

STUDENT GENERAL MISCONDUCT PROCEDURE

SCOPE

These procedures apply to:

- all Monash University students (other than students the former Monash South Africa campus); and,
- all Monash University staff,

where the act of misconduct occurred at a University precinct or while engaging in a University activity, as defined in the [Student Conduct Policy](#) and Regulation 30 in [Part 7 of the Monash University Council Regulations](#). General misconduct for students of former Monash South Africa campus are dealt with under the [Student Discipline Guidelines](#). This procedure must be read in conjunction with the Regulations, [Student General Conduct Policy](#) and the [Student Academic and General Misconduct: Hearing and Appeals Panels Procedure](#).

PROCEDURE STATEMENT

This procedure supports the safety and wellbeing of staff, students and property at Monash University (the University) by setting out the procedures for handling student general misconduct matters.

All references in this procedure to organisational units or positions include equivalent units or positions at Monash Malaysia, IITB-Monash Research Academy (IITB) and Monash Suzhou.

1. General Principles

1.1 There are four types of decision makers responsible for handling student general misconduct as follows:

Decision maker	Type of misconduct	Responsibility
Responsible officer for general misconduct (RO)	General misconduct General misconduct coupled with academic misconduct	Determination of misconduct and penalty
Student misconduct panel (SMP) (see the Student Academic and General Misconduct: Hearing and Appeals Panels Procedure)	Academic misconduct General misconduct Academic misconduct coupled with general misconduct	Determination of misconduct and penalty
Student appeals panel (SAP) (see the Student Academic and General Misconduct: Hearing and Appeals Panels Procedure)	Academic misconduct General misconduct Misconduct that involves academic and general misconduct	Determination of appeals against the finding of the RO or SMP
Another responsible officer or panel	Misconduct that involves more than one type of misconduct Academic misconduct Research misconduct	Determination of misconduct and penalty

1.2 The ROGM and SMP are both empowered to make primary decisions on a report of general misconduct, including by imposing a prescribed penalty. All primary decisions can be appealed to the SAP. The decision of the SAP is the final decision of the University. The processes for handling a report of general misconduct are set out in the four stages below. This procedure and the [Student Academic and General Misconduct: Hearing and Appeals Panels Procedure](#) sets out the requirements for handling allegations of general misconduct

2. Overarching Principles for Decision-makers

- 2.1 In the process of handling a report of general misconduct, all decision-makers are bound by the principles of natural justice. This means that:
- a student who is a complainant or respondent has the right to be informed of the process that is being followed and to be offered support during the process;
 - a student has the right to be informed of the allegations against them, and be provided with a reasonable opportunity to respond to the allegations; and,
 - a student has the right to have the allegations determined by an unbiased decision-maker.
- 2.2 The requirements relating to the principles of natural justice in each case may differ depending on the particular facts and circumstances of the case.
- 2.3 The standard of proof required is the “balance of probabilities”. This means that a decision-maker will find that an allegation of misconduct is proven if they are satisfied that it is more likely than not that the alleged misconduct took place.
- 2.4 It is up to the decision-maker to determine the appropriate weight to be accorded to each piece of evidence, having regard to such issues as the relevance and reliability of the evidence, the contemporaneity of the evidence, the circumstances leading up to the relevant act or acts alleged to be misconduct, and whether the evidence is corroborated.
- 2.5 In making a determination as to whether misconduct is proven, the decision-maker must document both the decision and the reasons for reaching the decision, including the relevant facts found to be proven, and the evidence on which the findings were based, and reasoning process in reaching the final decision.
- 2.6 The University may disclose the outcome of a misconduct proceeding to the complainant and any other person aggrieved by the misconduct where appropriate. The decision-maker may also notify another area of the University about a pending or concluded misconduct proceeding on a strictly need-to-know basis, e.g. the relevant faculty, or graduation services.

