

Student Discipline Guidelines

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Part 1 – Application

Commencement

Part 7 of the Monash University (Council) Regulations made in 2014 (hereafter the ‘Discipline Regulations’) can only be used to deal with student discipline matters reported on or after 28 May 2014. These Guidelines apply to matters under the Discipline Regulations. For matters arising prior to this date go to [Part 11](#).

Note: Amendments to the Discipline Regulations came into effect on 26 February 2018, which centralised the handling of student general misconduct on Australian campuses. The guidelines do not apply to acts of general misconduct alone by students enrolled at an Australian campus. The Student General Misconduct Policy and Procedure now apply to acts of these matters.

[Discipline Regulations, regulation 56.](#)

Student discipline framework

The student discipline framework is set out in [Appendix 1](#).

Who do the Discipline Regulations apply to?

The Discipline Regulations apply to acts of:

- academic misconduct;
- research misconduct; and
- academic and/or research misconduct combined with an act of general misconduct, which are reported to a responsible officer for academic or research misconduct;

committed by any student of the university. They also apply to acts of general misconduct committed by a student undertaking a course of study primarily at Monash University Malaysia or Monash South Africa.

Note: For acts of general misconduct committed by a student of the university (other than a student of Monash University Malaysia or Monash University South Africa), refer to the Student General Misconduct Policy and Student General Misconduct Procedure.

A student is a person who:

- is admitted at the University to a course of study, enrolled in a unit of study or in non award study (eg single unit enrolment);
- is pursuing a course or unit of study at the University through an exchange or study program or other arrangement between the University and another educational institution (eg through Monash Abroad);
- is engaged in a student mobility program involving the University whether or not such program is credited towards a course or unit of study (e.g. through Monash Abroad);
- has completed a course of study, but on or to whom the relevant degree or award has not been conferred or awarded;
- is on an intermission or has been suspended from or has deferred enrolment in a course of study;
- is enrolled in a course of study or one or more units of study offered by the University through Open Universities Australia or another educational institution; or
- has consented in writing to be bound by the Discipline Regulations (e.g. under a course agreement).

The Discipline Regulations do not apply to staff misconduct.

[Discipline Regulations, Dictionary.](#)

What about students at Monash University Malaysia or Monash South Africa ?

Any student who is undertaking a course of study primarily at Monash University Malaysia or Monash South Africa is subject to the Discipline Regulations, with the campus specific variations set out in Regulation 53.

These Guidelines apply to Monash University Malaysia and Monash South Africa with campus based variations noted throughout.

Discipline Regulations – regulation 53.

What about students undertaking a joint award?

Any student undertaking a joint award of the University and another institution who is the subject of an allegation of misconduct may be dealt with under the processes described in these Guidelines, or as provided for here.

Where the partner institution determines the allegation of misconduct under its student discipline process, the University may adopt the finding of the partner institution in substitution for the process set out in these Guidelines where satisfied that:

- the partner institution observed the rules of natural justice in making the finding; and
- the process followed by the partner institution complied with legal obligations imposed on the University.

To make this assessment will involve the decision maker obtaining information about the process used by the partner institution, to ensure it complied with the rules of natural justice and any applicable legal obligations on the University (e.g. for Monash Australia ESOS obligations where applicable, and for Monash University Malaysia the Private Higher Education Institutions Act.

If satisfied these requirements are met, the decision making and appeal process in these Guidelines need not be followed and the partner institution decision can be adopted as the decision of the University on the allegation of misconduct. If not satisfied these requirements are met, the decision making and appeal process in these Guidelines apply to the students' enrolment at the University.

These options exist for University students at IITB, SEU and University of Warwick and other joint award programs.

Discipline Regulations – regulation 29.

What about students studying through Future Learn, the Pearson Alliance or Open Universities Australia?

Any student who is undertaking a unit or units of study or a course of study offered by the University but through Future Learn or the Pearson Alliance or Open Universities Australia is subject to the Discipline Regulations.

What about University students at Gippsland?

Students of the University based at Federation University Australia, Gippsland campus are subject to the Discipline Regulations.

What are the types of misconduct?

The Discipline Regulations make it an offence for a student to engage in any of three types of misconduct:

- [general misconduct](#);
- [academic misconduct](#);
- [research misconduct](#).

Discipline Regulations, regulation 30(2).

Assistance

All staff at Monash Australia and Monash South Africa considering or taking steps under the Discipline Regulations may contact the Office of the General Counsel for further advice and assistance on matters not fully explained in these Guidelines. At Monash University Malaysia campus, the Campus Solicitor provides this assistance.

Students subject to action under the Discipline Regulations should contact their campus based student association for further assistance.

Part 2 – Reporting an act of misconduct

When can a report of misconduct be made?

Any person who has reasonable grounds to believe that a [student](#) has committed an act of misconduct can report the misconduct to the [responsible officer](#).

