

THE AUSTRALIAN NATIONAL UNIVERSITY

Discipline Rule 2021

I, Professor Brian P. Schmidt, Vice-Chancellor, make the following rule.

Dated 15 July 2021

Professor Brian P. Schmidt AC FAA FRS
Vice-Chancellor

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Part 1—Preliminary

1 Name

This is the *Discipline Rule 2021*.

2 Commencement

This instrument commences on the commencement of the *Academic Integrity Rule 2021*.

3 Authority

This instrument is made under the *Australian National University (Governance) Statute 2020*, section 68(1) (General power to make rules and orders).

4 Application of instrument

This instrument applies to all students of the University.

5 Definitions

In this instrument:

complainant, in relation to conduct: see section 10(3) (Respondent and complainant in relation to conduct).

course means a subject of scholarly study, whether it is taught:

- (a) in a connected series of classes or demonstrations; or
- (b) by means of practical work, including, for example, the production by students of essays, theses or case studies or the attendance and participation by students in seminars or workshops; or
- (c) by clinical or professional practice; or
- (d) in another way or in a combination of ways.

Dean, in relation to a student and:

- (a) in relation to conduct engaged in (or that may have been engaged in) by the student in relation to a course offered by the University—the College Dean of the ANU College responsible for the course; or
- (b) in any other case—the College Dean of the ANU College responsible for the program or course offered by the University in which the student is or was enrolled or that the student was given permission to audit.

discrimination includes unfair or inequitable treatment on the basis of a person's race, colour, sex, sexual preference or orientation, marital status, pregnancy or potential pregnancy, status as carer, age, disability, ethnic or national origin, breastfeeding requirements, religious, political or union affiliation, or any other attributes applied by or set out in any Commonwealth, State, Territory or University legislation that applies in relation to a University activity.

engage in conduct means:

- (a) do an act; or
- (b) omit to do an act.

harassment: for forms of harassment that are not sexual harassment, see section 6(2) (Sexual harassment and other forms of harassment).

inquiry means an inquiry under Part 4 (Inquiries).

misconduct: see section 7 (Misconduct).

obligation includes:

- (a) a non-monetary obligation, a monetary penalty, or compensation, (whether owing or payable to the University or another person) under University legislation (other than the Parking and Traffic Statute); and
- (b) a monetary obligation (for example, a fee or charge for accommodation, board or a related service) payable to the University or to a hall of residence or affiliated college under a contract or agreement.

prescribed authority means:

- (a) in relation to any student—the Dean, the Registrar or a person nominated, in writing, for the purpose by the Vice-Chancellor, as the case requires; and
- (b) in relation to a student who is a resident in a hall of residence or lodge of the University—the Head of the hall of residence or lodge.

presiding officer, in relation to an inquiry, means:

- (a) if a panel is appointed to conduct the inquiry on behalf of the Vice-Chancellor—Chair of the panel; or
- (b) in any other case—the person conducting, or who is to conduct, the inquiry.

property includes any form of real or personal property.

Example of property

Intellectual property, including intellectual property in any data or information.

respondent, in relation to conduct: see section 10(2) (Respondent and complainant in relation to conduct).

reviewable decision: see section 49 (Meaning of *reviewable decision*).

sexual assault includes any offence of a sexual nature committed on another person without the other person's consent.

Examples of sexual assault

Conduct that is an offence against the *Crimes Act 1900* (ACT), section 54 (Sexual intercourse without consent) or section 60 (Act of indecency without consent).

[Note: Sexual assault includes a range of behaviours, all of which are unacceptable and constitute a crime, whereby a person is forced, coerced or tricked into sexual acts against their will or without their consent, including when they have withdrawn their consent.]

sexual harassment: see section 6(1) (Sexual harassment and other forms of harassment).

student means a person who is or was enrolled in, or seeking enrolment in, a program or course offered by the University, or who is or was given permission by the University to audit a program or course offered by the University.

University premises means land or premises owned or occupied by the University, and includes, for example, any of the following:

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- (a) University House or a hall of residence;
 - (b) an affiliated college;
 - (c) any other accommodation arranged or provided by the University.

University-related conduct means conduct that is connected with the University.

Examples of University-related conduct

- 1 Conduct that relates to the University, its activities, or its staff, or students, in their capacity as members of staff, or students, of the University.
- 2 Conduct that happens on or in, or in connection with, University premises.
- 3 Conduct engaged in using, or facilitated by, University information infrastructure or services or any other University resources, equipment or services.
- 4 Conduct that happens during, or relates to, the exercise of functions for the University.
- 5 Conduct that happens during, or in connection with, any function or event connected with the University (whether or not organised or approved by the University).
- 6 Conduct that happens when a person is representing the University in any capacity.

victimisation includes any unfavourable treatment, including adverse changes to a person's work or study environment, denial of access to resources, work opportunities or training, or ostracism of a person as a consequence of the person's involvement in a grievance under any grievance procedures applying in the University.

[Note: For definitions applying to University legislation generally, see the dictionary in the Legislation Statute. That dictionary defines terms relevant to this instrument, including the following:

- affiliated college
- breach
- ANU College
- College Dean
- function
- hall of residence
- student association
- University legislation (see section 6)
- working day.]

6 Sexual harassment and other forms of harassment

(1) For this instrument, a person sexually harasses another person (the ***person harassed***) if the person:

- (a) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
- (b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed;

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

[Note: This definition mirrors the definition of ***sexual harassment*** in the *Sex Discrimination Act 1984* (Cwlth), section 28A(1).]

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- (2) For this instrument, a person subjects another person (also the *person harassed*) to another form of harassment if the person engages in conduct that:
- (a) is offensive, humiliating or intimidating to the person harassed, but is not sexual harassment; and
 - (b) is engaged in by the person in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.
- (3) For subsections (1) and (2), the circumstances to be taken into account include, but are not limited to, the following:
- (a) the sex, age, sexual orientation, gender identity, intersex status, marital or relationship status, religious belief, race, colour, or national or ethnic origin, of the person harassed;
 - (b) the relationship between the person harassed and the person who made the advance or request or who engaged in the conduct;
 - (c) any disability of the person harassed;
 - (d) any other relevant circumstance.
- (4) In this section:

conduct of a sexual nature includes making a statement of a sexual nature to, or in the presence of, a person, whether the statement is made orally or in writing.

Part 2—Misconduct

7 Misconduct

- (1) A student must not engage in misconduct.
- (2) It is ***misconduct*** if a student engages in conduct:
 - (a) that is dishonest, unethical, or otherwise demonstrates a lack of integrity or respect for the safety or wellbeing of other members of the University community; or
 - (b) that unreasonably hinders other members of the University community in the pursuit of their studies or research in the University or in participation in the life of the University; or
 - (c) that is otherwise:
 - (i) a breach of the values set by the Council for the University; or
 - (ii) a breach of the responsibilities (however described) set by the University for students or members of the University community; or
 - (iii) prejudicial to the good order and government of the University; or
 - (iv) reprehensible conduct for a member of the University community to engage in.

[Note 1: For the values set by the Council for the University, see the University’s Strategic Plan.]

[Note 2: For the responsibilities set by the University for students, see especially the Student Code of Conduct.]

