

STUDENT ACADEMIC AND GENERAL MISCONDUCT: HEARING AND APPEALS PANELS PROCEDURE

This procedure applies to all reports of academic misconduct and general misconduct made on or after 11 January 2021. Reports that were made before this date will be determined under the versions of the [Monash University \(Council\) Regulations](#) and the [Student Discipline Guidelines](#) or the [Student General Misconduct Procedure](#) in effect prior to 11 January 2021.

SCOPE

This procedure applies to:

- all students;
- all staff responsible for handling student academic or general misconduct matters; and
- all locations with the exception of the former Monash South Africa campus.

Students enrolled at the former Monash South Africa campus are subject to Part 7 of the [Monash University \(Council\) Regulations](#) and the [Student Discipline Guidelines](#).

PROCEDURE STATEMENT

This procedure sets out the requirements for student misconduct panels in handling allegations of academic or general misconduct and student appeals panels in handling appeals against the findings or penalties of academic or general misconduct, as outlined in Part 7 of the [Monash University \(Council\) Regulations](#). This procedure must be read in conjunction with those Regulations and the [Student Academic Integrity Procedure](#), [Student Academic Misconduct Procedure](#), [Student General Conduct Policy](#) and [Student General Misconduct Procedure](#).

In this procedure, where a student who is the subject of an allegation of misconduct is enrolled at Monash University Malaysia:

- the Director Student Services and Student Life will perform the responsibilities and duties and exercise the powers of the Senior Director of Student and Education Business Services (SEBS); and
- the President and Pro Vice-Chancellor Monash University Malaysia will perform the responsibilities and duties and exercise the powers of the Chief Operating Officer and/or Deputy Vice-Chancellor (Education).

1. Student misconduct panel

Responsibilities of the panel

1.1 A student misconduct panel (SMP) is constituted to hear and determine:

- allegations of academic misconduct;
- allegations of general misconduct; and
- allegations of both academic misconduct and general misconduct.

1.2 An SMP must observe the principles for decision makers outlined in section 2 of the [Student General Misconduct Procedure](#).

Panel membership

1.3 The Deputy Vice-Chancellor (Education) is responsible for appointing the pool of people from which an SMP is to be constituted.

1.3.1 The dean of each faculty may nominate staff members to be included in the pool.

1.3.2 The president of each recognised University student association may nominate student members to be included in the pool.

1.3.3 In appointing persons as members of the pool, the Deputy Vice-Chancellor (Education) will seek, where practicable, to have a diverse group and will appoint members based on experience and qualifications including members with expertise in relevant subject matters (such as academic integrity, sexual offences or discrimination).

1.3.4 Members of the SMP pool will be provided with appropriate training before being appointed to a panel.

1.3.5 Members are included in the pool for a two-year term and may be re-nominated for additional terms.

1.4 If an allegation of misconduct is referred to an SMP by a responsible officer (RO), the Senior Director of Student and Education Business Services (SEBS) (or delegate) must constitute a panel from the pool appointed by the Deputy Vice-Chancellor (Education), comprising the members as follows:

For allegations of academic misconduct	For allegations of general misconduct
<ul style="list-style-type: none"> • A nominee of the dean of the teaching faculty, who is the panel chair; • A member of academic staff; and • A student. 	<ul style="list-style-type: none"> • The general misconduct chair, who is the panel chair; • A member of staff; and • A student.

1.4.1 The Senior Director of SEBS (or delegate) must endeavour to appoint:

1.4.1.1 for a case of academic misconduct by a graduate research student, a staff member who has strong familiarity with graduate research studies;

1.4.1.2 for a case of academic misconduct by a student at a location other than Australia, academic staff and student members at that location; and

1.4.1.3 a student member to the panel who is of the same study level, i.e. undergraduate or postgraduate, as the student who is subject to the allegation.

1.4.2 The student who is subject to the allegation can elect to substitute the student panel member with a staff panel member, who will be appointed by the Senior Director of SEBS (or delegate).

1.4.3 For a case of alleged academic misconduct, the Senior Director of SEBS (or delegate) will consult with the dean (or nominee) of the teaching faculty before appointing the SMP members.

1.4.4 For a case involving allegations of both general misconduct and academic misconduct, the Senior Director of SEBS (or delegate) will appoint the SMP on the basis of the primary type of alleged misconduct.