A student may be the subject of a report of misconduct for activities undertaken outside university grounds, for example when:

- involved in a university activity conducted by or on behalf of the University anywhere in the world (e.g. at inter-university games events);
- involved in a university activity through a club or entity affiliated with the University (e.g. during official orientation week activities);
- at another institution while enrolled at the University and pursuing study approved by the University (e.g. on a study exchange program for credit).

Discipline Regulations, regulation 30(3) and Dictionary.

Who can report misconduct?

Any person can report suspected misconduct. An employee of Monash Australia, Monash University Malaysia or Monash South Africa must report suspected misconduct. A report of misconduct is made to the [responsible officer](#). The responsible officer must then determine whether the matter should be dealt with under the Discipline Regulations or informally or if no further action is warranted. While a student or other person can report misconduct to the University or the responsible officer, employees of the University are obliged to make such a report.

In addition, the person or the responsible officer may report the matter to the conduct review officer under Part 13 of the Monash University (Council) Regulations to consider an interim decision where the student may present a serious risk to the health or safety of any person or the property of the University.

Discipline Regulations, regulation 31.

To whom to report an act of misconduct

An act of misconduct should be reported to the relevant responsible officer. A report may be made in writing or verbally. The responsible officer in any particular case is set out in the table below. If a report of misconduct is made to a person other than the responsible officer, then the person receiving the report must promptly forward the report to the responsible officer.

Responsible Officers in Part 7 of the Monash University (Council) Regulations

Pursuant to regulation 28 of the Monash University (Council) Regulations, for the purpose of Part 7 of those Regulations, the Vice-Chancellor of Monash University specifies the following responsible officers in the right column for the class of misconduct in the left column:

For Monash Australia the responsible officers are (subject to any delegation):

Class of misconduct	Responsible Officer
Research misconduct <i>Being either an act(s) of research misconduct alone or research misconduct coupled with academic misconduct,</i>	The chair of the graduate research committee

<i>general misconduct or both</i>	
Academic misconduct <i>Being either an act(s) of academic misconduct alone or academic misconduct coupled with general misconduct</i>	The associate dean of the teaching faculty, or if there are multiple acts of related misconduct, the associate dean of the managing faculty.

*The teaching faculty is the faculty which teaches the unit in which the academic misconduct occurred. The managing faculty is the faculty responsible for the degree in which the student is enrolled. If the report involves conduct by a post graduate research student, the associate dean may elect to delegate handling of the report to the associate dean in the Faculty responsible for the research degree.

For Monash University Malaysia the responsible officers are (subject to any delegation):

Class of misconduct	Responsible Officer
Research Misconduct <i>Being either an act(s) of research misconduct alone or research misconduct coupled with academic misconduct, general misconduct or both</i>	The chair of the graduate research committee
Academic Misconduct <i>Being either an act(s) of academic misconduct alone or academic misconduct coupled with general misconduct</i>	The associate dean of the teaching faculty, or if there are multiple acts of related misconduct, the associate dean of the managing faculty *.
General Misconduct <i>Being an act(s) of general misconduct alone which occurred in a defined area+</i>	The senior officer of the defined area+
General Misconduct <i>Being an act(s) of general misconduct alone which did not occur in a defined area+ and involved one or more students all from the same school at Sunway</i>	The deputy head of the student's school or closest equivalent
General Misconduct <i>Being an act(s) of general misconduct alone which did not occur in a defined area and involved multiple students from different schools at Sunway</i>	The director of student services

*The teaching faculty is the faculty which teaches the unit in which the academic misconduct occurred. The managing faculty is the faculty responsible for the degree in which the student is enrolled. If the report involves conduct by a post graduate research student, the associate dean may elect to delegate handling of the report to the associate dean in the Faculty responsible for the research degree.

+ For general misconduct in any of the four defined areas, the senior officer is:

- In an examination – Manager, Student Administration
- eSolutions Division - Chief Information Officer
- Library and Learning Commons – Head of Library and Learning Commons & Chief Librarian
- Sporting facilities – Director of Student Services Campus grounds – Director of Student Services

For Monash South Africa the responsible officers are:

Class of misconduct	Responsible Officer
<p>Research Misconduct</p> <p><i>Being either an act(s) of research misconduct alone or research misconduct coupled with academic misconduct, general misconduct or both</i></p>	<p>Prof Anna-Mart van Wyk</p> <p>Executive Dean</p>
<p>Academic Misconduct</p> <p><i>Being either an act(s) of academic misconduct alone or academic misconduct coupled with general misconduct</i></p>	<p>Prof Anna-Mart van Wyk</p> <p>Executive Dean</p>
<p>General Misconduct</p> <p><i>Being an act(s) of general misconduct alone</i></p>	<p>Ms Yolandi Kotze</p> <p>Revenue & Collections Manager</p>
<p>General Misconduct</p> <p><i>Being an act(s) of general misconduct alone which involved one or more students all from the same school at MSA</i></p>	<p>Ms Yolandi Kotze</p> <p>Revenue & Collections Manager</p>
<p>General Misconduct</p> <p><i>Being an act(s) of general misconduct alone which involved multiple students from different schools at MSA</i></p>	<p>Ms Yolandi Kotze</p> <p>Revenue & Collections Manager</p>

Discipline Regulations, regulation 28 and 31.