3. Stage 1: Reporting an Act of General Misconduct

- 3.1 Any person who considers that a student may have engaged in general misconduct may report the student’s conduct to a Responsible Officer for General Misconduct (ROGM). A report may be made in writing or orally.
- 3.2 A staff member who considers that a student may have engaged in general misconduct must report the conduct to the ROGM, unless the alleged general misconduct is conduct of a sexual nature.
- 3.3 If a report of general misconduct is made to a staff member other than the ROGM, the staff member receiving the report should promptly refer it to the ROGM, unless the alleged general misconduct is conduct of a sexual nature.
- 3.4 If a staff member considers that a student may have engaged in general misconduct of a sexual nature, or such a report is made to a staff member, the staff member and affected students are encouraged to contact the Safer Community Unit (SCU) for advice and support. General misconduct of a sexual nature should only be reported to the ROGM with the consent of the student who disclosed the sexual misconduct, unless mandatory reporting is required in which case the staff member should contact SCU. Staff should refer to the [Sexual Misconduct Response Procedure](#) for further guidance.
- 3.5 The ROGM may investigate general misconduct whether or not a report has been made, if they have reasonable grounds to believe that a student has committed an act of general misconduct.
- 3.6 Where a report of misconduct relates to the conduct of more than one student arising out of the same or related circumstances, the matters can be heard together, if so determined by the ROGM.

4. Stage 2: Considering a Report of General Misconduct

Initial assessment

- 4.1 Where the ROGM receives a report of general misconduct, they must consider the report and determine whether to:
- dismiss the report and take no further action;
 - refer the report for resolution in another way, e.g. informal counselling or grievance;
 - investigate the report and either make a determination or refer the report to the SMP;
 - refer the report for investigation and determination by another responsible officer, in accordance with paragraphs 4.3 to 4.6 of these procedures; or,
 - refer the report to a SMP if determined that escalation to a SMP is appropriate.

- 4.2 In deciding which course of action to take upon receiving a report of general misconduct, the ROGM may have regard to any matters the ROGM considers relevant, including but not limited to:
- whether the allegation is minor, trivial, vexatious or frivolous in nature; and,
 - whether the matter could be more appropriately dealt with through an alternative University process (e.g. the Student Complaints Policy).
- 4.3 Subject to 4.5 below, where a report of misconduct includes both general and research and/or academic misconduct, the ROGM will refer the matter to the responsible officer for research misconduct and the matter will not be investigated or determined in accordance with this procedures (see [Responsible Conduct of Research: Procedure for Investigating Code Breaches](#)).
- 4.4 Where a report of misconduct involves general misconduct coupled with academic misconduct if, in the opinion of the ROGM, the matter is more appropriately handled under the [Student Academic Integrity Procedure](#), the report of both general and academic misconduct will be investigated or determined in accordance with [Student Academic Integrity Procedure](#) and not in accordance with this procedure.
- 4.5 Where a report of misconduct includes sexual misconduct and research and/or academic misconduct, the ROGM will refer the research and/or academic misconduct allegations to the responsible officer for research misconduct and the ROGM will continue to handle the allegations of sexual misconduct.
- 4.6 A faculty responsible officer may refer a matter to the ROGM if, in the opinion of the faculty responsible officer, the matter is more appropriately dealt with by the ROGM under these procedures.
- 4.7 The ROGM will endeavour to conduct and conclude an investigation expeditiously, having regard to the circumstances of the case.

Investigation

- 4.8 If the ROGM decides to investigate the report of misconduct, they will undertake the following steps:
- identify how the allegation made in the report could amount to misconduct;
 - consider the evidence available to them;
 - determine their own procedure, including by arranging a meeting with a student, making any follow up inquiries, or obtaining additional evidence relevant to the allegation;
 - use appropriate internal University or external resources available to assist in the conduct of the investigation; and,
 - if required for the good conduct of the investigation and the safety of any person, request information from any person at any time, having regard to the gravity of the alleged misconduct, and set a deadline for a response. Unless there are exceptional circumstances this request should be made in writing. The request should state that the request is made by the ROGM under the [Monash University \(Council\) Regulations](#), but need not disclose the reasons for the request of information. If no response is received by the deadline, the ROGM will proceed with the investigation on the basis of existing information.