1.5 A panel can be supported by a staff member from Student Conduct who will take minutes of the hearing and support the chair with arrangements before, during and after the hearing. A panel may also be supported by an RO. The RO and staff member from Student Conduct are not panel members and have no role in decision making but can advise the panel as required.

1.6 The following persons must not be appointed as a member to the panel:

- the RO who referred the report to the panel;
- a person who made the initial report or is a witness;
- a person who was involved in the investigation; or
- a person who, in the opinion of the Senior Director of SEBS (or delegate), may be affected by a reasonable apprehension of bias.

1.7 At any time, the chair may appoint to the panel a staff member as an adviser who may provide assistance and information but does not have a decision-making role.

1.8 If at any time a panel member becomes unavailable, unable or unwilling to continue as a panel member, the Senior Director of SEBS (or delegate) may substitute another panel member who must meet the same criteria as the member they replace.

Notice of hearing

1.9 Student Conduct must send a notice of hearing to the student at least 10 working days before the hearing date, unless the student agrees in writing to a shorter notice period. The notice will be sent to the student's Monash University email account. It must include:

- the sections of the [Monash University \(Council\) Regulations](#) relevant to the allegation;
- the specific allegation of misconduct, which may include when and where the alleged conduct is said to have taken place and the role of the student in the alleged act;
- the date, time and place of the hearing;
- the names of the chair and panel members and their positions on the panel;
- subject to section 1.25, the names of any witnesses and a brief description of their evidence;
- subject to section 1.25, a copy of the evidence for the misconduct, which may be provided as attachments;
- the process for objecting to a panel member or a joint hearing; and
- the right of the student to be accompanied by a support person.

1.10 The allegations in the notice of hearing should only be amended before the hearing to correct a minor error or detail. If a substantial amendment of an allegation is necessary, the hearing may need to be adjourned to allow the student adequate time to prepare.

Objecting to a panel member

- 1.11 The student may object to a panel member if they reasonably believe the member to be biased. The objection must be made in writing to the Senior Director of SEBS (or nominee) within four working days of receiving the hearing notice. The objection must set out the full details of the perceived bias and any evidence to support the objection.
- 1.12 The objection must be resolved before the day of the hearing; if that is not possible, the hearing must be postponed to a later date.
- 1.13 The Senior Director of SEBS (or delegate) may either:
- without determining the objection, arrange for the appointment of a substitute panel member in accordance with section 1.8; or
 - require the Chief Operating Officer or nominee to appoint an adjudicator, who is a legally qualified person, to consider and determine the objection.
- 1.14 In determining the objection, the adjudicator may make enquiries in any manner thought fit. The adjudicator is bound by the rules of natural justice but not by the rules of evidence.
- 1.15 After considering the objection and any relevant evidence, the adjudicator may:
- dismiss the objection as unsubstantiated, in which case the original panel member will not be substituted; or
 - uphold the objection if satisfied there is a reasonable apprehension of bias, and direct that a substitute panel member be appointed.
- 1.15.1 The decision of the adjudicator is not subject to appeal within the University by the student.
- 1.16 If the objection is upheld, the person who appointed the panel will arrange for the appointment of a substitute panel member in accordance with section 1.8. Student Conduct will notify the student in writing before the date of the hearing of the decision and, if applicable, the name of the substitute panel member.
- 1.17 The member who is the subject of the student's objection may at any time recuse themselves from the panel, in which case the person who appointed the panel will arrange for the appointment of a substitute panel member in accordance with section 1.8.
- 1.18 The student may also elect to substitute the student member of the panel with an additional staff member from the pool of members. The substitute staff panel member will be appointed by the Senior Director of SEBS (or delegate). The student's election must be made in writing within four working days of receiving the hearing notice, unless otherwise agreed by the chair of the SMP.

Joint hearings

- 1.19 Where more than one student is alleged to have engaged jointly in misconduct, the chair can decide to hear the allegations together.
- 1.20 A student can object to a joint hearing on the basis that it may cause the student unfair prejudice. The student must submit their objection, stating their reasons, in writing to Student Conduct within four working days after receiving the hearing notice. The chair may uphold or dismiss the objection.