Part 3 – Investigating Misconduct – The Responsible Officer

What if the report is made to the wrong responsible officer or includes multiple types of misconduct?

Where a responsible officer receives a report of misconduct and forms the view that another person is the appropriate responsible officer to deal with the report, the first responsible officer should cease dealing with the report and refer it to the appropriate responsible officer as specified in the table above for the applicable campus. For example a responsible officer for academic misconduct must refer any report of misconduct that includes an allegation of research misconduct to the chair of the graduate research committee.

Reports involving research misconduct will be referred to the responsible officer for research misconduct. Where the responsible officer for academic misconduct receives a report involving general and academic misconduct, he or she should consult with the responsible officer for general misconduct and determine which responsible officer shall manage the matter.

Discipline Regulations, regulation 31.

Can a responsible officer take action without a report?

A responsible officer may investigate misconduct whether or not a report has been made, if he/she has reasonable grounds to believe a student has committed an act of misconduct.

Discipline Regulations, regulation 31.

Serious allegation indicative of a safety risk to the student or others

Serious allegations of misconduct that involve an immediate and serious safety risk to the person concerned or any other member of the University community may be referred to the Faculty Dean or Deputy Vice-Chancellor (Education) for consideration for management according to Part 13 of the Monash University (Council) Regulations. For advice on this process you should contact the Safer Community Unit or the Office of the General Counsel.

Multiple allegations or reports about the conduct of one student

Where a report or reports are made alleging more than one act of misconduct or more than one type of misconduct, and the misconduct arose out of the same or related circumstances, the responsible officer must deal with the allegations at the same time. This is required even if the reports of misconduct originate from different sources.

Each act of misconduct alleged is to be the subject of a separate finding of misconduct and the responsible officer must ensure that finding one act of misconduct proven does not mean another act of misconduct is proven. Each allegation must be determined based on the evidence before the responsible officer relevant to that allegation.

Discipline Regulations, regulation 31 and 47.

Options available to the responsible officer

The responsible officer must consider the report of misconduct and determine whether to:

- Dismiss the report and take no further action; or
- Investigate the report, which investigation may result in a decision to:
 - Dismiss the report and take no further action; or
 - Determine that misconduct has been proved and impose a penalty, if appropriate; or
 - Refer the report to a panel for hearing and determination; or
 - Determine to deal with it under another relevant University process; or
- Immediately refer the report to a panel for hearing and determination.

For a report of academic misconduct concerning a HDR student, to ensure the deliberation of the report has regard to graduate research issues, the responsible officer may determine to delegate the duties of the responsible officer to the Associate Dean Graduate Research or equivalent to determine, or may refer it to a panel for hearing and request the panel includes a member with a strong familiarity with graduate research studies programs.

Discipline Regulations, regulation 31 and 32.

Dismissal of a report

The responsible officer may dismiss a report without conducting any investigation if reasonably satisfied the allegation:

- does not constitute an allegation of misconduct; or
- would be more appropriately addressed under another University process (e.g. the Student Academic Integrity Policy); or
- is minor, trivial, vexatious or frivolous in nature and should not be the subject of a process under the Discipline Regulations.

The responsible officer may dismiss a report of misconduct after conducting an investigation.

Discipline Regulations, regulation 31.

Investigation of a report

The purpose of the investigation is to assist the responsible officer to determine how to deal with the report of misconduct. The process to be followed when investigating a report will depend on the nature of the matter alleged in the report and relevant surrounding circumstances. There is no single process for conducting an investigation.

The responsible officer is empowered to make enquiries and inform him or herself in any manner thought fit, in accordance with the rules of [natural justice](#). The responsible officer is not bound by the [rules of evidence](#).

Usually the responsible officer will undertake the following in the investigation, but the responsible officer may determine to dismiss the matter or refer it to a panel for hearing and determination without undertaking any or many of these steps:

- Identify the allegation/s made in the report and how these could be an offence under the Discipline Regulations having regard to the [definition of misconduct](#);
- Understand the evidence in support of the allegation/s of misconduct;
- If there are further enquiries necessary to understand the allegation/s and/or evidence in support of the allegation/s, make enquiries to obtain the necessary clarification/material. Follow lines of enquiry. If an explanation is given, test the veracity of the explanation. Ask questions of or seek documents from persons with knowledge relevant to the issue. Enquiries may be made of any person in writing or verbally or at a meeting, where the person may have information or material relevant to the investigation of the report;
- If satisfied possible misconduct may have occurred, determine whether the allegation/s or the circumstances surrounding the allegation/s warrant referral directly to a panel for hearing and determination without further investigation;
- If further investigation is appropriate or the allegation is to be determined by the responsible officer, notify the student of the alleged misconduct and provide him/her with an opportunity to respond to the allegation/s. This can be at a meeting and/or in writing (at Monash University Malaysia it must be in writing). If there is a meeting the student is to be invited to bring a support person (at Monash University Malaysia, or the student's representative). If the responsible officer intends to determine the allegation the student must first be informed of the allegation and given an opportunity to respond. This can (at Monash University Malaysia, must) be commenced by provision of a written notice;
- Make any further enquiries necessary arising from any response received from the student to the allegation/s.