- (3) Without limiting subsection (2), it is ***misconduct*** if a student:
 - (a) sexually assaults or sexually harasses another member of the University community; or
 - (b) engages, or threatens to engage, in any other non-consensual conduct of a sexual nature in relation to another member of the University community if a reasonable member of the University community would, in all the circumstances, consider the conduct to be:
 - (i) an invasion of privacy; or
 - (ii) indecent; or
 - (iii) otherwise unacceptable conduct for a student to engage in in relation to another member of the University community; or
 - (c) subjects another member of the University community to any other form of harassment, victimisation or discrimination; or
 - (d) otherwise behaves in a violent, threatening or intimidating way to another member of the University community or otherwise creates a hostile study, research or work environment; or
 - (e) intentionally, recklessly or negligently causes risk or danger to the health or safety of another member of the University community; or
 - (f) gives or offers a financial or non-financial bribe to an officer or member of staff of the University; or
 - (g) intentionally or recklessly obstructs or disrupts an activity or proceeding of the University; or
 - (h) intentionally, recklessly or negligently destroys, damages, defaces, loses, removes or otherwise interferes with, or makes unauthorised use of, property of the University or another person; or

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- (i) enters a place in the University that the student is not permitted to enter; or
 - (j) breaches a reasonable order or direction (however described) of an officer or employee of the University or a person acting with the lawful authority of the University; or
 - (k) breaches University legislation or an order or direction (however described) given under University legislation; or
 - (l) acts dishonestly or unfairly in connection with:
 - (i) any assessment for admission to the University; or
 - (ii) the preparation or presentation of any assignment or material in support of an application for admission to the University; or
 - (m) makes a statement to the University, or to an officer or employee of the University, that the student knows to be false (including the provision of a falsified medical certificate or falsified academic transcript); or
 - (n) engages in, or is party to, conduct intended to deceive the University (including the provision of a falsified medical certificate or falsified academic transcript); or
 - (o) takes a prohibited item into an examination or other assessment venue or otherwise breaches the University's directions (however described) in relation to an examination or other assessment; or
 - (p) impersonates another person at, or in connection with, an examination or other assessment.

Examples for paragraph (b)

Conduct that is an offence against the *Crimes Act 1900* (ACT), section 61B (Intimate observations or capturing visual data etc), section 72C (Non-consensual distribution of intimate images) or section 72E (Threaten to capture or distribute intimate images).

[Note: An example in University legislation is not exhaustive and may extend, but does not limit, the meaning of University legislation (see Legislation Statute, section 11 (Examples in University legislation)).]

Part 3—Consequences of misconduct

Division 3.1—Reporting misconduct

8 Reports of misconduct

- (1) If any person considers that a student has, or may have, engaged in conduct that is misconduct, the person may report the student's conduct to the Vice-Chancellor or a prescribed authority.
- (2) To remove any doubt, if a prescribed authority considers that a student has, or may have, engaged in conduct that is misconduct, the prescribed authority may report the student's conduct to the Vice-Chancellor or another prescribed authority.

9 Action for misconduct without report

- (1) This section applies if the Vice-Chancellor, or a prescribed authority, (the *relevant authority*) considers that a student has, or may have, engaged in conduct that is misconduct, but the relevant authority has not received a report under section 8 (Reports of misconduct) about the conduct.
- (2) The relevant authority may exercise functions under this instrument in relation to the student's conduct even though the relevant authority has not received a report under section 8 about the conduct.

Division 3.2—Respondent and complainant

10 Respondent and complainant in relation to conduct

- (1) This section applies if:
 - (a) a report is made under section 8 (Reports of misconduct) about the conduct of a student; or
 - (b) the Vice-Chancellor or a prescribed authority decides under section 9 (Action for misconduct without report) to exercise functions under this instrument in relation to the conduct of a student.
- (2) For the purposes of this instrument, the student may be referred to as the *respondent*.
- (3) For the purposes of this instrument, each of the following may be referred to as the *complainant* in relation to the conduct:
 - (a) if this section applies because a report is made under section 8—the person who makes the report or, if the report is made on behalf of another person who is a student, the other person;
 - (b) in any case—any other person if the conduct affects, or may affect, the other person in the other person's capacity as a student.

11 Keeping complainant informed

- (1) This section applies if:
 - (a) a report is made under section 8 (Reports of misconduct) about the conduct of a student; or

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- (b) the Vice-Chancellor or a prescribed authority decides under section 9 (Action for misconduct without report) to exercise functions under this instrument in relation to the conduct of a student.
- (2) The Vice-Chancellor or a prescribed authority may, from time to time, tell the complainant (or any of the complainants), orally or in writing, about any of the following:
- (a) whether any action has been taken under this instrument or otherwise in relation to the conduct;
 - (b) if action, or particular action, has not been taken in relation to the conduct—the reasons for not taking action, or that particular action, (including any finding made);
 - (c) if action has been taken in relation to the conduct—the action taken, the reasons for taking that action (including any finding made), and the outcome of the action;
 - (d) whether any proceedings have been taken under or in relation to the Appeals Rule in relation to the conduct and, if so, the nature of the proceedings, the outcome of the proceedings, and the reasons for the outcome;
 - (e) anything else that the Vice-Chancellor or prescribed authority considers that the complainant should be told about.

Division 3.3—Action by prescribed authority

12 Decision whether to take action under this instrument: prescribed authority

- (1) This section applies if a prescribed authority becomes aware that a student (the *respondent*) has, or may have, engaged in conduct that is misconduct.
- (2) The prescribed authority must initially decide whether action should be taken under this instrument in relation to the respondent's conduct.
- (3) The prescribed authority may decide that action should not be taken under this instrument if the prescribed authority considers:
- (a) that there are not adequate grounds for believing either or both of the following:
 - (i) that the respondent engaged in the conduct;
 - (ii) that the conduct is misconduct; or
 - (b) that it is otherwise inappropriate for action to be taken, or taken for the time being, in relation to the respondent under this instrument.

Examples for paragraph (b)

1 A complaint is being, or is to be, dealt with under other University legislation or alternative policies and procedures of the University.

2 A criminal investigation or prosecution, or another legal proceeding, has begun in relation to the conduct.

3 The conduct is not University-related conduct.

13 Making decision whether to take action: prescribed authority

- (1) The prescribed authority may make a decision under section 12 (Decision whether to take action under this instrument: prescribed authority) in a summary way based on the information available to the prescribed authority and without conducting a hearing or seeking a submission from the respondent.

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- (2) Without limiting subsection (1), in making the decision the prescribed authority is not bound by the rules of evidence and may be informed on any matter in the way the prescribed authority considers appropriate.

14 Effect of decision whether to take action: prescribed authority

- (1) Subject to section 51 (Vice-Chancellor may call in certain decisions), a decision of the prescribed authority under section 12 (Decision whether to take action under this instrument: prescribed authority) is final.
- (2) If the prescribed authority decides that action should not be taken under this instrument in relation to the respondent's conduct, the prescribed authority must, within 5 working days after the day the decision is made, tell the respondent and the Registrar in writing about the decision.
- (3) If the prescribed authority decides that action should be taken under this instrument in relation to the respondent's conduct, the prescribed authority may:
- (a) decide to conduct an inquiry into the respondent's conduct; or
 - (b) refer the respondent's conduct to the Vice-Chancellor, if the prescribed authority considers that the conduct should be dealt with by the Vice-Chancellor and the conduct was not referred to the prescribed authority by the Vice-Chancellor under section 20(3)(a) (Effect of decision whether to take action: Vice-Chancellor).
- (4) To remove any doubt, if the prescribed authority considers that it is inappropriate for action to be taken for the time being under this instrument, this instrument does not prevent the prescribed authority, another prescribed authority or the Vice-Chancellor from later deciding that it is no longer inappropriate for action to be taken under this instrument in relation to the respondent's conduct.