Investigation by the SMP

- 1.21 Once a matter has been referred to the SMP, the panel may choose to conduct an investigation whether or not the RO has already conducted an investigation.
- 1.22 The panel may request information, orally or in writing, from any person at any time and set a deadline for a response, normally within five working days of the request. When in writing, the request must state that it is made by the SMP under the Monash University (Council) Regulations, but it need not disclose the reason for the request. If no response is received by the deadline, the SMP will proceed with the investigation on the basis of existing information.
- 1.23 University staff and students are required to respond to an SMP's request for information by the date specified. A response may consist of legitimate reasons for not providing the information requested, including that it no longer exists or is subject to privacy obligations.
- 1.24 In conducting an investigation, the SMP may make use of any internal University resources or external resources available to it.
- 1.25 The panel will give due consideration and care to the health and safety of any person who reports alleged misconduct or provides evidence. Where necessary, the chair can determine to provide only the substance of the evidence to the student.

Student's rights and responsibilities

- 1.26 The student should notify the panel in writing at least four working days before the hearing date of:
- their intention to attend the hearing;
 - their intention to be accompanied at the hearing by a support person (see section 1.29);
 - a summary of the evidence they intend to present at the hearing, including the names of any witnesses they intend to call; and
 - their intention to question a witness of the panel listed in the notice of hearing.

- 1.27 The student may provide a written statement, response or submission before and/or during the hearing.
- 1.28 A student may call a witness to give evidence in relation to the allegation or question a witness listed in the notice of hearing. Subject to section 1.25, if the witness is a University staff member or student, the panel must arrange for that witness to attend. If the witness is not a member of the University, the student must arrange for the witness to attend.
- 1.29 A student may be accompanied and assisted, but not represented, by one support person at the hearing who may be:
- a member of staff of a recognised Monash student association; or
 - a student of the University;
 - a member of staff of the University;
 - a close family member or friend of the student.
- 1.29.1 If a student wishes to bring a support person not listed in section 1.29, the student must provide the details of the support person to the panel at least four working days before the hearing and ask permission for that support person to attend the hearing.
- 1.29.2 The support person can prompt the student at the hearing, but can only address panel members at the invitation of the chair.
- 1.30 Subject to the direction of the chair, the student has the right to:
- question witnesses;
 - bring witnesses to give evidence on their behalf;
 - present their case, including by giving evidence and making written and/or oral submissions; and
 - produce documents or other evidence.
- 1.31 At the hearing, when each allegation is read to the student, the student may admit or deny the allegation. If a student remains silent, the allegation will be noted as denied. A student may admit to engaging in conduct that forms the basis of the allegation, but deny that this constitutes the misconduct alleged. In this case, the allegation will be noted as denied. However, the SMP may narrow the range of facts in dispute, and proceed to determine the factual elements still in dispute that are necessary to prove the allegation.

Conducting the hearing

- 1.32 The chair of the SMP is responsible for the orderly and fair conduct of a hearing and will ensure the hearing is conducted respectfully and provide the student with sufficient opportunity to respond to all allegations, evidence and adverse material before a finding is made. The chair of the SMP has the authority to modify the conduct of the hearing as required depending on the sensitivity of the matter.
- 1.33 The process followed is at the discretion of the panel, recognising that it should be sufficiently flexible to respond to the particular circumstances of the case. Normally, the following steps will be taken, subject to any modifications deemed appropriate by the panel.
- 1.33.1 At the start of the hearing, the chair will:
- introduce the members of the panel and any other staff present, and note the attendance of the student and their support person;
 - confirm that the student has the relevant documents, including the notice of hearing and copies of evidence; and
 - read out the allegations of misconduct to the student, who will be given the opportunity to admit or deny each allegation.
- 1.33.2 During the hearing, questions may be put and submissions made as follows:
- the panel may question the student or witness about any allegations or facts in issue;
 - the student may present an oral and/or written submission and submit further evidence; and
 - the panel may make any further enquiries it deems appropriate before deliberating and determining the allegations of misconduct.
- 1.33.3 After all relevant evidence has been presented, the panel will deliberate and make its determination by:
- considering the totality of evidence before it in making the decision;
 - adjourning for a short period of time for confidential deliberations, during which the student will be required to leave the hearing; and
 - recalling the student to the hearing to announce the panel's decision and reasons in brief.
- 1.33.4 If a finding of misconduct is determined, the panel will determine the penalty by:
- hearing evidence in relation to a penalty, giving the student an opportunity to present any further evidence or submission regarding the appropriate penalty to be applied;
 - adjourning for a short period of time for confidential deliberations on the appropriate penalty to be applied, during which the student will be required to leave the hearing; and
 - recalling the student to the hearing to announce the penalty and the panel's reasons in brief.