At the conclusion of the investigation the responsible officer must finalise the report by:

- Dismissal
- Determine that it be dealt with another way (e.g. informally or under policy);
- Determination by the responsible officer (e.g. find misconduct proven and decide whether to impose a penalty); or
- Referral to a panel for hearing and determination.

The report cannot be determined by the responsible officer unless the student has been informed of the alleged misconduct providing the opportunity to respond to the allegation/s. This notification can be verbal or in writing (at Monash University Malaysia it must be in writing). If the student has been made aware of the report or investigation, the decision made by the responsible officer must be communicated to the student in writing. At Monash University Malaysia the decision letter must also be sent to the registrar.

Discipline Regulations, regulation 32 and 53.

Requests for information by the responsible officer

At any time a responsible officer may request information verbally or in writing by a set deadline. If a responsible officer issues a written notice to any person setting out information or records sought and the date by which it is required. The request need not disclose the reasons for the request but should say that it is a request made by the responsible officer under the Discipline Regulations.

University staff and students are required to respond to such a notice in the time specified. Persons outside the university are not bound to respond to the notice. A person responding to a notice may provide legitimate reasons for not providing the information or records sought, including that they do not exist anymore or are the subject of confidentiality obligations.

Discipline Regulations, regulation 50.

Student opportunity to respond before responsible officer determination

Unless making a decision to dismiss the report, a responsible officer can only determine the allegation of misconduct if the student has been notified of the allegation. Once notified a student must be given an opportunity to respond to the allegation. The notification can be verbal or in writing (at Monash University Malaysia it must be [in writing](#)). The opportunity to respond can be a verbal or written response. It may be done at a meeting.

If material in support of the alleged misconduct is confidential or provision of it to the student may expose a person to a risk to their safety, then it is sufficient if the substance of material adverse to the student without details (including the names of persons involved) is provided. In these cases it is prudent to seek advice from the office of the general counsel/campus solicitor about whether this is appropriate in the circumstances, and to check that the substance of the material adverse to the student is set out.

If notified in writing of the alleged misconduct the student may choose to provide a written response to the responsible officer and can include material from other persons relevant to the allegation in the written material provided. A student who attends a meeting may make oral and/or written submissions. At a meeting the student may be assisted and accompanied by a support person, but the person is not to act as an advocate, with the exception of Monash University Malaysia. At Monash University Malaysia, the student may be represented, accompanied and assisted by a person who must be a Monash University Malaysia student or staff member.

The student must be given a reasonable opportunity to respond. This can be to seek a response at a meeting. If notified in writing it is suggested not less than 5 working days be allowed for the response. If a student does not provide a response in the time specified and/or does not attend a meeting, the responsible officer may make a determination based on the material available.

Discipline Regulations, regulation 32.

Drafting an allegation

The allegation should contain sufficient detail so the student is clear what is alleged against them, enabling a proper opportunity to respond. Prior to finalising an allegation consider whether it makes clear:

- what is the alleged misconduct;
- the type of misconduct alleged;
- when and where it is said to have taken place; and
- the role the student is alleged to have played in the commission of the alleged act.

Determination of the allegation by the responsible officer

When making a determination the responsible officer must be careful to understand the allegation of misconduct and the available evidence, and form a view about whether the alleged misconduct took place. This involves having regard to both the alleged actions and any necessary intention alleged or required for the allegation of misconduct to be proven. This means regard can be had to both evidence about physical elements (i.e. factual matters) and mental elements (i.e. intention to do the act). Intention can be inferred based on the evidence.

The intention necessary, is the intention to do the act. It is not intention to engage in misconduct. A student may engage in misconduct even if they were unaware the act was misconduct. Ignorance is no excuse.

For plagiarism, the University's approach is usually educative in the first instance and then uses the evidence of education to infer intention if the lesson is not learned. For example, a student whose name appears on the Plagiarism Register following an earlier instance of plagiarism may be found to have *intentionally* plagiarised, because the student was made aware of the prohibition on plagiarism at the time their name was placed on the Plagiarism Register. The intention to plagiarise is inferred because the latter incident occurred with knowledge of the prohibition on plagiarism.

The responsible officer may find an allegation proven if satisfied that it is *more likely than not* that the alleged misconduct took place (the balance of probabilities). If it is evenly balanced, the allegation is not proven. Where the alleged misconduct is akin to an allegation of a criminal offence then clearer evidence may be required to find that it is more likely than not that the conduct occurred. For example where it is alleged the student stole money, clearer evidence of the deliberate taking of money by that student without permission may be required for the responsible officer to find it more likely than not that the allegation is proven. Unless the responsible officer finds this level of probability, the alleged misconduct is not proven.

