

# University of Canberra (Student Conduct) Rules 2018

made under the

*University of Canberra Act 1989, s 40 (Statutes) and University of Canberra (Student Conduct Statute) 2015*

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## Part 1 – Application and Interpretation

### 1 Name of instrument

These rules may be cited as the University of Canberra (Student Conduct) Rules 2018.

### 2 Commencement

These rules commence on the date of approval by Council.

### 3 Repeal

The University of Canberra (Student Conduct) Rules 2017 are revoked. All decisions taken under those Rules are taken to have been made under these Rules.

### 4 Definitions

(1) In these rules, unless the contrary intention appears:

*academic misconduct* means those forms of prohibited conduct described in sub-rule 9(2);

*Act* means the *University of Canberra Act 1989* (ACT);

*Authorised Person means* a person holding a position of Deputy Vice-Chancellor, Vice President or Pro-Vice Chancellor of the University;

*assessment* means any task required to be undertaken by a student for the assessment of the student's performance in a unit of study provided by the University and includes:

- (a) any thesis, sub-thesis, dissertation, research project, written report, assignment, essay or other requirement relating to the unit that is undertaken for the assessment of the student's performance in that unit; and
- (b) bridging requirements, if any, relating to the course in which the student is enrolled; and
- (c) any requirement to be performed by the student for assessment;

*breach of conduct* in relation to a student means a contravention of rule 9;

**business days** means Monday to Friday inclusive but excluding public holidays and the period between Christmas and New Year when the University is closed;

**Council** means the Council of the University established by section 9 of the Act;

**Course** has the same meaning as the University of Canberra (Courses of Study) Rules 2018;

**Committee** means the Student Conduct Committee established under Part 6;

**Committee Inquiry** means an inquiry conducted by the Committee under Part 4;

**Dean** means a Dean of a University Faculty for the purpose of these Rules;

**enrolled** means where a student has accepted an offer and been admitted to, a Course at the University and includes where students are undertaking an approved period of intermission; or until such time as they receive a certificate of completion or they withdraw or are discontinued by the University;

**exclusion** means the cancellation of the enrolment of a student and termination 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 for a period of 5 years from the date of the order;

**Faculty** means an academic Faculty of the University as determined by the Council under section 8 of the *University of Canberra Act 1989*;

**grounds for appeal** means those grounds set out at sub-rule 15(3);

**Medical Leave Rules** means the *University of Canberra (Medical Leave Rules)2017*;

**non-academic misconduct** means prohibited conduct that is behavioural misconduct and described in sub-rule 9(3);

**Obligations Certificate** means a certificate issued under the *University of Canberra (Obligations) Rules 2018* as in force from time to time.

**officer of the University** includes all staff members of the University, and any officer employed by a company contracted to provide services to the University while such officer is providing such services;

**plagiarism** means using the words or ideas of others and passing them off as your own in any assessment;

**Prescribed Authority** means:

- (a) a Deputy Vice-Chancellor; or
- (b) a Vice-President or
- (c) a Pro Vice-Chancellor; or
- (d) a Dean, Executive Dean, Deputy Dean or Associate Dean; or
- (e) a Director of a research centre or institute;
- (f) the Registrar; or
- (g) a person appointed by the Vice-Chancellor for such purposes.

**Provider Campus** means the land owned, occupied and/or identified in a Third Party Provider agreement or other Agreement including an exchange program, licensing or collaboration agreement or any replacement campus agreed in writing between the University of Canberra

and the Third Party Provider;

**Provider Staff** means all officers, employees, agents, contractors and other staff engaged by a Third Party Provider to provide the services or perform, carry out or discharge duties and obligations under an agreement with the University;

**serious criminal offence** has the same meaning as an indictable offence in the *Criminal Code 2002 ACT*;

**serious misconduct** means prohibited conduct and is described in sub-rule 9(4);

**relevant Faculty assessment board** means the Board of the Faculty that is responsible for deciding the student's result in relation to the unit;

**Secretary** means the secretary appointed by the Student Conduct Officer from time to time, or, where no such person is appointed, means the Student Conduct Officer or his or her delegate;

**significant plagiarism** includes but is not limited to:

- (a) using the words or ideas of others in whole or significant part and passing them off as your own in any assessment;
- (b) in collusion with others, using the words or ideas of others in whole or significant part and passing them off as your own in any assessment;
- (c) the copying or theft of another student's assignment or purchase of work to be assessed whether or not the work is submitted,
- (d) accepting or soliciting payment for work to be done for the purposes of a student submitting that work for assessment in a course at the University of Canberra or any other institution. Payment includes financial and non-financial reward; and
- (e) committing plagiarism for a second or subsequent time;

**suspension** means the cancellation of enrolment of a student in a course or a unit and may include the withdrawal for a specified time of all rights and privileges as a student of the University, including the right to re-enrol and the right to enter or to be on University grounds. Unless otherwise advised by the University, the student has the right to recommence their studies at the end of the suspension;