- 1.34 The chair of the SMP has the discretion to:
- adjourn the hearing for a short break or to a different date;
 - cut short irrelevant evidence or submissions and focus on issues that could rationally affect the determination of the allegation;
 - stop any disrespectful conduct, badgering or harassment of any person during the hearing;
 - allow or disallow any witness to give evidence at a hearing;
 - ensure that in matters involving alleged sexual misconduct, the complainant may present their evidence directly to, in person and in the presence of, the panel or give evidence via video-conference; and
 - direct any person to leave the hearing while a witness is giving evidence.
- 1.35 Where a witness appears before the panel to answer questions, the witness is only entitled to be present during the questioning and only one witness may be present at a time.
- 1.36 If a student, complainant or a witness is unwilling or unable to attend or participate in a hearing, it may proceed in their absence, subject to reasonable accommodations as determined by the SMP of any illness, disability, carer's responsibilities or other factor. The panel will determine the outcome based on the evidence that is available at the hearing.
- 1.37 In a hearing in which the SMP is considering allegations of general misconduct which includes sexual misconduct, the SMP will determine the matter with reference to the [Sexual Misconduct Response Procedure](#). The SMP may also take into account the current sexual offences laws including the current legal understanding of consent, by seeking advice from an adviser appointed from the Office of General Counsel.
- 1.38 Where a physical meeting is impracticable or inappropriate, the hearing may be conducted via another medium as long as the decision-making principles (section 2, [Student General Misconduct Procedure](#)) and student's rights (sections 1.26 to 1.31 above) are upheld. Options include videoconference (preferred), teleconference or by circulation of documents.

Making a determination and imposing a penalty

- 1.39 The panel will make a finding in accordance with the principles for decision makers set out in section 2 of the [Student General Misconduct Procedure](#).
- 1.40 The decision must be made by the majority of the panel and is final. The SMP should only provide a single set of reasons for its decision.
- 1.41 If the SMP determines that misconduct is proven, it may impose a penalty or penalties as prescribed in the Monash University (Council) Regulations and set out below.

Penalty	Description and conditions	Operation and effect
For a finding of general misconduct or academic misconduct		
No penalty	When misconduct has been proven and the decision maker decides not to impose a penalty because they are satisfied that the misconduct was minor and the student is unlikely to engage in further misconduct.	The finding of misconduct is recorded on the academic integrity register for seven years, but no penalty is recorded. The notice of decision, which records that a finding of misconduct was made but no penalty issued, is added to the student's file.
Record of misconduct	A record of the fact and nature of the misconduct on the student's university file that the student was found to have committed the misconduct. This is appropriate when a student admits to knowingly engaging in misconduct or it is a serious breach of academic integrity.	The record remains on the student's file for as long as the file is retained by the University. The record is added to the academic integrity register for the period set out in section 8.
Reprimand	A formal rebuke and censure for the misconduct, which may be appropriate when a student does not express remorse for the action.	Where a reprimand has previously been issued any subsequent misconduct will have more serious penalty consequences.
Consent penalty	A condition placed on the student, with their agreement, that is intended to educate and rehabilitate the student to avoid further misconduct. A consent penalty for <i>general misconduct</i> may be the requirement to: <ul style="list-style-type: none"> – seek counselling – assist with a University event or activity – apologise to any person aggrieved by the misconduct 	The decision maker will specify a date by which the condition must be met. The student must inform the relevant responsible officer of their compliance with the consent penalty. If the student fails to comply, and the responsible officer considers the student's reasons for non-compliance to be reasonable, the responsible officer may extend the time for compliance or waive the penalty.

