule. In particular a student of the Roseworthy Campus will be dealt with in accord with the Rules for Student Misconduct on Roseworthy Campus.

3. A member of the University who wishes to proceed against a student under the terms of this Rule shall make a written complaint to the Head, Secretariat, or to an officer appointed by the Head, Secretariat, for the purpose.

4. Upon receipt of the complaint the Vice-Chancellor or appointed person shall send a printed copy of the complaint to the student and to the Mediator.

The Mediator

5. (a) There shall be a Mediator appointed by the Council from among the academic staff for a term of two or three years. The Mediator shall not be a member of Council.

- (b) The Mediator shall consider every complaint of misconduct brought under this Rule, and shall attempt to resolve the complaint by mediation and conciliation.
- (c) Before the Mediator attempts to resolve any complaint by mediation, the Mediator shall ensure that the student has received a copy of the complaint.
- (d) The Mediator may inspect any material or document relevant to a complaint, but shall not publish or disclose any document or information without the consent of the owner and the author of the document and of any person to whom the document or information particularly relates.
- (e) The Mediator shall not act in respect of a complaint which concerns the Mediator's Department or in which the Mediator was personally involved; but the Vice-Chancellor may appoint another mediator to act in respect of the complaint.
- (f) Where a finding of misconduct and a penalty are agreed upon by the parties as a result of the Mediator's actions, the parties and the Mediator shall sign a statement of the agreed settlement, which shall be registered with the Board of Conduct. Neither party to a settlement so registered may subsequently take the matter to the Board of Conduct.
- (g) The Mediator is ineligible to be a member of the Board of Conduct during his or her term of office, or in relation to any matter in which he or she acted as Mediator.

6. If the Mediator is unable to resolve the matter by mediation the Mediator shall refer the matter to the Board of Conduct.

The Board of Conduct

7. (a) There shall be a Board of Conduct appointed by the Council on the recommendation of the Vice-Chancellor.
- (b) The Board shall consist of: (i) a Convenor, with appropriate legal qualifications and experience, who shall not be a staff or student member of the University, appointed for a term of three years; (ii) four members of the academic staff, appointed for terms of two or three years; (iii) four students appointed for terms of one or two years.
 - (c) For each case the Convenor shall select two staff and two student members who, with the Convenor, shall constitute the Board of Conduct.
 - (d) No member of the Council shall be a member of the Board of Conduct; any member of the Board who is elected to the Council shall thereupon cease to be a member of the Board.
 - (e) No member of the Board of Conduct shall serve on the hearing of a matter if the person alleged to have committed the misconduct is a student in the same Department, or if the member was directly and particularly affected by the alleged misconduct. Should more than two staff members, or more than two student members, be so disqualified from serving on a hearing, the Vice-Chancellor shall appoint additional members for that hearing.
 - (f) If the Convenor disqualifies himself or herself from a hearing or is otherwise unavailable the Vice-Chancellor shall appoint a substitute Convenor.
 - (g) At a hearing of the Board, five members shall constitute a quorum PROVIDED that if after fifteen minutes have elapsed from the time appointed for the hearing there is no quorum but there are at least three members present including the Convenor, and if the defendant consents, those members shall constitute the Board for that hearing.
8. (a) The Convenor shall be responsible for conducting the proceedings of the Board, determining any dispute as to the constitution and jurisdiction of the Board and the admissibility of evidence, and shall determine matters of procedure.
- (b) Except as provided in sub-clause (a) all decisions of the Board shall be determined by an absolute majority of those members who constitute the Board for a particular hearing. Where there is an equality of votes, the Convenor shall in addition have a casting vote.
 - (c) The Board or, where the Board is not yet convened, the Convenor may in special cases order

that some or all of the costs incurred by a defendant in defending a case under this Rule shall be met by the University.

(d) If during the hearing of a matter one or more members of the Board become unavailable to act and a quorum (as defined in Clause 7(g)) cannot be obtained, the hearing of the matter shall cease and a newly-constituted Board shall begin the matter afresh.