To make the decision the responsible officer must look to the evidence that is relevant and considered reliable. Relevant evidence is evidence that has a rational bearing on the question for decision – the allegation of misconduct. Evidence about the circumstances leading up to and subsequent to the alleged misconduct may assist in forming a conclusion about the misconduct. Irrelevant evidence must be disregarded. Evidence is irrelevant if it does not assist the responsible officer to reach a decision on whether the misconduct took place.

The responsible officer should narrow the issues under investigation and then test the evidence looking at its veracity, likelihood, consistency, any corroboration (although this is not essential), and whether it is believable. A decision should not be based on rumour or speculation, guesswork, preconceptions, suspicions or unfounded assumptions. Supporting documents can assist in this process, with contemporaneous records being more reliable than those made some time later.

Evidence can be disregarded if it is considered unreliable or not truthful. Evidence can be given limited or no weight, that is less or no serious regard, if it is for some reason less reliable. For example, hearsay (that is evidence from a person about what they were told but of which they do not have first-hand knowledge) may be unreliable. Also where a person has been found to be untruthful on one matter, their evidence on another matter may be considered unreliable unless it is corroborated from another source. Corroboration may come from another person or a document. Disputed evidence that a person has engaged in similar conduct on another occasion is usually unreliable, unless there are striking similarities between the past conduct and the alleged conduct.

In making a determination about whether misconduct is proven or not, the responsible officer must document both the decision and the reasons for reaching the decision, referring to the facts found proven and the evidence on which the fact is found proven. The responsible officer should ensure that the student has had an opportunity to respond to each of the facts in dispute before a finding is made.

HDR students and academic or research misconduct

When determining whether academic or research misconduct was proven for a HDR student, the responsible officer should assess whether it was a serious case of academic or research misconduct. Such a finding maybe necessary to assess the

implications for the student's scholarship, if any. A finding of a serious case of academic or research misconduct may result in termination of the scholarship according to the scholarship conditions.

In assessing whether it is a serious case of academic or research misconduct the responsible officer should have regard to whether the act or omission comprising the misconduct was wilful or deliberate and creates a serious risk to the integrity of the academic work or research.

Investigation of academic misconduct occurring in an examination

Investigations of academic misconduct occurring in an examination are treated slightly differently to other investigations of misconduct.

Where a student is found in possession of unauthorised materials in an examination there are two potential grounds of misconduct: the act of *possessing* the unauthorised materials (general misconduct) and *the intention to use* the material to cheat (academic misconduct).

Where a student is found in possession of unauthorised materials in an examination, the Manager, Examinations Branch (at Monash University Malaysia, Manager of Student Administration) will refer the matter to the relevant responsible officer for general misconduct to deal with the allegation of general misconduct. However, if the responsible officer for general misconduct forms the view that the student *may* have been in possession of those materials for the purpose of cheating, no finding can be made on the general misconduct and the entire report is to be referred to the faculty as a prima facie case of academic misconduct.

The responsible officer in the faculty in hearing allegations of academic misconduct is entitled to presume that the student was in possession of the unauthorised materials for the purpose of cheating, but after the student had an opportunity to respond to the allegation may be persuaded otherwise. For example, if there may be another reasonable explanation for the possession of the unauthorised materials. The responsible officer may make enquires and conduct an [investigation](#). As part of the investigation, the responsible officer must [inform the student of the allegation](#). The student should be informed that the act of misconduct (knowingly cheating in an examination) will be proven unless the student can persuade the responsible officer that he or she was:

- in possession of the unauthorised materials for a reason/s that did not include cheating; or
- unintentionally in possession of the unauthorised materials.

If this is done at a meeting the student may be assisted and accompanied by a support person, but that person is not to act as an advocate, with the exception of Monash University Malaysia. At Monash University Malaysia, the student may be represented, accompanied and assisted by a person who must be a Monash University Malaysia student or staff member.

Where the responsible officer is not satisfied that misconduct occurred, he or she must dismiss the report. Where the responsible officer is satisfied that misconduct occurred, he or she may find the student to have committed the act of academic misconduct and impose a penalty, or make no finding. At any stage the responsible officer may refer the matter as a report to a panel to determine.

Discipline Regulations, regulation 31 and 32.

Penalties available to the responsible officer

If the responsible officer finds an allegation of misconduct proven, the responsible officer must determine what, if any, penalty to impose.

The Provost has issued a notice setting out the penalties that may be issued by each responsible officer operating in Australia, Malaysia and South Africa and this notice is available on the [Office of the General Counsel's website](#).

Discipline Regulations, regulation 41.