15 Notice of decision to conduct inquiry: prescribed authority

- (1) This section applies if the prescribed authority decides under section 14(3)(a) (Effect of decision whether to take action: prescribed authority) to conduct an inquiry into the respondent's conduct.
- (2) Within 5 working days after the day the decision is made, the prescribed authority must give the respondent a written notice that tells the respondent that the prescribed authority is to conduct an inquiry into the respondent's conduct.

[Note: For the service (however described) of notices and other documents, see the Legislation Statute, section 24.]

- (3) Without limiting subsection (2), the notice must:
- (a) include a description of the conduct that is to be inquired into; and
 - (b) state the purpose of the inquiry; and
- [Note: See section 25 (Inquiry process: purpose of inquiry).]
- (c) state the name of the person who is to conduct the inquiry; and
 - (d) include, or be accompanied by, copies of the material in the prescribed authority's possession on which the person conducting the inquiry may rely in the inquiry; and
 - (e) state the time and place fixed for the hearing of the inquiry.
- (4) The notice must also include, or be accompanied by, a statement (or statements) to the effect that:

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- (a) the inquiry may be conducted in an informal way and the prescribed authority is not bound by the rules of evidence; and
 - (b) the respondent may appear in person at the inquiry, unless the prescribed authority requires the respondent to participate remotely by a method of communication specified by the prescribed authority; and
 - (c) the respondent may apply to the prescribed authority for permission for the respondent, or for a person nominated by the respondent to accompany the respondent, to participate in the inquiry, or a part of the inquiry, remotely by a method of communication stated in the notice or otherwise specified by the prescribed authority; and
 - (d) if the respondent does not appear at the time and place fixed for the hearing of the inquiry, the inquiry may be held in the absence of the respondent; and
 - (e) if the respondent appears at the inquiry, the respondent may present oral and written statements to the inquiry (including written statements made by another person); and
 - (f) if the respondent appears at the inquiry, the respondent may be accompanied by another person nominated by the respondent who may observe the proceedings and, with the express approval of the prescribed authority, act as an advocate; and
 - (g) the respondent may, in addition to or instead of appearing at the inquiry, give the inquiry written statements about the conduct being inquired into (whether made by the respondent or another person); and
 - (h) any written statements under paragraph (g) must be given to the inquiry within the time specified in the notice; and
 - (i) the respondent may apply to the prescribed authority for an extension of any time applying to the respondent under the notice or otherwise in relation to the inquiry.
- (5) To remove any doubt, a reference in subsection (4) to the respondent appearing at the inquiry includes a reference to the respondent participating in the inquiry under a requirement or permission of the prescribed authority.
 - (6) The notice must be given to the respondent at least 5 working days before the day fixed for the hearing of the inquiry, unless the respondent agrees to being given the notice later.
 - (7) The time specified for subsection (4)(h) must not be earlier than 5 working days after the day fixed for the hearing of the inquiry, unless the respondent agrees to an earlier date.

16 Interim action by prescribed authority

- (1) This section applies if the prescribed authority is satisfied that the respondent is likely to have engaged in conduct that is misconduct.

[Note: See also section 17 (Interim action by prescribed authority: procedure and review).]

- (2) Subject to subsections (4) and (5), the prescribed authority may, before an inquiry has been held or completed into the conduct:
 - (a) deny the respondent access to all or any University facilities, to all University premises, any University premises or any part of University premises, or to all or any activities conducted by or on behalf of the University, for 20 working days (the *denial of access period*); or
 - (b) if the conduct was engaged in during an examination or other assessment—exclude the respondent from attendance at that assessment.

[Note 1: For certain conduct in relation to information infrastructure or services, action may be taken under the Information Infrastructure and Services Rule.]

[Note 2: For the effect of a denial of access or exclusion from an assessment, see sections 39 (Denial of access) and 40 (Exclusion from assessment).]

- (3) However, the Vice-Chancellor may, by written notice given to the respondent, extend the denial of access period:
 - (a) for a specified period (ending no later than the completion of an inquiry into the conduct); or
 - (b) until an inquiry has been completed into the conduct.
- (4) The prescribed authority may, under this section, deny the respondent access to facilities, premises or activities, and the Vice-Chancellor may extend the denial of access period, only if the prescribed authority or Vice-Chancellor considers:
 - (a) that the respondent's conduct has caused serious harm, or is of a nature that presents a significant risk of serious harm, to the health, safety or wellbeing of any person; or
 - (b) that the respondent's continued access to the facilities, premises or activities otherwise presents a significant risk of serious loss, damage or other harm (including reputational harm) to the University or its students, staff or property.
- (5) The prescribed authority may, under this section, exclude the respondent from attendance at an examination or other assessment only if the prescribed authority considers that the exclusion is necessary to preserve:
 - (a) the integrity of the assessment; or
 - (b) order and decorum at the place of the assessment.
- (6) If the prescribed authority takes action under this section in relation to the respondent, the prescribed authority must, as soon as possible, report the action taken, and the circumstances relating to it, to the Vice-Chancellor.
- (7) For this section and to remove any doubt, an inquiry has been **completed** only when its findings and decisions have been finalised under this instrument and, if applicable, the Appeals Rule.

17 Interim action by prescribed authority: procedure and review

- (1) This section applies if the prescribed authority or Vice-Chancellor (the **decision-maker**) takes action under section 16 (Interim action by prescribed authority) in relation to the respondent.
- (2) The decision-maker must, as soon as possible (but no later than 5 working days after the day the decision-maker takes the action):
 - (a) tell the respondent in writing about the action taken; and
 - (b) give the respondent a statement of reasons for the decision to take the action.
- (3) Within 5 working days after the day the decision-maker complies with subsection (2), the respondent may give the decision-maker a written submission about the action.
- (4) If the respondent gives the decision-maker a submission under subsection (3), the decision-maker must consider the submission and must decide, as soon as possible (but no later than 5 working days after the day the submission is given to the decision-maker), whether to, as the case requires:

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- (a) confirm, vary or end the denial of access or exclusion; or
 - (b) confirm or vary the decision to extend the denial of access period.
- (5) As soon as possible after (but no later than 5 working days after the day) the decision-maker complies with subsection (4), the decision-maker must:
- (a) tell the respondent in writing about the decision; and
 - (b) give the respondent a statement of reasons for the decision if:
 - (i) the decision is to confirm the denial of access or exclusion or not to vary it as sought by the respondent; or
 - (ii) the decision is to confirm the decision to extend the denial of access period or not to vary it as sought by the respondent.

Division 3.4—Action by Vice-Chancellor

18 Decision whether to take action under this instrument: Vice-Chancellor

- (1) This section applies if the Vice-Chancellor becomes aware that a student (the *respondent*) has, or may have, engaged in conduct that is misconduct.
- (2) The Vice-Chancellor must initially decide whether action should be taken under this instrument in relation to the respondent's conduct.
- (3) The Vice-Chancellor may decide that action should not be taken under this instrument if the Vice-Chancellor considers:
 - (a) that there are not adequate grounds for believing either or both of the following:
 - (i) that the respondent engaged in the conduct;
 - (ii) that the conduct is misconduct; or
 - (b) that it is otherwise inappropriate for action to be taken, or taken for the time being, in relation to the respondent under this instrument.

Examples for paragraph (b)

1 A complaint is being, or is to be, dealt with under other University legislation or alternative policies and procedures of the University.

2 A criminal investigation or prosecution, or another legal proceeding, has begun in relation to the conduct.

3 The conduct is not University-related conduct.

19 Making decision whether to take action: Vice-Chancellor

- (1) The Vice-Chancellor may make a decision under section 18 (Decision whether to take action under this instrument: Vice-Chancellor) in a summary way based on the information available to the Vice-Chancellor and without conducting a hearing or seeking a submission from the respondent.
- (2) Without limiting subsection (1), in making the decision the Vice-Chancellor is not bound by the rules of evidence and may be informed on any matter in the way the Vice-Chancellor considers appropriate.