	<ul style="list-style-type: none"> – write a reflection on the act of misconduct <p>A consent penalty for <i>academic misconduct</i> may be the requirement to:</p> <ul style="list-style-type: none"> – enrol in no more than a specified number of units – enrol in a particular unit – develop a study plan to be approved as specified – write a reflection on the act of misconduct – seek academic or other counselling – make contact with a course supervisor at specified intervals – meet the conditions imposed by an academic progress committee 	In all other cases, if the decision maker determines that the student has failed to comply with the consent penalty, they will annul the penalty and impose a new penalty having regard to the original findings and evidence.
Fine*	<p>A monetary sum that must be paid to the University calculated on the value of one penalty unit multiplied by the number of penalty units imposed as the penalty, not exceeding 5 penalty units (or equivalent at non-Australian locations as determined by the Pro-Vice-Chancellor)</p> <p>See the Vice-Chancellor's notice of the amounts of fines that may be imposed.</p>	A fine is a debt to the University and failure to pay the fine can result in invalidation of enrolment and may be recovered as a debt in court.
Restitution*	A requirement to make restitution to the University or a person who has suffered loss for the sole purpose of making good damage caused by the misconduct, and may be made by payment or action specified by the penalty.	Restitution does not extend to providing financial compensation.
Restriction on contacting certain staff or students*	The student is restricted from contacting specified staff or students for the period determined by the decision maker.	
Prohibition*	The student is prohibited from entering a specified area of the University for a specified period of time and under any conditions attached to the prohibition. This penalty is only imposed if considered necessary to protect any person or University property.	<p>The student remains a student and is not precluded from pursuing any course or unit of study during that period but must not be present in the specified area.</p> <p>The decision maker must ensure the student has reasonable access to all necessary resources to undertake study.</p>
Suspension	The student is precluded from enrolling in any course or unit for the duration of the suspension.	<p>The student remains a student but must not participate in any learning activities or submit work for assessment, graduate or gain credit towards their course or unit without the written permission of the associate dean of the managing faculty.</p> <p>The suspension does not take effect until:</p> <ul style="list-style-type: none"> – the time allowed for making an appeal expires; or – if an appeal is made and the suspension is affirmed, the final determination of the appeal. <p>In exceptional circumstances, the panel may order that the suspension takes effect immediately.</p>
Exclusion	The individual ceases to be a student at the University.	<p>The exclusion does not take effect until:</p> <ul style="list-style-type: none"> – the time allowed for making an appeal expires; or – if an appeal is made and the suspension is

		affirmed, the final determination of the appeal. In exceptional circumstances, the panel may order that the exclusion takes effect immediately.
For a finding of academic misconduct		
Disallowance of work or mark	For work not yet assessed the assessment of the work is prohibited; for work that has already been assessed the mark given to the work is disallowed. If the decision maker deems the misconduct to be minor, they may permit resubmission of the work within a specified time and subject to specified conditions. The penalty is applied to the whole work. The disallowance of parts of a work can be the appropriate marking for a breach of academic integrity but when this penalty is imposed the whole work is disallowed.	Where resubmission is allowed, the mark of the resubmitted work will count towards the final unit result. The maximum available mark for a resubmitted task is 50 per cent. Where resubmission is not allowed, the final unit result will be calculated with a mark of zero for the work. If a piece of work has not been assessed pending the outcome of a disciplinary process and no penalty is imposed, the decision maker will instruct the appropriate assessor to assess the work, and the assessor can discount the portions of the work that breach academic integrity.
Mark of zero for unit	The student's mark for the unit of which the work forms a whole or a part is recorded as zero.	Failure of the unit with a mark of zero.

1.42 When imposing a penalty or penalties, the decision maker will take into account:

- punishment of the student who engaged in the misconduct;
- deterrence of future misconduct by the student or others;
- rehabilitation of the student to avoid further misconduct;
- protection of the University community or precinct;
- protection of any relevant public interest;
- the nature and severity of the misconduct;
- the personal circumstances of the student including mitigating and aggravating circumstances;
- any measures already taken in relation to the student's misconduct;
- any loss, damage or harm caused by the student misconduct to the University or a person;
- any [penalty guidelines](#) issued by the Council, but must not apply the guidance as a rule, instead considering the facts and circumstances of the case; and
- any previous finding of academic misconduct against the student, which the decision maker will not ascertain until after finding the misconduct proven and before determining the penalty.

1.43 When imposing a penalty, the SMP may suspend the operation of that penalty for a period of up to five years on condition that, during the term of the suspension, the student does not commit another act of misconduct and on any additional conditions as the SMP thinks fit. If, at the end of the period of the suspension of a penalty, all of the conditions on which the suspension of the penalty depends are met, the original penalty will not be imposed. If the student commits another act of misconduct or breaches a condition imposed within the period of the suspension of the penalty, the penalty will take immediate effect.