Determining a penalty

When determining a penalty to impose, the responsible officer must have regard to the following:

- punishment of the student found to have engaged in the misconduct;
- deterrence of future misconduct, which may be by the student or others;
- rehabilitation of the student, so that the student does not engage in misconduct in future;
- protection of the university community or a university precinct, as appropriate;
- protection of any relevant public interest;
- the nature and severity of the misconduct;
- 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 student's misconduct to the university or any other person;
- any previous finding of misconduct against the student, which the responsible officer should ascertain prior to determining the penalty but not beforehand; and
- any guidelines issued by the Monash University Council.

Penalty guidelines issued by the Monash University Council set out in [Appendix 2](#) must also be considered but must not replace the responsible officer making a decision based on the facts and circumstances of the particular case. The circumstances include the seriousness of the misconduct, the seriousness of the consequences of the misconduct, any remorse, any understanding or insight demonstrated to the responsible officer, the likelihood of further misconduct and any mitigating personal circumstances. Penalty guidelines must not be applied as a rule and have been developed solely to give decision makers a sense of a typical penalty that may apply in an ordinary case.

After finding misconduct proven, a responsible officer must impose a penalty unless satisfied:

- the misconduct is found to be minor in nature; or
- the student is unlikely to engage in another act of misconduct.

The responsible officer may prohibit a student from entering an area of the university where this is considered necessary to protect any person or university property. The prohibition must specify:

- the area which the student is prohibited from entering;
- the period of time for which the prohibition applies; and
- any other conditions related to entry.

If a student is prohibited from entering an area of the university, the responsible officer must ensure that the student can continue to complete any unit/s in which the student is or may be enrolled while complying with the prohibition, and has reasonable access to all the necessary resources for the student to undertake this study (e.g. library access).

Where a penalty includes a restitution requirement, it may only require a student to make good damage caused and does not extend to other matters such as providing compensation.

A penalty may be imposed with conditions.

Discipline Regulations, regulation 42.

Notice of decision of the responsible officer

Within 7 calendar days of making a decision on a report of misconduct, the responsible officer must provide the student with [written notice](#) setting out the decision and penalty (if any) imposed. At Monash University Malaysia the notice should also be sent to the Registrar. The notice must include the reasons of the responsible officer for reaching this decision and, if applicable, penalty.

The notice of decision should be retained on the student file, and notified to persons responsible for the implementation of the decision. For a coursework student, this will be the chief examiner and any other relevant staff member in the teaching Faculty and, if applicable, the managing Faculty. For an HDR student, this will also include the student's main supervisor, the Associate Dean (Graduate Research) or equivalent, and Monash Graduate Education via email graduate-education@monash.edu. Where the student lives in university residences, this may also include Monash Residential Services.

Discipline Regulations, regulation 32.

How to write reasons

When a student's interests are affected by a decision under the Discipline Regulations, it is important to explain to the student why the decision was made. Transparency in decision making makes it more likely the student will understand and accept the decision. Or if appealed, it enables the decision maker on appeal to understand how the decision was reached and assess whether the appeal ground relied on is proven. If a finding about particular evidence is not set out, on appeal it may be assumed the issue was not considered.

The decision and reasons must be given or confirmed in writing in a decision letter. The decision letter should include the following items:

- that the matter has been determined under the Discipline Regulations;
- the allegation being determined, including whether it is of general, academic or research misconduct;
- whether the student took advantage of the opportunity to respond and a summary of any response given to the allegation;
- the material findings of fact and the oral or documentary evidence on which those findings are based (and where evidence was specifically disregarded or given less weight it is useful to point this out and state why);
- a logical explanation linking the facts to the decision; and
- the decision.

Reasons for the decision should not be a simple statement of conclusion or outcome without explanation, nor a complex analysis of every detail of evidence.

When writing reasons for a penalty decision, the same principles apply. The focus of the reasons about penalty should be:

- an assessment of the seriousness of the misconduct in the circumstances;
- a clear statement of any mitigating or exacerbating factors found to exist;
- the penalty imposed; and
- a logical explanation of how this penalty was determined having regard to the matters listed above that must be considered.

When discussing evidence, phrases that may be of use when describing how the evidence was considered may be, as appropriate:

This evidence was found to be persuasive because

This evidence was given limited weight because

This evidence corroborated the statement that

The recollection of X of this event was given greater weight than the recollection of Y because

The evidence of X about ABC was disregarded because it was

Not relevant

Not helpful to determine the allegation because

Referral to a panel by the responsible officer

If the responsible officer determines to refer a report to a panel for hearing and determination, the responsible officer shall notify:

Australia

- in the case of a referral from an associate dean– the dean of the faculty to convene a faculty discipline panel
- in the case of a referral from the Chair of the Graduate Research Committee – the Graduate Research Committee

Malaysia

- in the case of general and/or academic misconduct – the dean of the faculty to convene a faculty discipline panel;
- in the case of any allegation involving research misconduct – the Graduate Research Committee to convene a research discipline panel; and
- in the case of general misconduct involving multiple students from different faculties – the President of the Academic Board to convene a university discipline panel.