**Statute** means statute of the University and includes any rule, order or direction made under any such statute;

**student** means a person who, at the time the prohibited conduct occurred, was enrolled as a student of the University or with a Third Party Provider or on an Intermission approved under the *University of Canberra (Courses of Study) Rules 2018* as amended from time to time;

**Student Conduct Officer** is an officer of the University appointed by the Vice-Chancellor pursuant to section 5 of the *University of Canberra (Student Conduct Statute) 2015*;

**student record** means the information held about a student by or on behalf of the University;

**Third Party Provider** means an organisation or company that provide, services to enable Courses to be provided at the Provider Campus and using Provider Staff, on the terms and conditions of an agreement with the University;

**University facilities** includes facilities provided or owned by the University of Canberra and by a Third Party Provider;

*University grounds* means land owned and/or occupied by the University and includes buildings on that land and includes land owned and/or occupied by a Third Party Provider;

## **5 Application of Rules and Principles**

- (1) These Rules set out procedures for dealing with cases of alleged breach of conduct, whether academic or non-academic, the consequences which flow from findings of misconduct and appeal rights for students.
- (2) These Rules apply to conduct on University grounds or in relation to any event or activities related to the student's enrolment at the University and conducted under the name of the University, including placements, internships, exchange programs, excursions, fieldtrips, conferences and courses undertaken through a Third Party Provider institution.
- (3) The primary consideration in all matters dealt with under these Rules must be the health, safety and welfare of any witness, complainant, the respondent student, or any other person involved in the investigation of the allegation.

## **6 Procedural fairness**

- (1) The Rules are designed to be fair to the student and to avoid both undue formality and delay in reaching a resolution. The University is committed to dealing with allegations of misconduct by students in accordance with the principles of procedural fairness.
- (2) Where an allegation of misconduct by a student is made, the University will:
  - (a) Inform the student of the allegations against them in sufficient detail to enable them to understand the precise nature of the allegations and properly to consider and respond to them;
  - (b) Inform the student of the possible penalties that may be imposed;
  - (c) Ensure the student is provided a reasonable period of time within which to respond to the allegations, subject to complexity and urgency of the matter;
  - (d) Provide the student with an opportunity to reply to any allegations against them before a decision is made;
  - (e) Inform the student of their rights under these Rules and related procedures;
  - (f) Ensure the impartiality in any enquiry or investigation process and an absence of bias in any decision-maker; and
  - (g) Communicate any decision to all persons affected by it.

## **7 Student Conduct Officer and Secretary**

- (1) The Student Conduct Officer has general oversight of the processes specified in the Rules

and responsibility for evaluation and monitoring of the Rules and processes.

- (2) The Secretary will provide administrative support in accordance with these Rules and the directions of the Student Conduct Officer and Chair of the Committee.
- (3) The Student Conduct Officer can be contacted at [Student.Conduct.Officer@canberra.edu.au](mailto:Student.Conduct.Officer@canberra.edu.au) or by writing to The Student Conduct Officer, University of Canberra, ACT 2601.
- (4) The Secretary can be contacted at [sccsecretary@canberra.edu.au](mailto:sccsecretary@canberra.edu.au) or by writing to The Secretary, Student Conduct Committee, University of Canberra, ACT 2601.

## **8 Address for notice**

- (1) Subject to sub-rule 8(2), all correspondence and notifications to a student under these rules will be sent by email to the student's University email account with a receipt request. If the student is not currently enrolled, it will be sent by postal mail to the student's last known mailing address and their private email address.
- (2) Sub-rule 8(1) does not apply to a notice to a student concerning allegations of serious misconduct or a decision that serious misconduct has occurred. All notifications concerning allegations of serious misconduct or a determination that serious misconduct has occurred must be communicated to the student as soon as possible by registered mail to their last known address and to their university email address or private email address if the student does not have a university email address.

## **Part 2 – Breach of conduct**

### **9 Prohibited conduct**

- (1) A student must not engage in any form of misconduct.

#### *Academic misconduct*

- (2) Academic misconduct means the following conduct:
  - (a) cheating;
  - (b) plagiarism;
  - (c) reproducing in any assessment, or submitting for assessment, the work of another person, whether in whole or in part and whether with or without the knowledge of the other person;
  - (d) failing to comply with the University's instructions to students in relation to an assessment;
  - (e) acting, or assisting another person to act, dishonestly in, or in connection with, an assessment;
  - (f) in connection with research that materially deviates from accepted standards for the proposal, conduct or reporting of research, including any breach of any University or other applicable law, regulation or code relating to research, including the Australian Code for the Responsible Conduct of Research; or

- (g) any other form of academic dishonesty.