Notice of decision

- 1.44 The chair of the SMP must provide the student with written notice setting out the decision and penalty imposed, if any, normally within seven working days of making a decision, although this depends on the particular circumstances of the case.
- 1.45 The notice of decision should enable the student to understand clearly how the decision was reached and why the panel came to the decision that they did. The notice should include the decision, the reasons for the decision, including any relevant facts found to be proven, the evidence on which the findings were based, the penalty imposed, the reasons for the penalty, including any mitigating or aggravating factors taken into account in imposing the penalty.
- 1.46 Student Conduct will inform any Monash staff member who is responsible for implementing all or part of the decision, as needed.

2. Hearing an appeal

Appealing a decision

- 2.1 A student who has been found to have committed an act of academic misconduct, general misconduct or both academic misconduct and general misconduct by an RO or the SMP may appeal against the finding and penalty, or the penalty only. If the student admitted the misconduct, they cannot appeal against the finding and may only appeal against the penalty.

- 2.2 An appeal is only allowed on one or more of the following grounds:
- there was a reasonable apprehension of bias on the part of the decision maker. However, if the student did not object to a panel member prior to the hearing, an appeal on this ground may only be based on the conduct of the member during the hearing;
 - there was a breach of natural justice that has the potential to alter the decision;
 - the penalty imposed was excessive;
 - there is new evidence that was not reasonably available to the student during the investigation or hearing that has the potential to alter the decision; and/or
 - the decision was not reasonable based on the evidence that was available and relevant at the time of the original decision.
- 2.3 An appeal must:
- be made in the manner specified in the notice of decision;
 - be lodged no more than 20 working days from the date of the notice of decision; and
 - specify the ground/s of appeal, as defined in section 2.2 above.
- 2.4 The student will be sent an acknowledgement of receipt of the appeal to their Monash University email account within five working days of lodging the appeal. The acknowledgement will include information about the appeals process, estimated timelines and support available.
- 2.5 Appeals against decisions of an RO or SMP in respect of academic misconduct, general misconduct or both academic misconduct and general misconduct will be heard by the Student Appeals Panel (SAP).
- 2.6 A decision by the RO or SMP to impose a penalty should not be enforced against a student until the appeal has been heard and determined, unless extenuating circumstances relating to the welfare of the student apply as outlined in section 1.25 above.

Constitution of the appeal panel

- 2.7 Following receipt of an appeal, the SAP will be appointed by:
- 2.7.1 the Chief Operating Officer (or delegate) for appeals against a finding of general misconduct; or
- 2.7.2 the Deputy Vice-Chancellor (Education) (or delegate) for appeals against a finding of academic misconduct; or
- 2.7.3 where the appeal is against a finding of both general misconduct and academic misconduct, the COO (or delegate) will appoint the SAP after consulting with the DVC(E) (or delegate).
- 2.8 The SAP will comprise the following members:
- a staff member of the University or person external to the University who will be the chair;
 - a staff member of the University; and
 - a student.
- 2.9 The officer responsible for appointing the SAP will endeavour to appoint the panel members as outlined in section 1.4.1 to 1.4.4 above.
- 2.10 The officer responsible for appointing the SAP may appoint a person who is a legal practitioner where they consider it appropriate to do so.
- 2.11 A person must not be appointed to the panel if the person is:
- the RO who conducted an investigation of the report or assisted in the investigation in any way;
 - a person who was involved in conducting the initial hearing as a member of an SMP;
 - the person who reported the alleged misconduct;
 - a person who witnessed the alleged misconduct;
 - any person who is otherwise involved or assisted in the investigation of alleged misconduct; or
 - a person who is, in the opinion of the COO or DVC(E), affected by a reasonable apprehension of bias.
- 2.12 If at any time a panel member becomes unavailable, unable or unwilling to continue as a panel member, the COO or DVC(E) (or their delegate) may substitute another panel member. A substitute member must have the same qualification to be a panel member as the member they replace (i.e. a person external to the University, a member of staff or a student).
- 2.13 The chair of the SAP will, within five working days of being appointed, send a notice to the student which sets out the relevant provision of the Monash University (Council) Regulations, members of the SAP and their qualifications, and the student's right to object to an SAP member.
- 2.14 The student may object to an SAP member if they reasonably believe the member to be biased. The objection must be made in writing and delivered to Student Conduct within four working days of receiving the notice. The objection must set out the full details of the perceived bias and may include evidence to support the objection.