20 Effect of decision whether to take action: Vice-Chancellor

- (1) Subject to section 51 (Vice-Chancellor may call in certain decisions), a decision of the Vice-Chancellor under section 18 (Decision whether to take action under this instrument: Vice-Chancellor) is final.
- (2) If the Vice-Chancellor decides that action should not be taken under this instrument in relation to the respondent's conduct, the Vice-Chancellor must, within 5 working days after the day the decision is made, tell the respondent and the Registrar in writing about the decision.
- (3) If the Vice-Chancellor decides that action should be taken under this instrument in relation to the respondent's conduct, the Vice-Chancellor may:
 - (a) refer the respondent's conduct to a prescribed authority to be dealt with by the prescribed authority under this Part and Part 4 (Inquiries); or
 - (b) refer the respondent's conduct to a panel of persons appointed, in writing, by the Vice-Chancellor to conduct an inquiry into the respondent's conduct on behalf of the Vice-Chancellor; or
 - (c) decide to conduct an inquiry into the respondent's conduct.
- (4) To remove any doubt, if the Vice-Chancellor considers that it is inappropriate for action to be taken for the time being under this instrument, this instrument does not prevent the Vice-Chancellor or a prescribed authority from later deciding that it is no longer inappropriate for action to be taken under this instrument in relation to the respondent's conduct.
- (5) If the Vice-Chancellor appoints a panel under subsection (3)(b), the Vice-Chancellor must, in writing, appoint one of the members of the panel as Chair of the panel.
- (6) If the Vice-Chancellor appoints a panel under subsection (3)(b), in making a finding or other decision under this instrument in relation to the student's conduct, the Vice-Chancellor may consider, and act on the basis of, any report or recommendation of the panel.

21 Notice of decision to conduct inquiry: Vice-Chancellor

- (1) This section applies if the Vice-Chancellor decides to deal with the respondent's conduct under section 20(3)(b) or (c) (Effect of decision whether to take action: Vice-Chancellor).
- (2) Within 5 working days after the day the decision is made, the Vice-Chancellor must give the respondent a written notice that tells the respondent about the decision.

[Note: For the service (however described) of notices and other documents, see the Legislation Statute, section 24.]
- (3) Without limiting subsection (2), the notice must:
 - (a) include a description of the conduct that is to be inquired into; and
 - (b) state the purpose of the inquiry; and

[Note: See section 25 (Inquiry process: purpose of inquiry).]

 - (c) state the name of the person who is to conduct the inquiry (unless paragraph (d) applies); and
 - (d) if a panel has been appointed under section 20(3)(b) to conduct an inquiry into the conduct on behalf of the Vice-Chancellor—subject to subsection (6), tell the

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- respondent about the appointment of the panel and the names of the members of the panel; and
- (e) include, or be accompanied by, copies of the material in the Vice-Chancellor's possession on which the person or panel conducting the inquiry may rely in the inquiry; and
 - (f) state the time and place fixed for the hearing of the inquiry.
- (4) The notice must also include, or be accompanied by, a statement (or statements) to the effect that:
- (a) the inquiry may be conducted in an informal way and the person or panel conducting the inquiry is not bound by rules of evidence; and
 - (b) the respondent may appear in person at the inquiry, unless the presiding officer requires the respondent to participate remotely by a method of communication specified by the presiding officer; and
 - (c) the respondent may apply to the presiding officer for permission for the respondent, or for a person nominated by the respondent to accompany the respondent, to participate in the inquiry, or a part of the inquiry, remotely by a method of communication stated in the notice or otherwise specified by the presiding officer; and
 - (d) if the respondent does not appear at the time and place fixed for the hearing of the inquiry, the inquiry may be held in the absence of the respondent; and
 - (e) if the respondent appears at the inquiry, the respondent may present oral and written statements to the inquiry (including written statements made by another person); and
 - (f) if the respondent appears at the inquiry, the respondent may be accompanied by another person nominated by the respondent who may observe the proceedings and, with the express approval of the presiding officer, act as an advocate; and
 - (g) the respondent may, in addition to or instead of appearing at the inquiry, give the inquiry written statements about the conduct being inquired into (whether made by the respondent or another person); and
 - (h) any written statements under paragraph (g) must be given to the inquiry within the time specified in the notice; and
 - (i) the respondent may apply to the presiding officer for an extension of any time applying to the respondent under the notice or otherwise in relation to the inquiry.
- (5) To remove any doubt, a reference in subsection (4) to the respondent appearing at the inquiry includes a reference to the respondent participating in the inquiry under a requirement or permission of the presiding officer.
- (6) If the Vice-Chancellor decides to appoint a panel of persons to conduct the inquiry on behalf of the Vice-Chancellor and, at the time that the Vice-Chancellor gives the respondent the notice under subsection (2), not all of the members of the panel have been appointed, the Vice-Chancellor must, by a subsequent written notice given to the respondent, tell the respondent the names of all of the members of the panel.
- (7) The notice under subsection (2), and any notice required by subsection (6), must be given to the respondent at least 5 working days before the day fixed for the hearing of the inquiry, unless the respondent agrees to being given the notice later.
- (8) The time specified for subsection (4)(h) must not be earlier than 5 working days after the day fixed for the hearing of the inquiry, unless the respondent agrees to an earlier date.
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22 Interim action by Vice-Chancellor

- (1) This section applies if the Vice-Chancellor is satisfied that the respondent is likely to have engaged in conduct that is misconduct.

[Note: See also section 23 (Interim action by Vice-Chancellor: procedure and review).]

- (2) The Vice-Chancellor may, before an inquiry has been held or completed into the conduct:
- (a) deny the respondent access to all or any University facilities, to all University premises, any University premises or any part of University premises, or to all or any activities conducted by or on behalf of the University:
 - (i) for a specified period (ending no later than the completion of an inquiry into the conduct); or
 - (ii) until an inquiry has been completed into the conduct; or
 - (b) if the conduct was engaged in during an examination or other assessment—exclude the respondent from attendance at that assessment.

[Note 1: For certain conduct in relation to information infrastructure or services, action may be taken under the Information Infrastructure and Services Rule.]

[Note 2: For the effect of a denial of access or exclusion from an assessment, see sections 39 (Denial of access) and 40 (Exclusion from assessment).]

- (3) However, the Vice-Chancellor may, under this section, deny the respondent access to facilities, premises or activities only if the Vice-Chancellor considers:
- (a) that the respondent's conduct has caused serious harm, or is of a nature that presents a significant risk of serious harm, to the health, safety or wellbeing of any person; or
 - (b) that the respondent's continued access to the facilities, premises or activities otherwise presents a significant risk of serious loss, damage or other harm (including reputational harm) to the University or its students, staff or property.
- (4) Also, the Vice-Chancellor may, under this section, exclude the respondent from attendance at an examination or other assessment only if the Vice-Chancellor considers that the exclusion is necessary to preserve:
- (a) the integrity of the assessment; or
 - (b) order and decorum at the place of the assessment.
- (5) For this section and to remove any doubt, an inquiry has been **completed** only when its findings and decisions have been finalised under this instrument and, if applicable, the Appeals Rule.