*Non-academic misconduct*

- (3) Non-academic misconduct means the following conduct:
  - (a) which places at risk the health, safety or welfare of any person at the University campus;
  - (b) wilfully or negligently damaging, destroying, losing, removing without permission or otherwise interfering with:
    - i. any property of, or under the control of, the University;
    - ii. any property of an officer or employee of the University, or of another student, while that property is on University grounds;
  - (c) entering a part of the University grounds in contravention of a direction by the Vice-Chancellor or an Authorised Person;
  - (d) in connection with the provision to the University of information or documentation by the student, making a false or misleading statement or engaging in, or being a party to, conduct intended to deceive;
  - (e) obstructing, or attempting to obstruct, an officer or employee of the University in the performance of his or her functions;
  - (f) obstructing, or attempting to obstruct, the Council, the Committee or any other authority, committee, board or other body of the University established under a Statute in the performance of its functions;
  - (g) engaging in conduct that hinders or prevents the use by other students of any of the University's facilities or the attendance of other students at a class conducted by or for the University;
  - (h) contravening:
    - i. a provision of any Statute or Rule established under any Statute;
    - ii. a requirement of a policy or procedure of the University;
    - iii. an order or a direction of an authority, committee, board or other body of the University established under a Statute;
    - iv. a lawful order or direction of an officer or employee of the University, or of a person acting with the authority of the University;
  - (i) engaging in behaviour offensive to:
    - i. a member of the Council, the Committee or any other authority, committee, board or other body of the University established under a Statute;
    - ii. an officer or employee of the University;
    - iii. a student or group of students;
  - (j) engaging in, or being a party to, conduct, either within the University grounds or elsewhere, that is likely to bring the University into disrepute or prejudice the management, good governance and discipline of the University; or
  - (k) engaging in, or being a party to, conduct or behaviour, either within the University grounds or elsewhere, that threatens, harms or causes distress, as adjudged by a

reasonable person, to an officer, employee or student of the University or visitor to the University.

### *Serious Misconduct*

- (4) Serious Misconduct means academic or non-academic misconduct and includes but is not limited to the following conduct:
- (a) significant plagiarism;
  - (b) behaviour that is considered unlawful, discriminatory, sexually inappropriate, bullying, harassing, threatening, offensive, invades another's privacy or causes any person to fear for their personal safety;
  - (c) relating to entry into a program or receiving an award the student was not legitimately eligible for, or entitled to;
  - (d) subsequent findings of misconduct against a student; or
  - (e) any other misconduct not covered elsewhere.

## **10 Initiation of action relating to breach of conduct**

- (1) Any person who considers that a student may have contravened rule 9 may draw the matter to the attention of an Authorised Person or a prescribed authority.
- (2) Where a matter is drawn to the attention of a Prescribed Authority under sub-rule 10(1) or a Prescribed Authority independently forms the view that a student may have contravened rule 9, the Prescribed Authority may, after making such preliminary informal inquiry as the Prescribed Authority thinks fit:
- (a) decide to take no further action in relation to the matter; or
  - (b) prior to any deliberative decision or action, refer the matter instead to a more appropriate Prescribed Authority for investigation and deliberation; or
  - (c) conduct a Summary Inquiry into the matter; or
  - (d) if the Prescribed Authority considers the breach of conduct is serious misconduct, refer the matter to an Authorised Person.
- (3) Where a matter is referred to, or drawn to the attention of, an Authorised Person under sub-rule 10(1) or an Authorised Person independently forms the view that a student may have contravened rule 9, they may make such preliminary informal inquiry as they think fit including:
- (a) decide that no further action be taken in relation to the matter; or
  - (b) direct a specified Prescribed Authority to conduct a Summary Inquiry into the matter. Prescribed Authority
- (4) After taking such action as an Authorised Person thinks fit pursuant to sub-rule 10(3), they must:
- (a) notify the Secretary in writing of the decision; and
  - (b) if the matter was drawn to the attention of an Authorised Person by another person, inform that person of what action has taken.

## **11 Powers of an Authorised Person to suspend a student**

- (1) In this rule, suspension may include any or all of the following terms:
  - (a) suspension from attending classes at the University;
  - (b) prohibition from entering such parts of the University grounds as are specified in the order;
  - (c) prohibition from using such of the University facilities as are specified in the order;
  - (d) prohibition from initiating contact or communication with specified students or members of staff; or
  - (e) make any other direction deemed reasonably necessary

*Powers in serious or urgent situations*

- (2) At any time an Authorised Person may, by written notice to the student, order the immediate suspension of a student where:
  - (a) there is reason to believe that there is a significant risk to the University and its staff or students;
  - (b) a serious criminal offence may have been committed;
  - (c) there are a number of allegations of a similar nature received against a student; or
  - (d) a possible penalty for the conduct, if sustained, is exclusion.