Student Response

- 4.9 Unless there are exceptional circumstances, the student will be informed of the alleged misconduct in writing and invited to respond to the allegations in writing or at a meeting. The written notice will set out:
- the relevant provision of the [Monash University \(Council\) Regulations](#);
 - the specific allegation(s) made against the student, including where and when the conduct is said to have taken place and the role the student is alleged to have played; and,
 - a copy of the evidence against the student may be provided or relayed to the student during the meeting, in which case the student will be given a reasonable opportunity to respond to that evidence.
- 4.10 The ROGM will give due consideration and care to the provision of evidence that may expose a person to a risk to their health and safety. Where necessary, a redacted version of the evidence may be provided, or the substance of the evidence may be relayed to the student.
- 4.11 Once notified of the alleged misconduct, a student must be given a reasonable opportunity to respond to the allegation. Normally this is not less than 5 working days, unless there are exceptional circumstances to justify a shorter timeframe. If a student does not provide a response in the time specified, the ROGM may make a determination based on the material available.

Conclusion of Investigation

- 4.12 At the conclusion of an investigation, the ROGM must either:
- dismiss the report;
 - find that the misconduct is proven and determine a penalty; or,
 - where they are satisfied that the allegation of general misconduct is sufficiently serious or complex to warrant escalating the matter, refer the matter to the Student Misconduct Panel for hearing and determination.

4.13 The ROGM will make a finding in accordance with the Overarching Principles for decision makers set out at the start of these procedures.

Determination of a penalty

4.14 If the ROGM finds misconduct proven through their investigation, they may impose one or more of the penalties prescribed in Part 7 of the [Monash University \(Council\) Regulations](#) (also set out in Table 1).

4.15 The specific penalty or penalties imposed is at the discretion of the ROGM, having regard to the following factors:

- the objectives of punishing the students;
- the objectives of deterring future misconduct;
- the objective of rehabilitating the student;
- the objective of protecting the university community or a university precinct;
- the objective of protecting any relevant public interest;
- the nature, and severity of the misconduct;
- the personal circumstances of the student, including any mitigating or aggravating circumstances;
- the personal circumstances of the student;
- any measures already taken in relation to the student in response to the misconduct;
- any loss, damage or harm caused by the misconduct to the University or any other person; and,
- any previous findings of misconduct against the student and/or previous penalties imposed on the student.

4.16 The RO has the power to impose the penalties listed in Table 1.

Table 1: Penalty options for general misconduct and general misconduct coupled with academic misconduct

Penalty	Description and conditions	Operation and effect
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 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.	The record remains on the student's file for as long as the file is retained by the University.
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	<p>A condition placed on the student, with their agreement, that is intended to educate and rehabilitate the student to avoid further misconduct.</p> <p>A consent penalty for <i>general misconduct</i> may be the requirement to:</p> <ul style="list-style-type: none"> • seek counselling • assist with a University event or activity • apologise to any person aggrieved by the misconduct • 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 	<p>The decision maker will specify a date by which the condition must be met.</p> <p>The student must inform the relevant responsible officer of their compliance with the consent penalty.</p> <p>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.</p> <p>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.</p>

	progress committee	
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.	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. The decision maker must ensure the student has reasonable access to all necessary resources to undertake study.
Disallowance of work or mark*	<p>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. The decision maker may permit resubmission of the work within a specified time and subject to specified conditions.</p> <p>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.</p>	<p>Where resubmission is allowed, the mark of the resubmitted work will count towards the final unit result.</p> <p>Where resubmission is not allowed, the final unit result will be calculated with a mark of zero for the work.</p> <p>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.</p>
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.

*Penalty typically imposed for academic misconduct that arise from the same circumstances as general misconduct.