- 2.15 Any objection will be determined as outlined in sections 1.11 to 1.17 above, with any necessary modifications.
- 2.16 A student may elect to substitute a student panel member according to the process set out in section 1.18 above.
- 2.17 For an appeal against a finding of general misconduct, the complainant will be made aware that an appeal has been lodged and of the processes for handling the appeal, where Student Conduct considers that it is appropriate to do so.

Review of appeal

- 2.18 The chair of the SAP will review the notice of appeal and may dismiss it if they are satisfied that the appeal is frivolous, vexatious, misconceived or lacking in substance. If the chair dismisses the appeal, they must send a notice of decision, including the reasons for the decision, to the student's Monash University email account, normally within seven working days of the decision. This decision is the final decision of the University.
- 2.19 If the chair does not dismiss the appeal, they will arrange for a notice of appeal hearing to be sent to the student at least 10 working days before the hearing date, unless the student agrees in writing to a shorter notice period.

Conducting the appeal hearing

- 2.20 For appeals against the finding and penalty, the SAP conducts a new hearing and considers afresh all the issues under appeal based on the evidence available to it at the time of the appeal hearing. The student may present to the SAP new evidence that was not before the original decision maker. It is at the discretion of the appeal panel whether witnesses will be recalled to give evidence.
- 2.21 For appeals against the penalty only, the SAP will only consider the evidence before the original decision maker and submissions from the student about the appropriateness of the penalty. The appeal panel will make its own determination of the appropriate penalty to be imposed.
- 2.22 The appeal hearing will follow the requirements outlined in sections 1.32 to 1.39 of this procedure, modified as required to accommodate the circumstances of the appeal.
- 2.23 The student has a right to be legally represented at a hearing of the SAP and must provide details of their legal representative at least four working days before the hearing. If the student is legally represented, the University may also be legally represented at the hearing of the SAP.

Determination by the Student Appeal Panel

- 2.24 The SAP will make a finding in accordance with the principles for decision makers set out in section 2 of the [Student General Misconduct Procedure](#).
- 2.25 The SAP must first determine whether the grounds of appeal outlined in section 2.2 above have been met. If so, the appeal panel will proceed to determine the decision under appeal. If not, the appeal will be immediately dismissed.
- 2.26 After hearing the appeal, the appeal panel may affirm or amend the original finding of misconduct and may affirm, set aside or amend the original penalty, in accordance with the Monash University (Council) Regulations.
- 2.27 The decision must be a majority decision of the appeal panel. The appeal panel will provide reasons for its decision.
- 2.28 After the hearing, the chair of the SAP must send a notice of decision, including the reasons for the decision, to the student's Monash University email account, normally within seven working days of the decision, as set out in section 1.46 above.
- 2.29 For an appeal against a finding of general misconduct, the complainant will be made aware of the outcome of the appeal, where Student Conduct considers that it is appropriate to do so.
- 2.30 The decision of the SAP is the final decision of the University; the [Student Complaints Policy](#) or the [University Student Ombudsman Policy](#) cannot be applied to dispute the outcome of a discipline process.
- 2.30.1 At the Malaysia campus, a student dissatisfied with any disciplinary proceeding may submit an appeal in writing to the Malaysian Registrar General of Private Higher Educational Institutions within 14 days from the date of receipt of the decision, pursuant to the Private Higher Educational Institutions Act 1996 as amended from time to time.

3. Recording keeping and reporting

- 3.1 For the purpose of this procedure, the student's file is the file stored in the University's secure document storage and retrieval system (i.e. TRIM) and a student's academic record is the record of their enrolment and academic achievement stored in the student management system (i.e. Callista).
- 3.2 The record for a case of misconduct handled under this procedure will be stored on the student's file, but not on the student's academic record, and includes all of the following as applicable:
- notice of allegation;
 - investigation records of the RO and FDP;

- documents of the student's response to the allegations;
 - minutes of the panel hearing;
 - notice of decision; and
 - notice of appeal and appeal hearing documents.
- 3.3 When a case is concluded, including any appeal, documents held by panel members or staff must be securely destroyed.
- 3.4 The Deputy Vice-Chancellor (Education) (or delegate) will maintain an academic integrity register, which records a summary of the allegations, findings, penalties and appeals relating to each case of student academic misconduct (see section 5 of the [Student Academic Integrity Procedure](#)). Student records in the register will be handled in accordance with the [Privacy of Student Records Policy](#).
- 3.5 The retention period for general misconduct and academic misconduct records in student files and on the register is 7 years, unless the student was excluded, in which case the period is 15 years (see the [Retention and Disposal Authority for Records of the Higher and Further Education Functions](#)). After this period the records will be securely destroyed unless there is an external legislative requirement to maintain specific records for a longer period.