*General powers*

- (3) Pending a decision of a Summary Inquiry, an Authorised Person may by written notice to the student:
  - (a) order the suspension of the student in respect of whose alleged conduct a Summary Inquiry is to be conducted, pending determination of the matter by the Summary Inquiry;
  - (b) at any time, pending that determination, vary, lift or reimpose that suspension.

*Notice of Suspension*

- (4) A decision under this rule must be communicated to the student as soon as possible by registered mail to their last known address and to their university email address or private email address if the student does not have a university email address.
- (5) An Authorised Person must specify in the notice the terms of the suspension.
- (6) After taking such action pursuant to sub-rule 11(2) or 11(3), an Authorised Person must:
  - (a) notify the Secretary in writing of the action taken; and
  - (b) if the matter was drawn to the attention of an Authorised Person by another person, inform that person of what was taken.
- (7) On receipt of a written decision from a Summary Inquiry conducted in accordance with these rules, the terms of the decision will be binding on the student and the orders pursuant to this sub-rule will cease to apply.

### **Part 3 – Summary Inquiry**

### **13 Notice of Summary Inquiry**

- (1) Where a Summary Inquiry is to be held, the Prescribed Authority must cause to be issued a notice to the student setting out the following:
  - (a) that the Inquiry is conducted pursuant to these rules and information about where a copy of the Rules can be obtained;
  - (b) each alleged breach of conduct in sufficient detail to enable the student to understand the precise nature of the allegations and to properly consider and respond to them;
  - (c) that a Summary Inquiry into the matter is to be held by the prescribed authority;
  - (d) the day, time and place of the Summary Inquiry;
  - (e) who will be present at the Summary Inquiry on behalf of the University, and this may include one or more prescribed authorities, the Secretary, the Student Conduct Officer and any other persons deemed appropriate by the Prescribed Authority but will not include a lawyer acting in that capacity;
  - (f) the student's options, as set out in rule 14, in relation to the Inquiry; and
  - (g) the University's contact in respect of the Summary Inquiry (for notices, queries and information) and their contact details.
- (2) The notice must be communicated to the student not less than 10 business days before the date of the Summary Inquiry.
- (3) The notice does not have to provide copies of any evidence to the respondent student in this preliminary process if a Prescribed Authority reasonably believes that this would:
  - (i) unreasonably compromise or undermine the integrity of an investigation; or
  - (ii) risk the health, safety or welfare of the respondent student, any witness or any other person involved in the investigation of the allegation.

### **14 Student's options to engage with Summary Inquiry**

A student receiving a notice under rule 13 may (but is not obliged to):

*Attend*

- (1) attend the Summary Inquiry in person; and/or
- (2) be accompanied by another person (not being a qualified lawyer acting in that capacity) who is a student or member of the academic or professional staff of the University; and/or
- (3) if the student gives the Secretary at least 5 business days written notice and subject to availability of resources, attend the Summary Inquiry by video or teleconference; and

*Submit statements and evidence*

- (4) if attending in person, make statements or submit evidence to the Summary Inquiry; and/or
- (5) deliver a written statement or other evidence to the Secretary at least 5 business days before the date of the Summary Inquiry.

### **15 Procedure for Summary Inquiry**

- (1) The procedure for a Summary Inquiry is to be determined by the Prescribed Authority.
- (2) A Prescribed Authority has power to direct a staff member or student to provide information at any hearing of misconduct and may obtain advice or assistance from another person (such

as a unit or course coordinator), but always remains responsible for performing the delegated function.

#### *Conduct of Hearing*

- (3) In addition to those matters set out in Part 7, at a Summary Inquiry, the Prescribed Authority must consider any statements made, and any other evidence submitted, by the student in accordance with rule 14 with respect to the alleged breach of conduct and may consider such other matters, if any, as the Prescribed Authority considers relevant and appropriate.

#### *Decisions - Academic Misconduct*

- (4) After considering any evidence and representations advanced by or on behalf of the student, the University and persons directly affected by the prohibited conduct (if any) and such other matters as the Prescribed Authority considers appropriate, the Prescribed Authority must:
- (a) where the Prescribed Authority is not satisfied that the student has committed the alleged breach of academic misconduct, declare that no further action is to be taken in relation to the matter; or
  - (b) where the Prescribed Authority finds that the student has committed the alleged breach of conduct in respect of academic misconduct do one or more of the following:
    - i. fail or reduce the student's mark for the assessment item;
    - ii. require the student to resubmit an assessment item or to undertake additional assessment towards the unit;
    - iii. recommend to the relevant Faculty assessment board that the student be failed in the unit to which the student's alleged misconduct relates;
    - iv. reprimand the student;
    - v. order the suspension of the student's enrolment from the unit for a specified period or the termination of the student's enrolment in the unit;
    - vi. require that the student complete the academic integrity module or similar activity in the timeframe specified; or
    - vii. declare that no further action is to be taken in relation to the matter.