23 Interim action by Vice-Chancellor: procedure and review

- (1) This section applies if the Vice-Chancellor takes action under section 22 (Interim action by Vice-Chancellor) in relation to the respondent.
- (2) The Vice-Chancellor must, as soon as possible (but no later than 5 working days after the day the Vice-Chancellor takes the action):
- (a) tell the respondent in writing about the action taken; and
 - (b) give the respondent a statement of reasons for the decision to take the action.
- (3) Within 5 working days after the day the Vice-Chancellor complies with subsection (2), the respondent may give the Vice-Chancellor a written submission about the action.

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- (4) If the respondent gives the Vice-Chancellor a submission under subsection (3), the Vice-Chancellor must consider the submission and must decide, as soon as possible (but no later than 5 working days after the day the submission is given to the Vice-Chancellor), whether to confirm, vary or end the denial of access or exclusion.
- (5) As soon as possible after (but no later than 5 working days after the day) the Vice-Chancellor complies with subsection (4), the Vice-Chancellor must:
- (a) tell the respondent in writing about the decision; and
 - (b) if the decision is to confirm the denial of access or exclusion or not to vary it as sought by the respondent—give the respondent a statement of reasons for the decision.

Part 4—Inquiries

Division 4.1—General

24 Conducting inquiry

A prescribed authority, a panel appointed under section 20(3)(b) (Effect of decision whether to take action: Vice-Chancellor) or the Vice-Chancellor may conduct an inquiry under this Part into conduct of a student (the *respondent*).

Division 4.2—Inquiry process

25 Inquiry process: purpose of inquiry

The purpose of the inquiry is to decide:

- (a) whether the respondent has engaged in conduct that is misconduct; and
- (b) if so, the action (if any) that should be taken in relation to the respondent for the conduct.

26 Inquiry process: inquiry hearing

- (1) At the hearing of the inquiry, the respondent:
 - (a) may appear in person; and
 - (b) if the respondent appears in person at the inquiry—may present oral or written statements to the inquiry (including written statements made by another person); and
 - (c) if the respondent appears in person at the inquiry—may be accompanied by another person nominated by the respondent who may:
 - (i) observe the proceedings; and
 - (ii) with the express approval of the presiding officer, act as advocate.
- (2) Subsection (1) is subject to section 27 (Inquiry process: remote participation by respondent etc.).

[Note: If the respondent participates in the inquiry under a permission or requirement under section 27(2), the respondent is taken to have appeared in person at the inquiry (see section 27(5)).]
- (3) The respondent must be given the opportunity at the inquiry to comment on the material in the possession of the person or panel conducting the inquiry on which the person or panel intends to rely.
- (4) The hearing of the inquiry may be adjourned from time to time and from place to place.

27 Inquiry process: remote participation by respondent etc.

- (1) In this section:

inquiry includes any part of the inquiry.

relevant person means:

- (a) the respondent; or
- (b) a person nominated by the respondent as a person to accompany the respondent.

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- (2) The presiding officer may, in writing, permit or require a relevant person to participate in the inquiry remotely by a method of communication, and in accordance with any arrangements, specified by the presiding officer.

Examples of methods of communication for remote participation

- 1 teleconference
- 2 videoconference

- (3) However, the presiding officer may require the relevant person to participate in the inquiry remotely only if the presiding officer considers that the requirement is necessary or desirable for all or any of the following reasons:
- (a) to avoid or reduce the risk of harm to the health, safety or wellbeing of any person;
 - (b) to allow the inquiry to be conducted in a fair and orderly way;
 - (c) to avoid or reduce any other risk of harm to the University or its students, staff or property.
- (4) If the relevant person participates in the inquiry remotely under a permission or requirement under this section, the presiding officer must endeavour to ensure that, as far as practicable, the relevant person is able to participate in the inquiry to the same extent as the person would have been able to participate if the person had attended the hearing of the inquiry in person.
- (5) If the respondent participates in the inquiry remotely under a permission or requirement under this section, the respondent is taken to have appeared in person at the inquiry.
- (6) If a person nominated by the respondent participates in the inquiry remotely under a permission or requirement under this section, the person is taken to be accompanying the respondent, whether or not the respondent attends the hearing of the inquiry in person.
- (7) This section does not limit the power of the presiding officer to permit or require a person, other than the respondent or a person nominated by the respondent, to participate in the inquiry remotely by teleconference, videoconference or any other method of communication.

28 Inquiry process: changes in person conducting inquiry

- (1) This section applies if:
- (a) the inquiry is conducted by a prescribed person or the Vice-Chancellor; and
 - (b) at any time during the inquiry or at the completion of the inquiry, the person who was the person conducting the inquiry (the *inquiry officer*) ceases to be the inquiry officer and another person (the *replacement inquiry officer*) becomes the person conducting the inquiry.
- (2) The conduct of the inquiry is not affected by the change in inquiry officer, but the replacement inquiry officer may give the directions the replacement inquiry officer considers appropriate about the procedure to be followed for the further conduct of the inquiry, including directions about the use of any oral or written statements previously received by the inquiry.

29 Inquiry process: changes in members of panel conducting inquiry

- (1) This section applies if the inquiry is conducted by a panel of persons.

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- (2) The conduct of the inquiry is not affected by any change in the members of the panel, but the panel may give the directions the panel considers appropriate about the procedure to be followed for the further conduct of the inquiry, including directions about the use of any oral or written statements previously received by the inquiry.

30 Inquiry process: conduct of inquiry generally

- (1) The inquiry into the respondent's conduct must, subject to this Division, be conducted in the way that the person or panel conducting the inquiry decides.
- (2) The person or panel may conduct the inquiry in an informal way, is not bound by the rules of evidence, and may be informed on any matter in the way the person or panel considers just.
- (3) The Registrar may appoint a person to assist the person or panel to conduct the inquiry.
- (4) The inquiry is not invalid only because of a formal defect or irregularity in relation to the inquiry.
- (5) If the respondent is given notice of the inquiry under section 15 (Notice of decision to conduct inquiry: prescribed authority) or section 21 (Notice of decision to conduct inquiry: Vice-Chancellor), the person or panel may conduct and complete the inquiry even if the respondent does not:
 - (a) attend the hearing of the inquiry; or
 - (b) give a written statement to the inquiry.

31 Inquiry process: matters for consideration

- (1) The person or panel conducting the inquiry must consider:
 - (a) any oral or written statement presented by the respondent to the inquiry at the inquiry hearing; and
 - (b) any other written statement given by the respondent to the inquiry in accordance with the notice given to the respondent under section 15 (Notice of decision to conduct inquiry: prescribed authority) or section 21 (Notice of decision to conduct inquiry: Vice-Chancellor).
- (2) The person or panel conducting the inquiry may also consider any other matters that the person or panel considers appropriate.

Division 4.3—Finding and action at completion of inquiry: prescribed authority

32 Application of Division 4.3

This Division applies if the inquiry into the respondent's conduct is conducted by the prescribed authority.

[Note: A function exercised by the delegate (or subdelegate) of a prescribed authority is taken to have been exercised by the prescribed authority (see Acts Interpretation Act, section 34AB(1)(c)).]

33 Finding at completion of inquiry: prescribed authority

After the completion of the inquiry, the prescribed authority may make either of the following findings:

- (a) that the respondent has not engaged in conduct that is misconduct; or
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- (b) that the respondent has engaged in conduct that is misconduct.