South Africa

- in the case of general and/or academic misconduct – the dean of the faculty (or delegate) to convene a faculty discipline panel;
- in the case of any allegation involving research misconduct – the Graduate Research Committee to convene a research discipline panel; and
- in the case of general misconduct involving multiple students from different faculties – the President of the Academic Board to convene a university discipline panel.

Each body or officer may delegate their functions to appoint a panel.

Discipline Regulations, regulations 28, 33, 34, 36 and 55.

Part 4 – The Discipline Panels

Student discipline panels

There are five panels established to hear and determine allegations of misconduct and appeals from decisions under the Discipline Regulations.

The **faculty discipline panel*** hears and determines:

- A report of misconduct referred by a responsible officer being a report of either general misconduct or academic misconduct, or general and academic misconduct combined; and
- An appeal from a decision of a responsible officer about general misconduct or academic misconduct, or general and academic misconduct combined.

* In Australia only, the faculty discipline panel does not hear reports of general misconduct alone. It only hears reports of general misconduct combined with academic misconduct where the report is referred by the responsible officer from the faculty.

The **research discipline panel** hears and determines:

- A report of misconduct referred by a responsible officer being a report of either research misconduct alone, or research misconduct combined with general and/or academic misconduct; and
- An appeal from a decision of a responsible officer about research misconduct, or research misconduct combined with general and/or academic misconduct.

The **university discipline panel** hears and determines:

- In Monash University Malaysia or Monash South Africa, a report of general misconduct referred by a responsible officer involving two or more students from more than one faculty;
- In Monash University Malaysia or Monash South Africa, an appeal from a decision of a responsible officer about general misconduct involving two or more students from more than one faculty; and
- In all campuses, an appeal from a decision of a faculty discipline panel or a research discipline panel or, if differently constituted, a university discipline panel.

Receiving a request to convene a panel

The functions of a panel commence when the responsible officer refers a report to the panel or when an appeal of a decision is made to a panel. The report or appeal is made to:

Australia

- In the case of a faculty discipline panel– the dean of the faculty;
- In the case of a research discipline panel – the graduate research committee; and
- In the case of a university discipline panel – the president of academic board.

Malaysia

- In the case of a faculty discipline panel –the dean of the faculty (or dean’s delegate based in Monash University Malaysia);
- In the case of a research discipline panel – the graduate research committee; and
- In the case of a university discipline panel – the president of academic board.

South Africa

- In the case of a faculty discipline panel – the delegate of the dean of the faculty (based in Monash South Africa);
- In the case of a research discipline panel – the graduate research committee; and
- In the case of a university discipline panel – the president of academic board.

The person or body in receipt of the report, or delegate, will convene a panel to hear and determine the report.

Discipline Regulations, regulations 28, 33, 34, 36 and 55.

Convening a discipline panel

Faculty discipline panel

The dean of the faculty (or delegate) will appoint a faculty discipline panel, comprising of:

- A member of academic staff of the faculty who is the chair of the faculty discipline panel;
- A member of the staff of the faculty; and
- A student from the faculty.

Where the report includes academic misconduct, the person who conducted the investigation into the alleged misconduct prior to referral to the panel should not be a panel member.

Where the report includes a report of academic misconduct and the student is a HDR student, the dean should consider including a staff member with a strong familiarity with graduate research studies programs.

Where the student who is the subject of the report is based at Monash South Africa or Monash University Malaysia, in place of the two members of staff the dean may appoint two persons employed in academic positions located at Monash South Africa or Monash University Malaysia (as appropriate).

If the student who is the subject of the report is an undergraduate student, the dean shall endeavour to appoint an undergraduate student to the panel. If the student who is the subject of the report is a postgraduate student, the dean shall endeavour to appoint a postgraduate student to the panel.

A person must not be appointed to the panel if the person is:

- The responsible officer who referred the report to the panel;
- The person who reported the misconduct or a witness to the misconduct;
- Otherwise involved in the investigation of misconduct;
- In the opinion of the dean, affected by a reasonable apprehension of [bias](#).

The mere fact that a person knows the student or has taught the student before does not disqualify the person from panel membership.

If it is considered useful, the chair may appoint a member or members of academic staff as adviser to the panel. The chair may ask an adviser to provide assistance and information to the panel and to attend a hearing, but the adviser has no voting or decision making role.

If at any time a panel member becomes unavailable, unable or unwilling to continue as a panel member, the dean may substitute another panel member. A substitute member must have the same qualification to be a panel member as the member they replace (ie, a member of staff or a student).

Where a matter has been partly dealt with and a member of the panel ceases to be qualified for appointment to the panel but continues to be an officer or student of the university, that person is deemed able to continue their duties as a panel member until the hearing process concludes. This is to ensure that matters partly dealt with can be concluded despite a change in the position/status of a panel member.

Discipline Regulations, regulations 33, 37 and 39.

Research discipline panel

The GRC (or delegate) will appoint a research discipline panel, comprising:

- One of its members as chair of the research discipline panel;
- A member of academic staff or senior member of the academic community except where a report includes an allegation of academic misconduct, in which case the member of the panel must be a member of the academic staff nominated by the dean of the teaching faculty of the unit in which the misconduct arose; and
- A higher degree by research student.