#### *Decisions - Non-Academic Misconduct*

- (5) After considering any evidence and representations advanced by or on behalf of the student, the University and persons directly affected by the prohibited conduct (if any) and such other matters as the Prescribed Authority considers appropriate, the Prescribed Authority must:
- (a) where the Prescribed Authority is not satisfied that the student has committed the alleged breach of non-academic misconduct, declare that no further action is to be taken in relation to the matter; or
  - (b) where the Prescribed Authority finds that the student has committed the alleged breach of conduct in respect of non-academic misconduct do one or more of the following:
    - i. reprimand the student;
    - ii. give the student a direction; or
    - iii. order the student to pay compensation to the University, in respect of any

damage, destruction or loss to the University or a third party resulting from the student's breach of conduct, or both.

#### *Decisions - Serious Misconduct*

- (6) Where the Prescribed Authority finds that the breach is serious misconduct, in addition to any orders made pursuant to sub-rules 15(3) or 15(4), it may make the following orders:
- (a) order the exclusion of the student from the University; or
  - (b) order the suspension of, or continue or vary the suspension of, the student for such period as the Prescribed Authority determines.

#### *Procedure Following Summary Inquiry*

- (7) Within 10 business days of the date of the Summary Inquiry, the Prescribed Authority will give notice to the student of:
- (a) the prescribed authority's action or declaration, as the case may be, including the prescribed authority's reasons for taking that action or making that declaration;
  - (b) the student's right to appeal the decision in accordance with rule 15 and the contact details of the Secretary for the purposes of lodging notice of an appeal;

and give a copy of the notice to the Secretary.

- (8) For the purposes of this rule, loss includes any loss suffered as a consequence of the removal without permission of, or other interference with, any property referred to in sub-rule 9(3).
- (9) Where compensation is ordered to be paid, it is to be paid to the University for distribution in accordance with rule 22.
- (10) Where the Prescribed Authority finds that financial compensation is payable by the University to the student or the student to the University or any other party, the Prescribed Authority will make a recommendation to an Authorised Person who will determine the amount of compensation and timeframe for payment.
- (11) Where a student does not appear before the Prescribed Authority at the time specified in the notice given under rule 13, the Prescribed Authority may exercise his or her powers under this rule in the absence of the student, as if the student had so appeared.
- (12) Subject to rule 16, a decision of a Prescribed Authority at a Summary Inquiry is final.

### **16 Appeal against outcome of Summary Inquiry**

#### *Right of appeal*

- (1) Where a Summary Inquiry finds that a student has committed a breach of conduct, the student may appeal that decision to the Committee.

#### *Limit on number of appeals against decision of Summary Inquiry*

- (2) Only one appeal can be made under sub-rule 16(1).

#### *Effect of appeal*

- (3) A decision of the Summary Inquiry remains in force during any appeal period.

#### *Grounds for appeal*

- (4) For the purposes of these Rules, grounds for appeal means:
- (a) failure to afford procedural fairness as per rule 6;

- (b) a finding of the Summary Inquiry based on a material mistake as to the facts;
- (c) new, relevant evidence that was not available to the student at the time of the Summary Inquiry that is likely to have affected the outcome of the proceedings; or
- (d) the decision was based on mere speculation or suspicion and not relevant evidence.

*Requirements for valid appeal*

- (5) A student will only be entitled to lodge an appeal pursuant to sub-rule 16(1) if:
  - (a) the request for an appeal is in writing and delivered to the Secretary;
  - (b) the request for appeal states the grounds for appeal within the meaning of these Rules and provides sufficient evidence of such grounds; and
  - (c) the appeal is instituted by the student not later than 20 business days after the day on which the Prescribed Authority causes notice to be given to the student under sub-rule 15(6).

*Procedure where valid appeal made - decision on the papers*

- (6) Where a student lodges a valid appeal under this rule, the Secretary may refer the matter to the Chair of the Committee to:
  - (a) make a decision on the papers without proceeding to a Committee Inquiry,
  - (b) give notice to the student of that decision, and
  - (c) provide a copy of the notice to the Secretary.
- (7) Sub-rule 16(6) only applies where the decision overturns the finding of the Summary Inquiry wholly in favour of the student.

*Procedure where valid appeal made – Committee Inquiry*

- (8) Subject to sub-rule 16(6), where a student lodges a valid appeal, the Secretary must cause notice of the appeal to be given to the Chair of the Committee who will proceed with a Committee Inquiry in accordance with Part 4.

*Procedure where invalid appeal made*

- (9) Where the student lodges an invalid appeal, including where sufficient grounds for appeal are not stated or evidence of such grounds are not provided, the Secretary must cause a copy of the notice to be sent to the Chair of the Committee who will consider the material and give notice to the student:
  - (a) that the appeal is invalid and set out the reasons why the appeal is invalid; or
  - (b) that the Chair will grant the student special leave to appeal.
- (10) The Chair must cause a copy of the notice to be provided to the Secretary.
- (11) If a notice of invalidity is issued to a student pursuant to sub-rule 16(9)(a), the student may lodge an amended appeal within 5 business days of the date of the notice.

