INFORMATION ON
APPEAL RIGHTS

DO I HAVE A RIGHT TO APPEAL?
In some circumstances, you have a right to appeal against the finding and the penalty, or the penalty alone, of the Responsible Officer for General Misconduct (ROGM) or Student Misconduct Panel (SMP). If you want to appeal a decision, you must submit an appeal within 20 working days of the date you were sent the notice of decision.

GROUNDS OF APPEAL
You can appeal a decision made against you on limited grounds:
► Bias: there was actual bias, or a reasonable apprehension of bias by the decision maker (that is, by the RGM or a SMP)
► Excessive penalty: the penalty was excessive
► New evidence: you have new evidence that was not available at the time of the investigation or hearing that led to the finding of misconduct or the imposition of a penalty, and which could have affected the outcome
► Breach: rules of natural justice were breached and this could have affected the outcome
► Manifestly wrong: the decision was demonstrably illogical or irrational

Under the Monash University (Council) Regulations, there is no avenue for witnesses, complainants, or Monash University to appeal the decision of a RGM or SMP.

HOW DO I SUBMIT AN APPEAL?
You should submit a written appeal to the University’s Chief Operating Officer at studentconduct@monash.edu within 20 working days of the date you were sent the notice of decision.

A written appeal must contain the following information:
► Your name and student ID number
► Who made the decision you are appealing (ie. SMP or RGM?)
► Date of the written notice of decision
► Whether you are appealing against both the finding of misconduct and the penalty, or the penalty alone
► What are the grounds of appeal

WHAT HAPPENS NEXT
When an appeal is lodged, your appeal is reviewed by someone external to the University (the Chairperson), who will either:
► Advise the University to set up a Student Appeals Panel (SAP) to hear your appeal; or
► Dismiss the appeal on the grounds that it is:
  ► Frivolous;
  ► Vexatious;
  ► Misconceived; or
  ► Lacking in substance.

If the Chairperson dismisses your appeal, you will receive a written notice of decision. This is a final decision of the University.

REFERRAL TO SAP
If referred to a SAP, the SAP must decide whether the appeal has been made out (that is, whether the ground of appeal has been substantiated). A decision may be made on the papers (ie. without the need to hold a hearing). The SAP must dismiss the appeal if satisfied that the appeal has not been made out.

SAP MEMBERS
The panel of decision-makers include:
► The Chairperson (independent person external to the University)
► Second member (a Monash staff member), and
► Third member (a Monash student)

You may request to replace the student member with another staff member.

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SAP HEARING
If referred to a SAP hearing, you may be invited to present your case to the panel. The SAP may also ask complainants and witnesses to attend the hearing.

Other people may be present including:
► A secretary or note-taker
► The ROGM
► A member of the Student CARE (Coordination, Assessment, Referral and Evaluation) Service, a mental health nurse, or other skilled person to support you and/or the complainant
► Support persons brought by student participants
► A legal advisor to the panel
► Other people who are observing the panel

REPRESENTATIVES AND LEGAL ADVICE
You should inform yourself of your rights and seek your own advice, particularly for serious matters. You can seek advice from a student rights advocate at your relevant student association.

The SAP is not a legal tribunal. However, if referred to a hearing, you are allowed to be legally represented.
You must include details of your legal representative in your response to the hearing notice.

OUTCOME
The SAP will, by a unanimous or majority decision, either:
► Affirm the original decision of the ROGM or SMP; or
► Vary the original decision of the ROGM or SMP; or
► Set aside the original decision. The SMP will hear the matter afresh, and will substitute the original decision with its own decision.

FURTHER INFORMATION: GROUNDS OF APPEAL

1. Actual bias or reasonable apprehension of bias:
   ► You need to demonstrate that the person was unable to have an open mind in your case or was prejudiced against you (i.e., identify who was affected by the bias and how it affected the outcome).
   ► You are expected to have raised your concern at the earliest opportunity (i.e., if you did not lodge an objection to a member of the SMP before the hearing, you will only be able to appeal on the basis of their behaviour in the hearing).

2. Excessive Penalty:
   ► You will need to demonstrate that the penalty is disproportionate to the type of general misconduct you were found to have committed, such as:
     - a significant penalty being imposed for a minor category of misconduct; or
     - where the penalty imposed would have significant, unintended consequences for you that has not been taken into account.
   ► You cannot argue that a penalty is excessive because another decision-maker made a different finding for a similar allegation.

3. New Evidence:
   ► You will need to provide the new evidence, explain why it was unavailable to you earlier, and then demonstrate how the evidence could have affected the outcome.
   ► You need to be able to show how the SMP or ROGM would have made a different determination if the material had been available at the time of making a decision.

4. Breach of the rules of natural justice:
   ► You must identify which rules were not followed and then explain how this affected the decision in your case. Natural justice in deciding allegations of general misconduct requires that:
     - Students have notice of allegations against them
     - Students have access to the information used to make a decision about allegations against them
     - Students have a right to respond to the allegations made against them
   ► You must demonstrate how the outcome may have been different if the rules of natural justice had been applied.

5. Manifestly wrong:
   ► You will need to demonstrate that the decision was unrelated to the facts presented in the evidence and at the hearing, or so illogical or irrational that no reasonable decision-maker could have made that decision.