9. Subject to the provisions of any statute, regulation, by-law or rule to the contrary the Board shall have jurisdiction to hear and determine:

(a) a complaint referred by the Mediator.

(b) an appeal by a defendant from a decision of a lower tribunal imposing a penalty for misconduct.

10. (a) At the request of the person initiating the complaint, and unless the Convenor of the Board orders otherwise, the Head, Secretariat, or a member of the University authorised by the Head, Secretariat, shall present the case on behalf of that person.

(b) The Convenor may order that a penalty imposed on a defendant by a lower tribunal be suspended, pending the hearing and determination of an appeal.

11. (a) The Board in the hearing of matters before it shall comply with principles of natural justice, and in particular: (i) shall give a defendant in writing details of the misconduct alleged against him or her, including a copy of any document admitted as evidence by the Convenor; (ii) shall give a defendant the opportunity to be heard; (iii) shall allow a defendant to be present throughout the hearing (unless excluded by the Convenor for wilfully disrupting proceedings); (iv) shall give a statement of reasons for any decision, which shall include an account of facts and evidence on which the decision is based.

(b) The Board shall not be bound by the law of evidence in the hearing of a complaint.

(c) The Board may refuse to proceed with the hearing of a complaint on grounds of triviality or that the defendant has made sufficient recompense;

(d) The Board may, on such conditions as to confidentiality as the Convenor may determine, require the production of material or document in the possession or control of the University or a member of the University, which is relevant to a complaint or appeal. In so doing the Convenor shall take into account the policy of the University with regard to confidentiality of documents.

12. (a) The Board, on determining any complaint or appeal, may impose the following penalties, which may be cumulative: (i) a reprimand; (ii) a fine of up to \$200; (iii) cancellation of enrolment in one, some or all subjects in which the student was enrolled; (iv) suspension for a period of not more than one year of the right to use any University facility or building which was abused in committing the offence; (v) prohibition from entering the grounds or a specified part thereof for a period not exceeding three years; (vi) suspension from the University for a period not exceeding three years; (vii) expulsion from membership of the University; (viii) any other penalty provided for in a statute, rule, regulation or by-law of the University.

(b) The Board may impose as a default penalty any of the penalties specified in Clause 12 (a).

13. The Board in hearing an appeal: (a) may confirm, vary or quash the decision of the lower tribunal; (b) may confirm, reduce or quash the penalty, or substitute another penalty.

14. The Board shall report to the Council its decisions on all hearings before it.
Lower Tribunals

15. Any lower tribunal: (a) shall give a defendant details in writing of the alleged misconduct; (b)

shall give the defendant the opportunity to be heard;

(c) may refuse to proceed with the hearing of a complaint on the grounds of triviality, or that the defendant has made sufficient recompense;

(d) on determining that the defendant is guilty of the misconduct alleged, except as specifically provided for by the statute, regulation, by-law or rule establishing it, may impose one or more of the following penalties: (i) a reprimand; (ii) a fine of not more than \$50 for each offence; (iii) suspension for a period of not more than sixty days of the right to use any University facility or building which was abused in committing the misconduct; (iv) any other penalty specifically provided in the relevant statute, rule, regulation or by-law; (v) may impose a default penalty;

(e) shall give a statement of reasons for any decision, which shall include an account of facts and evidence on which the decision is based.

16. Any penalty imposed by a lower tribunal shall forthwith be reported in writing to the Council.
Procedures before the Board of Conduct and Lower Tribunals

17. The hearing of a complaint before the Board of Conduct or a lower tribunal shall be open to members of the University unless the Board or tribunal decides otherwise.

18. A defendant before the Board of Conduct or a lower tribunal is entitled:

(a) to present his or her case orally and in writing, or to appoint another student or a member of the academic staff or an officer of the University or a students' association or, in the case of the Board of Conduct, a legal representative, as agent to present the case on behalf of the defendant;

(b) to call witnesses on his or her behalf; and

(c) personally or through the appointed agent to question the complainant and any person giving evidence in the matter.

19. A fine imposed on a student under this Rule which has not been cancelled or remitted shall be a debt owed to the University which may be recovered in the appropriate court.

See Statute Chapter 12