34 Action by prescribed authority after finding of misconduct

- (1) This section applies if the prescribed authority finds that the respondent has engaged in conduct that is misconduct.
- (2) The prescribed authority may do 1 or more of the following:
- (a) decide to take no action;
 - (b) reprimand the respondent;
 - (c) deny the respondent access to all or any University facilities, to all University premises, any University premises or any part of University premises, or to all or any activities conducted by or on behalf of the University, for a specified period of no longer than 12 months;
[Note: For the effect of a denial of access, see section 39 (Denial of access).]
 - (d) suspend the candidature or enrolment of the respondent in a program or course in which the respondent is admitted or enrolled, and prohibit the resumption of candidature or enrolment, for a specified period of no longer than 12 months;
[Note: See section 42 (Suspension of student).]
 - (e) determine the conditions under which the respondent may attend classes or lessons, use any facility of the University, or otherwise continue with the respondent's studies or research program;
[Note: For conditions under paragraph (e), requirements under paragraph (f) or undertakings under paragraph (g), see section 41 (Requirements, conditions and undertakings).]
 - (f) require the respondent to apologise, or take the other action the prescribed authority considers appropriate, with a view to mitigating the effect of the misconduct;
 - (g) accept an undertaking from the respondent, including, for example, an undertaking to attend University Counselling (or another appropriate counselling provider) to address behavioural issues;
 - (h) tell any relevant professional, government or other organisation or agency about the finding and any action taken in relation to it;
 - (i) refer the matter to the Vice-Chancellor, if the prescribed authority considers that the misconduct should be dealt with by the Vice-Chancellor.
- (3) In deciding what action (if any) should be taken in relation to respondent, the prescribed authority must take all relevant matters into account, including, for example, the following:
- (a) the nature and severity of the respondent's misconduct;
 - (b) the effect of the misconduct, including any loss, damage or harm caused to the University or its students, staff or property;
 - (c) the objectives of punishment, deterrence and rehabilitation;
 - (d) the health and safety of students and staff of the University, and the protection of University property.
- (4) Without limiting subsection (3), the prescribed authority may, for example, take into account any other finding of misconduct made in relation to the respondent and the action (if any) taken in relation to that finding.
- (5) If the prescribed authority exercises powers under this section in relation to the respondent, the prescribed authority must report the action taken, and the circumstances relating to it, to the Vice-Chancellor as soon as possible after the action is taken.
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Division 4.4—Finding and action at completion of inquiry: Vice-Chancellor

35 Application of Division 4.4

This Division applies if the inquiry into the respondent's conduct is conducted by the Vice-Chancellor or a panel of persons appointed under section 20(3)(b) (Effect of decision whether to take action: Vice-Chancellor).

[Note: A function exercised by the delegate (or subdelegate) of the Vice-Chancellor is taken to have been exercised by the Vice-Chancellor (see Acts Interpretation Act, section 34AB(1)(c)).]

36 Finding at completion of inquiry: Vice-Chancellor

After the completion of the inquiry, the Vice-Chancellor may make either of the following findings:

- (a) that the respondent has not engaged in conduct that is misconduct; or
- (b) that the respondent has engaged in conduct that is misconduct.

[Note: For inquiries conducted by a panel of person on behalf of the Vice-Chancellor, see section 20(6) (Effect of decision whether to take action: Vice-Chancellor).]

37 Action by Vice-Chancellor after finding of misconduct

- (1) This section applies if the Vice-Chancellor finds that the respondent has engaged in conduct that is misconduct.

- (2) The Vice-Chancellor may do 1 or more of the following:

- (a) decide to take no action;
- (b) reprimand the respondent;
- (c) deny the respondent access to all or any University facilities, to all University premises, any University premises or any part of University premises, or to all or any activities conducted by or on behalf of the University, for a specified period (including a period of longer than 12 months);

[Note: For the effect of a denial of access, see section 39 (Denial of access).]

- (d) suspend the candidature or enrolment of the respondent in a program or course in which the respondent is admitted or enrolled, and prohibit the resumption of candidature or enrolment, for a specified period of no longer than 12 months;

[Note: See section 42 (Suspension of student).]

- (e) determine conditions under which the respondent may attend classes or lessons, use any facility of the University, or otherwise continue with the respondent's studies or research program;

[Note: For conditions under paragraph (e), requirements under paragraph (h) or undertakings under paragraph (i), see section 41 (Requirements, conditions and undertakings: finding of academic misconduct).]

- (f) impose on the respondent a monetary penalty of not more than \$500 for each occurrence of misconduct to which the finding relates;

[Note: See section 44 (Liability to pay monetary penalty or compensation).]

- (g) if, as a result of the misconduct, property was damaged or a person incurred expense or suffered loss or harm—require the respondent to pay the owner of the property or the person who incurred the expense or suffered the loss or harm, as the case requires, compensation determined, in writing, by the Vice-Chancellor;
- (h) require the respondent to apologise, or take the other action the Vice-Chancellor considers appropriate, with a view to mitigating the effect of the misconduct;

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- (i) accept an undertaking from the respondent, including, for example, an undertaking to attend University Counselling (or another appropriate counselling provider) to address behavioural issues;
 - (j) exclude the respondent from the University;
[Note: See section 45 (Exclusion from University).]
 - (k) determine that the relevant award for the program the student is or was studying should not be conferred;
 - (l) revoke an award of the University conferred on the respondent;
 - (m) tell any relevant professional, government or other organisation or agency about the finding and any action taken in relation to it.
- (3) In deciding what action (if any) should be taken in relation to the respondent, the Vice-Chancellor must take all relevant matters into account, including, for example, the following:
- (a) the nature and severity of the respondent's misconduct;
 - (b) the effect of the misconduct, including any loss, damage or harm caused to the University or its students, staff or property;
 - (c) the objectives of punishment, deterrence and rehabilitation;
 - (d) the health and safety of students and staff of the University, and the protection of University property.
- (4) Without limiting subsection (3), the Vice-Chancellor may, for example, take into account any other finding of misconduct made in relation to the respondent and the action (if any) taken in relation to that finding.

Division 4.5—Notice at completion of inquiry

38 Notice at completion of inquiry

- (1) If the prescribed authority or Vice-Chancellor (the *relevant authority*) finds that the respondent has not engaged in conduct that is misconduct, the relevant authority must, within 5 working days after the day the relevant authority makes the finding, tell the respondent and the Registrar in writing about the finding and specify the conduct to which the finding applies.
- [Note: For the service (however described) of notices and other documents, see the Legislation Statute, section 24.]
- (2) If the prescribed authority or Vice-Chancellor (the *relevant authority*) finds that the respondent has engaged in conduct that is misconduct, the relevant authority must, within 5 working days after the day the relevant authority makes a decision under section 34 (Action by prescribed authority after finding of misconduct), or section 37 (Action by Vice-Chancellor after finding of misconduct), about the action to be taken in relation to the conduct, give the student and the Registrar a written notice that tells them about the finding and decision.
- (3) Without limiting subsection (2), the notice must:
- (a) specify the conduct to which the finding applies; and
 - (b) state the action that the relevant authority has decided is to be taken in relation to the conduct; and
 - (c) include, or be accompanied by, a statement of reasons for the finding and the decision; and
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- (d) state that the student may apply for review of the finding or decision (or both) under the Appeals Rule, and state how and by when an application for review must be made.

Part 5—Consequences of action taken for misconduct

39 Denial of access

- (1) This section applies if, under this instrument, a student is denied access to facilities, premises or activities.
- (2) The student must not:
 - (a) use any facility to which the student is denied access; or
 - (b) enter any premises, or the part of any premises, to which the student is denied access; or
 - (c) engage in any activity to which the student is denied access.
- (3) The denial of access continues to have effect even if an application is made under the Appeals Rule for review of the denial of access.
- (4) The denial of access does not, of itself, terminate or suspend the student's enrolment.