- 4.17 When imposing a penalty, the ROGM 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 respondent does not commit another act of misconduct and on any additional conditions as the ROGM 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 a decision

- 4.18 A statement of the decision of the panel and the reasons for decision will be provided to the respondent in an expeditious manner, and normally within 7 working days of the decision. A statement disclosing the outcome may also be provided to the complainant where it is appropriate.
- 4.19 The notice of decision should enable the respondent to understand clearly how the decision was reached and why the ROGM came to the decision that they did. The notice should include: the decision, including the penalty imposed; the reasons for the decision and

the penalty imposed; any relevant facts found to be proven; the evidence on which the findings were based, and any mitigating or aggravating factors taken into account in imposing the penalty.

4. 20 The ROGM will inform any Monash staff member who is responsible for implementing all or part of the decision, as needed.

4. 20.1 For students at Monash University Malaysia, the notice of decision will be shared with the Registrar and Chief Governance Officer.

5. Stage 3: Determination by a Student Misconduct Panel

5.1 If the matter is referred to a SMP, the [Student Academic and General Misconduct: Hearing and Appeals Panels 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](#).

6. Stage 4: Appealing a Decision

6.1 A student who has been found to have committed an act of general misconduct by the ROGM may appeal against either the finding and the penalty, or only the penalty; however, if the student admitted the misconduct, they cannot appeal against the finding but may appeal against the penalty only.

6.2 The procedure for general misconduct appeals is outlined in section 2 of the [Student Academic and General Misconduct: Hearing and Appeals Panels Procedure](#).

6.3 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.

7. Emergency provisions

7.1 At any point during the process for handling reports of general misconduct, any decision-maker may refer the matter to the conduct review officer appointed by the Vice-Chancellor for assessment under the Exclusion for Safety reason regulations (Part 13 of the [Monash University \(Council\) Regulations](#)). This allows the conduct review officer to consider whether a student should be suspended from a course or from the University or excluded in order to protect the health and safety of any person (including the person concerned) or the property of the University.

7.2 At any point during the process for handling reports of general misconduct, any decision-maker may refer a matter to a University security officer under Regulation 49 of the [Monash University \(Council\) Regulations](#). This allows the security officer to direct the student to leave a university precinct, or impose restrictions on their entrance or access or presence at a specified University precinct where a student poses a risk to the health or safety of any person (including the person concerned) or has failed to show that he or she has a lawful right to be on or in the university precinct

8. Concurrent investigations

8.1 The University may at its sole discretion, suspend or proceed with its investigation into a report of general misconduct if the matter is subject to a police or external regulatory investigation or enquiry.

8.2 The University may suspend its investigation into a report of general misconduct if the matter is subject to an internal University investigation or enquiry, e.g. if the matter is being dealt with under staff disciplinary procedures pursuant to a University enterprise agreement.

8.3 The University may take into account any penalties imposed or administrative action taken by another area of the University, e.g. Monash Residential Services, as mitigating factors in determining the appropriate penalty to be applied for a proven misconduct.

DEFINITIONS

Complainant	A person who makes a complaint or report of misconduct.
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 .
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
Responsible Officer General Misconduct	A member of staff appointed by the Vice-Chancellor or delegate to receive, investigate and make decisions about allegations of student general misconduct.
Student Misconduct Panel	A body established under part 7 of the Monash University (Council) Regulations to hear allegations of misconduct referred by a responsible officer.
Student Appeals Panel	A body established under part 7 of the Monash University (Council) Regulations to hear appeals of decisions of student misconduct made by a responsible officer or SMP.

GOVERNANCE

Parent policy	Student General Conduct Policy
Supporting schedules	N/A
Associated procedures	Sexual Misconduct Response Procedure Data Protection and Privacy Procedure IT Acceptable Use Procedure Social Media – Student Use Procedures Behaviours in the Workplace Procedure (applicable to staff) Resolution of Unacceptable Behaviour and Discrimination Procedure (applicable to staff) Student Academic and General Misconduct: Hearing and Appeals Panels Procedure
Related legislation	Monash University (Council) Regulations
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Approval	Chief Operating Officer and Senior Vice-President 16 October 2019
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