*Amended appeal - invalidity*

- (12) Only one amended appeal can be submitted under sub-rule 16(11).

## **Part 4 – Appeals Committee Inquiry**

## **17 Notice of Appeals Committee Inquiry**

- (1) Where a Committee Inquiry is to be held, the Chair of the Committee must cause a notice to be issued to the student setting out the following:
  - (a) that a Committee Inquiry into the matter is to be held by the Committee;
  - (b) that the Inquiry is conducted pursuant to these rules and information about where a copy of the Rules can be obtained;
  - (c) each alleged breach of conduct;
  - (d) the day, time and place of the Committee Inquiry;
  - (e) who will be present at the Committee Inquiry on behalf of the University, and this may include the Secretary, the Student Conduct Officer and any other persons deemed appropriate by the Chair but, subject to sub-rule 18(4), will not include a lawyer acting in that capacity;
  - (f) the student's options, as set out in rule 18, in relation to the Inquiry; and
  - (g) the University's contact person in respect of the Committee Inquiry (for notices, queries and information) and their contact details.
- (2) The notice must be communicated to the student not less than 10 business days before the date of the Committee Inquiry.
- (3) A copy of the notice must be provided to the Secretary as soon as possible.

## **18 Student's options to engage with Appeals Committee Inquiry**

- (1) A student receiving a notice under sub-rule 17(1) may (but is not obliged to):

### *Attend*

- (2) attend the Committee Inquiry in person; and
- (3) be accompanied by another person (who must not be a qualified lawyer acting in that capacity without leave of the Committee and such leave must be requested in writing to the Secretary at least 5 business days before the date of the Committee Inquiry) who is a student or member of the academic or professional staff of the University; or
- (4) be represented, whether or not the student is present, by another person (subject to the provision of written authority signed by the student and given to the Secretary at least 5 business days before the date of the Committee Inquiry); or
- (5) attend the Committee Inquiry by video or teleconference (subject to availability of resources and the student giving the Secretary at least 5 business days written notice), and

### *Submit statements and evidence*

- (6) if attending, make statements or submit evidence to the Committee Inquiry; and/or
- (7) deliver a written statement or other evidence which must be provided to the Secretary at least 5 business days before the date of the Committee Inquiry.

## **19 Procedure for an Appeals Committee Inquiry**

- (1) The Committee Inquiry is not a rehearing of the Summary Inquiry and must only consider the ground or grounds upon which the appeal has been allowed.
- (2) The procedure of a Committee Inquiry is to be determined by the members of the Committee

present at the Inquiry.

- (3) The Chair of the Committee may adjourn matters at his or her discretion.
- (4) If the person assisting or representing the student at the Committee Inquiry is a solicitor or barrister, the University may also be assisted or represented at the Inquiry by a solicitor or barrister.
- (5) After considering any evidence and representations advanced by or on behalf of the student, the University, persons directly affected by the prohibited conduct (if any) and such other matters as the Committee considers appropriate, the Committee must confirm, vary or set aside:
  - (a) the finding of the Prescribed Authority at the Summary Inquiry;
  - (b) any reprimand given to the student at the Summary Inquiry;
  - (c) any order made at the Summary Inquiry, including an order for payment of compensation;
  - (d) any other orders of the Summary Inquiry.
- (6) In varying any findings, reprimand or other orders of the Summary Inquiry in relation to a breach of conduct, the Committee can make any of the orders set out in sub-rules 15(4) to 15(6) inclusive and will apply as though all references to a Prescribed Authority were references to the Committee.
- (7) Within 10 business days of the date of the Committee Inquiry, the Committee will give notice to the student of:
  - (a) the Committee's action or declaration, as the case may be, including the Committee's reasons for taking that action or making that declaration;
  - (b) the student's right to appeal the decision to the ACT Ombudsman, and give a copy of the notice to the Secretary.
- (8) If the Committee confirms the finding of the Prescribed Authority at the Summary Inquiry, the effective date of the decision is the date that the notice of the decision of the Summary Inquiry was provided to the student by the prescribed authority.
- (9) Where a student does not appear, either in person or by his or her representative, at a Committee Inquiry on the day and at the time and place fixed under rule 17, the Committee may exercise its powers under this rule in the absence of the student, as if the student had so appeared.
- (10) A decision of the Committee is final within the University.

## **Part 5 – Effect of findings**

### **20 Effect of a direction to exclude a student from the University**

- (1) Where the finding is that a student is to be excluded from the University, the student:
  - (a) ceases to be enrolled as a student; and
  - (b) must not again be admitted to a course of study or enrolled in a unit of study of the University for a period of five years.