40 Exclusion from assessment

- (1) This section applies if, under this instrument, a student is excluded from attendance at an examination or other assessment.
- (2) The student must not:
 - (a) attend the assessment; or
 - (b) enter any premises, or the part of any premises, where the assessment is being conducted.
- (3) The exclusion continues to have effect even if an application is made under the Appeals Rule for review of the exclusion.
- (4) The exclusion does not, of itself, terminate or suspend the student's enrolment.

41 Requirements, conditions and undertakings

- (1) This section applies if, after an inquiry, a prescribed authority or the Vice-Chancellor (the *relevant authority*) does any 1 or more of the following under section 34 (Action by prescribed authority after finding of misconduct) or section 37 (Action by Vice-Chancellor after finding of misconduct) in relation to a student:
 - (a) imposes a requirement on the student;
 - (b) determines conditions applying to the continuation of the student's studies or research program;
 - (c) accepts an undertaking from the student.
- (2) The student must comply with the requirement, conditions or undertaking.
- (3) If the student breaches the requirement, 1 or more of the conditions or the undertaking, the relevant authority may:
 - (a) revoke any decision made by the relevant authority under section 34 or 37, as the case requires; and
 - (b) make any decision the relevant authority could have made under that section.

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- (4) In deciding what action (if any) to take under section 34 or 37 because of the breach of the requirement, conditions or undertaking, the relevant authority may take the breach, and any explanation provided by the student for the breach, into account.
 - (5) Subsection (4) does not limit the matters that the relevant authority must or may take into account.
 - (6) This section does not limit any other action that may be taken in relation to the breach.

42 Suspension of student

- (1) This section applies if, under this instrument, a prescribed authority or the Vice-Chancellor (the *decision-maker*) suspends the candidature or enrolment of a student in a program or course.
- (2) The suspension does not take effect until the later of the following:
 - (a) the end of the time within which the student may apply for review of the decision under the Appeals Rule;
 - (b) if the student applies for review of the decision under the Appeals Rule—the day after the day the application for review is finally decided.
- (3) However, the decision-maker may direct that the suspension is to take effect immediately.

[Note: See section 43 (Immediate suspension of student: procedure and review).]

- (4) The decision-maker may give a direction under subsection (3) only if the decision-maker considers:
 - (a) that the student's conduct has caused serious harm, or is of a nature that presents a significant risk of serious harm, to the health, safety or wellbeing of any person; or
 - (b) that the student's continued candidature or enrolment as a student in the program or course otherwise presents a significant risk of serious loss, damage or other harm (including reputational harm) to the University or its students, staff or property.
- (5) The suspension does not, of itself, terminate the student's enrolment in the program or course.
- (6) However, the student may not re-enrol in the program or course until the student:
 - (a) pays any fees owed by the student under the Fees Rule (including late fees); and
 - (b) agrees to comply with any conditions that the Vice-Chancellor may impose, in writing, in relation to the re-enrolment.

43 Immediate suspension of student: procedure and review

- (1) This section applies if the prescribed authority or Vice-Chancellor (the *decision-maker*) directs, under section 42(3) (Suspension of student), that the suspension of a student's candidature or enrolment in a program or course is to take effect immediately.
- (2) The decision-maker must, as soon as possible (but no later than 5 working days after the day the decision-maker gives the direction):
 - (a) tell the student in writing about the direction; and
 - (b) give the student a statement of reasons for the direction.
- (3) Within 5 working days after the day the decision-maker complies with subsection (2), the student may give the decision-maker a written submission about the direction.

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- (4) If the student gives the decision-maker a submission under subsection (3), the decision-maker must consider the submission and must decide, as soon as possible (but no later than 5 working days after the day the submission is given to the decision-maker), whether to confirm or revoke the direction.
 - (5) As soon as possible after (but no later than 5 working days after the day) the decision-maker complies with subsection (4), the decision-maker must:
 - (a) tell the student in writing about the decision; and
 - (b) if the decision is not to revoke the direction—give the student a statement of reasons for the decision.

44 Liability to pay monetary penalty or compensation

- (1) This section applies if a student becomes liable to pay the University or another person a monetary penalty or compensation under a decision of the Vice-Chancellor under this instrument.
- (2) The student must pay the University or other person the amount of the penalty or compensation, or enter into an arrangement for its payment satisfactory to the Vice-Chancellor or the other person (as the case requires), no later than 20 working days after:
 - (a) the end of the time within which the student may apply for review of the Vice-Chancellor's decision under the Appeals Rule; or
 - (b) if the student applies for review of the decision under the Appeals Rule—the day after the day the application for review is finally decided.

45 Exclusion from University

- (1) This section applies if a person is excluded from the University under this instrument.
- (2) The person ceases to be a student and, except with the written permission of the Vice-Chancellor:
 - (a) must not be enrolled again; and
 - (b) must not use any University facility, or enter any University premises or the part of any University premises, that the Vice-Chancellor, by written notice given to the person, prohibits the person from using or entering; and
 - (c) must not engage in any activities conducted by or on behalf of the University at the University or at a place other than the University.
- (3) The exclusion continues to have effect even if an application is made under the Appeals Rule for review of the decision.

Part 6—Failure to meet obligations

46 Failure to meet obligations by due date

- (1) The Vice-Chancellor may terminate the enrolment of a person as a student, deny a person access to all or any University facilities, to all University premises, any University premises or any part of University premises or to all or any activities conducted by or on behalf of the University, or withdraw the rights and privileges to which a person would otherwise have been entitled, if an obligation of the person is not met within:
 - (a) 10 working days after the due date determined in accordance with University legislation or by the Vice-Chancellor, as the case requires; or
 - (b) any further period determined, in writing, by the Vice-Chancellor.
- (2) The termination of the enrolment of a person as a student, the denial of access of a person to facilities, premises or activities, or the withdrawal of a person's rights and privileges, under subsection (1) does not extinguish any undischarged liability of the person to meet an obligation.
- (3) If the Vice-Chancellor takes action under subsection (1) in relation to a person, the Vice-Chancellor must tell the person in writing about the action.

47 Liability of persons financially supported by third parties

- (1) The Vice-Chancellor may accept an undertaking by a third party to meet an obligation on behalf of a person.
- (2) However, the person remains personally liable for the obligation if it is not discharged by the third party.

48 Sanctions against persons who fail to meet obligations

- (1) Without limiting section 46 (Failure to meet obligations by due date), if a person fails to meet an obligation that the person is required to meet, the Vice-Chancellor may direct that, while the obligation remains to be met, the person may not:
 - (a) enrol or re-enrol in a program or course at the University; or
 - (b) be given a transcript of the person's academic record; or
 - (c) be given the results of any assessment in a course or program; or
 - (d) receive a degree, diploma, certificate or other award of the University.
- (2) If the Vice-Chancellor gives a direction under subsection (1) in relation to a person, the Vice-Chancellor must tell the person in writing about the direction.