DEFINITIONS

Academic misconduct	Intentional or reckless conduct by which a student seeks to gain for themselves or another person an unfair or unjustified academic advantage in a course or unit of study and includes cheating, collusion and plagiarism as defined in Part 7 of the Monash University (Council) Regulations.
Complainant	A person who makes a complaint or report of misconduct
Frivolous	Not serious, relies on trivialities, does not warrant a review of the matter concerned.
General misconduct	Conduct that is contrary to accepted standards of behaviour. It includes a wide range of behaviours which are outlined in Part 7 of the Monash University (Council) Regulations and in the Student General Conduct Policy .
General misconduct chair	The person appointed by the University as the permanent or fixed-term chair for the general misconduct panel.
Intentional	Deliberately performing a certain action, whether or not the one acting is aware that the act is misconduct.
Lacking in substance	Superficial, having no basis for making the claim.
Managing faculty	The faculty assigned responsibility for coordinating administrative matters for a course (including but not restricted to admission, enrolment, course advice, academic progress and academic referral). For double degree courses the managing faculty is as specified in the University Handbook.
Misconceived	Wrongly planned or judged, typically because of faulty understanding.
Reckless	Without consideration of or disregarding the risks or consequences of the action.
Respondent	A person against whom an allegation of misconduct has been made.
Sexual misconduct	Sexual misconduct means student general misconduct (for the purposes of the Student General Conduct Policy) of a sexual nature, and includes: <ul style="list-style-type: none"> – sexual assault; – sexual harassment; and – any conduct of a sexual nature without consent, including: obscene, indecent, threatening language or behaviour (including indecent exposure); observation, filming, imaging or distributing an image of a person's genital or anal region or an intimate image without consent (e.g. revenge pornography); and stalking or hazing of a sexual nature
Student	A person who: <ul style="list-style-type: none"> (a) is admitted to a course of study at the University; (b) is enrolled at the University in a non-award study or one or more units of study on an assessed or non-assessed basis and without admission to a course;

	<p>(c) is pursuing a course of study or unit of study at the University through an exchange or study program or other arrangement between the University and another educational institution;</p> <p>(d) is engaged in a student mobility program involving the University, whether or not the program is credited towards a course of study or unit of study;</p> <p>(e) has completed a course of study but on or to whom the relevant degree or award has not been conferred or awarded; or</p> <p>(f) has deferred, or has intermitted, or has been suspended from, a course of study;</p> <p>(g) is enrolled in a course of study or one or more units of study offered by the University through another educational institution; or</p> <p>(h) has consented in writing to be bound as a student by the University statutes and regulations.</p>
Teaching faculty	The faculty responsible for teaching the unit or, where teaching is shared among faculties, the faculty with the greatest percentage of teaching responsibility.
Vexatious	Done to cause unjustified trouble or for a purpose other than genuine.
Working day	A day other than a Saturday or Sunday, a public holiday under the Public Holidays Act 1993, or university holiday. In Malaysia, working day means a day other than a Saturday, Sunday or a public holiday in the relevant state in Malaysia.

GOVERNANCE

Parent policy	Student General Conduct Policy
Supporting schedules	N/A
Associated procedures	Sexual Misconduct Response Procedure Data Protection and Privacy Procedure Information Technology Acceptable Use Procedure Social Media Procedure Behaviours in the Workplace Procedure (applicable to staff) Resolution of Unacceptable Behaviour and Discrimination Procedure (applicable to staff) Student Academic Integrity Procedure Student Academic Misconduct Procedure
Legislation mandating compliance	Monash University (Council) Regulations
Category	Operational
Approval	Chief Operating Officer and Senior Vice-President 15 December 2020
Endorsement	Deputy Vice-Chancellor (Education)
Procedure owner	Senior Director, Student and Education Business Services
Date effective	11 January 2021
Review date	11 January 2024
Version	1.0
Content enquiries	studentconduct@monash.edu