- (2) An application for admission following the period of exclusion must be through the application processes applicable at the time of that application.
- (3) Where a finding is that a student is to be suspended from the University or a unit of study the student must not, for the period specified in the order:
  - (a) attend such classes;
  - (b) enter such parts of the University campus; or
  - (c) use such of the University facilities;

as stipulated in the suspension.

- (4) Where a prescribed authority or the Committee orders a suspension or the termination of a student's enrolment in a unit of study, the student:
  - (a) ceases to be enrolled in that unit; and
  - (b) must not again be enrolled, except with the leave of the relevant Dean of Faculty and such leave may not be sought until at least one year after the day on which the termination took effect.

## **21 Compensation**

Where, these Rules provide that compensation is to be paid to the University, being compensation in respect of damage, destruction or loss suffered by a third party, the Student Conduct Officer must upon receipt of a sum of money in respect of that compensation cause that sum to be paid to the third party.

## **22 Obligation Certificate to be issued where compensation ordered**

- (1) Where these Rules provide that a student must pay compensation to the University, a prescribed authority or Authorised Person must cause an Obligation Certificate to be issued.
- (2) the Procedures under the University of Canberra (Obligations) Rules 2015 apply to any such certificate.

## **23 Separate proceedings**

- (1) Nothing in these rules prevents the University:
  - (a) from commencing or defending civil or criminal proceedings in relation to any matter, whether or not it is the subject of a past or current inquiry under these Rules; and/or
  - (b) where a student is also an employee, officer, subcontractor or agent of the University, from taking any action under any law, University statute, rules or policy or otherwise in relation to that person in their capacity as an employee, officer, subcontractor or agent of the University.

## **24 Complainant to be Advised of Outcome**

At the conclusion of any proceedings under these Rules, which includes the expiry of the appeal period, the full outcome of the proceedings may be made known to any person who

referred the allegation to a Prescribed Authority and any complainant or victim of the conduct found to have occurred.

## **Part 6 – Constitution and proceedings of the Student Conduct Committee**

### **26 Student Conduct Committee**

- (1) There is to be a Student Conduct Committee.
- (2) The functions of the Committee are to hear appeals against a decision of a Prescribed Authority at a Summary Inquiry.
- (3) The Committee may direct the Secretary to prepare papers and information to assist the Committee to fulfil its responsibilities and obligations to the student and the University.

### **27 Constitution of Committee**

- (1) The Committee consists of the following members, to be appointed by the Vice-Chancellor:
  - (a) a professorial member of the academic staff;
  - (b) a member of the Student Representative Council;
  - (c) a member of the academic staff; and
  - (d) a member of the professional staff.
- (2) The Committee member referred to in sub-rule 27(1)(a) is to be the Chair of the Committee. The Chair cannot act as a Prescribed Authority whilst holding the office of Chair.
- (3) The Committee member referred to in sub-rule 27(1)(c) is to be the Deputy Chair of the Committee.
- (4) If the Chair of the Committee is, for any reason, unable to act, the Deputy Chair of the Committee is, during the period of the Chair's inability, to act as Chair of the Committee.
- (5) If both the Chair and the Deputy Chair are for any reason unable to act in a particular matter, a member of the professional or academic staff will be appointed to act as Chair of the Committee for that matter.
- (6) The Secretary, the Student Conduct Officer or any other person deemed appropriate by the Chair may, at the invitation of the Chair, attend a meeting of the Committee to act as technical adviser to the Committee and may speak at the invitation of the Chair but is not a member of the Committee and is not entitled to vote on any question before the Committee.
- (7) Subject to sub-rules 27(8) and 27(9), a Committee member holds office:
  - (a) in the case of a member referred to in sub-rule 27(1)(b), for one year or for the remainder of his or her term as a member, whichever is the shorter; and
  - (b) in the case of a member referred to in sub-rule 27(1)(a), 27(1)(c) and 27(1)(d), for two years;and are eligible for reappointment.
- (8) The Vice-Chancellor may remove a Committee member from office for:
  - (a) failure or incapacity to attend to his or her duties as a member; or
  - (b) in the case of a member referred to in sub-rule 27(1)(b), if the member is found to

have engaged in conduct prohibited by rule 9;  
and a member so removed is not eligible for reappointment.

- (9) A Committee member may resign his or her office by letter signed by the member and delivered to the Secretary.
- (10) In the case of a vacancy on the Committee, the Vice-Chancellor must appoint another qualified person to be a member of the Committee and the appointed person is to hold the office for the full term.
- (11) Where:
  - (a) on account of illness or otherwise, a Committee member is, or is likely to be, absent from a meeting of the Committee; or
  - (b) a Committee member is, in accordance with rule 30, disqualified from taking part in the deliberations and decision of the Committee with respect to a matter;
  - (c) the Chair or acting Chair of the Committee may appoint a qualified person to act as a member of the Committee for the purposes of that meeting or in relation to that matter, as the case may be, and the person so appointed may attend that meeting or take part in the deliberations and decision of the Committee in relation to that matter, in the absence or during the disqualification of the Committee member and, when so attending or taking part, is taken to be a member of the Committee.