Part 7—Review and call in of decisions

Division 7.1—Review of decisions under Appeals Rule

49 Meaning of *reviewable decision*

- (1) The following decisions under this instrument are *reviewable decisions*:
- (a) a decision by a prescribed authority or the Vice-Chancellor under section 17 (Interim action by prescribed authority: procedure and review), or by the Vice-Chancellor under section 23 (Interim action by Vice-Chancellor: procedure and review), in relation to a student:
 - (i) to confirm a decision to deny the student access to facilities, premises or activities; or
 - (ii) to confirm a decision to extend a denial of access period applying to the student; or
 - (iii) to confirm a decision to exclude the student from attendance at an examination or other assessment; or
 - (iv) not to vary a decision mentioned in subparagraph (i), (ii) or (iii) as sought by the student;
 - (b) a finding by a prescribed authority under section 33(b) (Finding at completion of inquiry: prescribed authority) that a student has engaged in conduct that is misconduct;
 - (c) a decision by a prescribed authority under section 34 (Action by prescribed authority after finding of misconduct) to take action in relation to a student (including the action taken);
 - (d) a finding by the Vice-Chancellor under section 36(b) (Finding at completion of inquiry: Vice-Chancellor) that a student has engaged in conduct that is misconduct;
 - (e) a decision by the Vice-Chancellor under section 37 (Action by Vice-Chancellor after finding of misconduct) to take action in relation to a student (including the action taken);
 - (f) a decision by a prescribed authority or the Vice-Chancellor under section 41 (Requirements, conditions and undertakings) to take action in relation to a student (including the action taken) for breach of a requirement, condition or undertaking;
 - (g) a decision by a prescribed authority or the Vice-Chancellor under section 43(4) (Immediate suspension of student: procedure and review) to confirm a direction that a suspension is to take effect immediately.

[Note: The decisions specified in this subsection are discipline decisions and reviewable decisions under the Appeals Rule (see Appeals Rule, sections 6 and 5).]

- (2) However, if, under section 51 (Vice-Chancellor may call in certain decisions), the Vice-Chancellor calls in a decision mentioned in subsection (1) and makes a decision as if the Vice-Chancellor were the original decision-maker, the decision of the original decision-maker ceases to be a reviewable decision.

[Note: The Vice-Chancellor may not call in a reviewable decision if an application has been made under the Appeals Rule for review of the decision (see section 51(3)).]

- (3) To remove any doubt, a decision of the Vice-Chancellor of a kind mentioned in subsection (1) that is made following a decision of the Vice-Chancellor under section 51(2) is a *reviewable decision*.

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- (4) To remove any doubt, the following decisions are not *reviewable decisions*:
- (a) a decision of the Vice-Chancellor under section 51(2) to call in a decision for reconsideration;
 - (b) a decision by an Appeals Committee under the Appeals Rule.

50 Review of reviewable decisions under Appeals Rule

The Appeals Rule provides for the review of reviewable decisions.

[Note: The Appeals Rule provides that a student may, in accordance with that rule (including required time limits), apply for review of a reviewable decision affecting the student in the student's capacity as a student (see Appeals Rule, section 9).]

Division 7.2—Call in of decisions

51 Vice-Chancellor may call in certain decisions

- (1) This section applies to any of the following decisions (including any action taken) in relation to a student:
- (a) a reviewable decision;
[Note: See section 49 (Meaning of *reviewable decision*).]
 - (b) a decision under section 12 (Decision whether to take action under this instrument: prescribed authority) that action should not be taken under this instrument in relation to the respondent's conduct;
 - (c) a decision under section 18 (Decision whether to take action under this instrument: Vice-Chancellor) that action should not be taken under this instrument in relation to the respondent's conduct (other than a decision made personally by the Vice-Chancellor).
- (2) If the Vice-Chancellor considers that the decision is inappropriate in the circumstances of the case, the Vice-Chancellor may, by written notice, call in the decision for reconsideration.
- (3) However, the Vice-Chancellor may not call in the decision if an application for review of the decision has been made under the Appeals Rule.
- (4) The Vice-Chancellor must give a copy of the notice to the student. The notice must contain, or be accompanied by, a statement of reasons for the decision to call in the decision.
- (5) The Vice-Chancellor must give the student an opportunity to make submissions in relation to the reasons why the decision has been called in.
- (6) After taking into account the submissions (if any) made by the student, the Vice-Chancellor may make a decision as if the Vice-Chancellor were the original decision-maker of the decision.
- (7) The decision made by the Vice-Chancellor operates, on and from the day after the day it is made, as if it were the decision made by the original decision-maker.
- (8) If the Vice-Chancellor makes a decision under subsection (6), the Vice-Chancellor must, as soon as possible:
- (a) tell the student in writing about the decision; and
 - (b) give the student a statement of reasons for the decision.

Part 8—Miscellaneous

52 Joint, double or dual programs with other institutions etc.

- (1) A provision of this instrument has no effect to the extent to which it is inconsistent with an agreement between the University and another university or institution that makes provision for or in relation to joint, double or dual programs offered by them (including cotutelle), or the joint, double or dual conferral of degrees or other awards by them, for students or a particular student.
- (2) For subsection (1), a provision of this instrument is not inconsistent with a provision of an agreement mentioned in that subsection to the extent to which both provisions can operate concurrently.

53 Extension of time

- (1) In this section:

relevant University official means:

- (a) in relation to a time limit applying to a student in relation to an inquiry—the presiding officer; or
 - (b) in relation to any other time limit under this instrument—the Registrar.
- (2) The relevant University official may extend a time limit under this instrument.
[Note: The time limit may be extended even though the relevant time has ended (see Legislation Statute, section 22 (Power to extend time)).]
 - (3) In deciding whether to extend a time limit, the relevant University official must take into account:
 - (a) the reason why an extension is sought; and
 - (b) the period of extension; and
 - (c) the prejudice (if any) that will be caused by granting the extension.
 - (4) An extension must be for no longer than is reasonably necessary.

54 Processes under other University legislation

- (1) This instrument is additional to any other University legislation that makes provision in relation to conduct (*relevant conduct*) engaged in, or that may have been engaged in, by a student if the conduct is, or may be, misconduct within the meaning of this instrument.
- (2) To enable the processes under any other University legislation to proceed:
 - (a) a prescribed authority conducting an inquiry under this instrument in relation to the relevant conduct may suspend the inquiry; or
 - (b) the Registrar or the Vice-Chancellor may suspend an inquiry or other process under this instrument in relation to the relevant conduct.
- (3) A prescribed authority, the Registrar or the Vice-Chancellor may recommence an inquiry or other process suspended under subsection (2) if the processes under the other University legislation have been completed or if it appears that, in the circumstances, the suspension is not (or is no longer) appropriate.

Part 9—Repeal and transitional provisions

Division 9.1—Repeal

55 Repeal

The *Discipline Rule 2020* is repealed.

Division 9.2—Transitional provisions

56 General application and savings

- (1) This section applies to conduct engaged in by a student before 1 December 2021.
- (2) This instrument (other than this Division) does not apply to the conduct.
- (3) Despite the repeal of the *Discipline Rule 2020* but subject to this Division, that rule continues to apply to the conduct if that rule would have applied to the conduct had it not been repealed.

57 Transitional orders

- (1) Orders made under the Governance Statute, section 68(1) (General power to make rules and orders) may prescribe matters of a transitional nature (including prescribing any savings or application provisions) relating to:
 - (a) the repeal of the *Discipline Rule 2020*; or
 - (b) the making of this instrument.
- (2) This instrument (other than this section) does not limit the matters that may be prescribed by orders made for subsection (1).
- (3) Orders made for subsection (1) have effect despite anything in this instrument (other than this section).

58 Application of Legislation Statute, section 26

- (1) The Legislation Statute, section 26 (Repeal of University legislation) applies to the repeal of the *Discipline Rule 2020*.
- (2) For the Legislation Statute, section 26 the provisions of this Division are transitional provisions.

59 Transitional provisions additional

This Division is additional to, and does not limit:

- (a) the Legislation Statute, section 26 (Repeal of University legislation); or
 - (b) the Acts Interpretation Act, section 7 (Effect of repeal or amendment of Act), as applied by the Legislation Act, section 13(1)(a) (Construction of legislative instruments and notifiable instruments).
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