## **28 Quorum of Committee**

At a meeting of the Committee, three Committee members, including the Chair or acting Chair, constitute a quorum.

## **29 Determination of questions**

- (1) Subject to this rule, a question arising in an inquiry conducted by, or an appeal to, the Committee is to be determined in accordance with the opinion of a majority of the members of the Committee present and voting.
- (2) Where, in an inquiry conducted by, or an appeal to, the Committee, the Committee members voting on a question are evenly divided in opinion, the question is to be determined by the Chair of the Committee.

## **30 Disqualification of members of the Committee**

- (1) A person, being a member of the Committee, who has a real or perceived conflict of interest in a matter before the Committee of which the person is a member, is disqualified from taking part in the deliberations and decision of that Committee with respect to that matter.
- (2) Without limiting the generality of sub-rule 30(1), a member of the Committee is deemed to have an interest in a matter before that Committee if that member is the Prescribed Authority from whose decision an appeal is brought.

## **31 Proceedings not invalidated in certain circumstances**

- (1) A proceeding under these Rules is not invalid by reason only of a formal defect or irregularity.
- (2) An act done by the Committee is not invalid by reason only of a defect in the appointment of a member of the Committee or by reason only of a vacancy in the office of a member of the Committee.

- (3) An act done by the Vice-Chancellor, a Deputy Vice-Chancellor and Vice-President, Dean or a Prescribed Authority under these Rules is not invalid by reason only of a formal defect or irregularity.

### **32 Findings to be recorded**

- (1) Where:
  - (a) a Prescribed Authority makes a finding that a student has committed a breach of conduct, and such finding is not overturned on appeal to the Committee; or
  - (b) the Committee at a Committee Inquiry makes a finding that a student has committed a breach of conduct; the finding, and any recommendation, reprimand, order, confirmation, variation or setting aside made as a consequence of the finding, must be recorded on the student's record and a copy provided to the Secretary.
- (2) Subject to sub-rule 32(4), at any future proceedings taken under these Rules in respect of any future alleged breach of conduct, the finding, recommendation, reprimand, order, confirmation, variation or setting aside recorded on the student's record under sub-rule 32(1) must be brought to the attention of a Prescribed Authority or the Committee, as the case may be.
- (3) Where a copy of a student's record is made available to any person or body (other than under sub-rule 32(2)) at the student's request, the matters, if any, recorded on the student's record under sub-rule 32(1) must not be included in that copy of the student's record, except with the written consent of the student.
- (4) Upon the expiration of a period of 10 years, commencing on the day upon which the finding or other matter referred to in sub-rule 32(1) was made, any record entered under sub-rule 32(1) on the student's record must be expunged from the record for the purposes of this rule.

### **33 Secretary to maintain conduct register**

- (1) Subject to sub-rule 33(2), the Secretary will maintain a conduct register and in respect of all matters notified to the Secretary under these rules and the Secretary will record information about the matter, including a description of the breach of conduct and all findings of the Prescribed Authority and Committee.
- (2) The Secretary will not include or identifying information on the conduct register except for the name of the Prescribed Authority or Committee members who made the finding.
- (3) The Secretary will make relevant information from the register available to Prescribed Authority and the Committee Chairperson on request for the purposes of promoting consistency of findings.
- (4) The conduct register is intended to be a resource for prescribed authorities and the Committee to promote consistency of findings. No Prescribed Authority or the Committee will be in any way bound by previous findings recorded on the conduct register.

## **Part 7 – Interaction with Medical Leave Rules**

### **34 Student Conduct Rules and serious health conditions**

- (1) A Prescribed Authority may make a referral to an Authorised Officer where proceedings have been brought against a student under these Rules and where the Prescribed Authority has formed a reasonable belief that the student may have a serious health condition as defined in the Medical Leave Rules.
- (2) Upon referral under sub rule 34(1), a Prescribed Authority may make a recommendation to an Authorised Officer to investigate pursuant to the Medical Leave Rules as well as suspending or resuming further proceedings under these Rules.
- (3) A Prescribed Authority may receive a referral from an Authorised Officer where proceedings have been brought against a student under the Medical Leave Rules and an Authorised Officer forms a reasonable belief that the student's conduct is not attributable to a serious health condition.

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The foregoing Rules are made by Council under section 40 of the *University of Canberra Act 1989* and the *University of Canberra (Student Conduct) Statute 2015*.

In making these Rules the University had regard to the provisions of section 40B(1)(b) of the *Human Rights Act 2004*.

Approved by Council on 14 December 2018 at Council meeting 196.