Where the student who is the subject of the report is based at Monash South Africa or Monash University Malaysia, in place of the member of the GRC as chair of the panel, the GRC may appoint a person at Monash South Africa or Monash University Malaysia (as appropriate), and in place of the member of academic staff, the GRC may appoint a member of staff at the campus employed in an academic position and nominated by the Pro-Vice Chancellor responsible for the campus.

A person must not be appointed to the panel if the person is:

- The responsible officer who referred the report to the panel;
- The person who reported the misconduct or is a witness to the misconduct;
- Otherwise involved in the investigation or the report of misconduct;
- In the opinion of the committee, affected by a reasonable apprehension of [bias](#).

The mere fact that a person knows the student or has taught the student before does not disqualify the person from panel membership.

If considered useful, the chair may appoint one or more senior members of the academic community as advisers to the panel. The chair may ask an adviser to provide assistance and information to the panel and to attend a hearing, but the adviser has no voting or decision making role.

If at any time a panel member becomes unavailable, unable or unwilling to continue as a panel member, the committee may substitute another panel member. A substitute member must have the same qualification to be a panel member as the member they replace (ie, a member of the committee or of the academic staff or a student).

Where a matter has been partly dealt with and a member of the panel ceases to be qualified for appointment to the panel but continues to be an officer or student of the university, that person is deemed able to continue their duties as a panel member until the hearing process concludes. This is to ensure that matters partly dealt with can be concluded despite a change in the position/status of a panel member.

Discipline Regulations, regulations 34, 37 and 39.

University discipline panel

The President of the Academic Board (or delegate) will appoint from the [university disciplinary panel pool](#):

- A member of academic staff of a faculty or, if the panel is to hear an appeal, a member of academic staff of the faculty of law, who will be the chair; and
- A member of academic staff of a faculty (other than the faculty of law) or a former member of the GRC; and
- A student.

Where a panel is to be convened at Monash South Africa or Monash University Malaysia the President of Academic Board may appoint a member of staff located at the campus and employed in an academic position and, if the panel is to hear an appeal, that person is to be legally qualified, as chair.

If the student the subject of the report/appeal is an undergraduate student, the president of the academic board shall endeavour to appoint an undergraduate student to the panel. If the student the subject of the report/appeal is a postgraduate student, the president of the academic board shall endeavour to appoint a postgraduate student to the panel. If the student the subject of the report/appeal is a higher degree by research student, the president of the academic board shall endeavour to appoint a higher degree by research student to the panel. For international campuses, the president of academic board shall endeavour to appoint a student who is a member of a student association of the campus.

A person must not be appointed as a member of or an adviser to the panel if the person is:

- The responsible officer who referred the report to the panel;
- The person who reported the misconduct or is a witness to the misconduct;
- Has otherwise had involvement in the investigation of the report of misconduct;
- In the opinion of the president of the academic board, affected by a reasonable apprehension of [bias](#).

The mere fact that a person knows the student or has taught the student before does not disqualify the person from panel membership.

If it is considered useful, the chair may appoint a member or members of academic staff or, if the matter concerns research misconduct one or more senior members of the academic community, as advisers to the panel. The chair may ask an adviser to provide assistance and information to the panel and to attend a hearing, but the adviser has no voting or decision making role.

If at any time a panel member becomes unavailable, unable or unwilling to continue as a panel member, the president of the academic board may substitute another panel member. A substitute member must have the same qualification to be a panel member as the member they replace (ie, a member of the faculty of law or of the academic staff or a student).

Where a matter has been partly dealt with and a member of the panel ceases to be qualified for appointment to the panel but continues to be an officer or student of the university, that person is deemed able to continue their duties as a panel member until the hearing process concludes. This is to ensure that matters partly dealt with can be concluded despite a change in the position/status of a panel member.

Discipline Regulations, regulations 36, 37 and 39.

University discipline panel pool

The university discipline panel pool (from which a university discipline panel is appointed) shall be appointed by academic board for a term of up to two years and may be reappointed for a further term. The pool consists of:

- At least six members of academic staff in the faculty of law;
- At least two members of academic staff of each other faculty located at a campus in Australia;
- No more than six undergraduate students from any recognised student association;
- No more than six graduate or postgraduate students from any student recognised association; and
- No more than five persons who are former members of the GRC,

as well as at each of Monash South Africa and Monash University Malaysia:

- At least two members of staff employed in an academic position;
- No more than six undergraduate students undertaking a course of study at the campus;
- No more than six graduate and post graduate students undertaking a course of study at the campus; and
- No more than five persons who are former members or representatives of the GRC.

While there remains Monash University students at Federation University Australia at the Gippsland campus, the pool may include two persons employed in an academic position by Federation University Australia.

When making appointments or reappointments, the academic board will have regard to the experience and qualifications (as listed above) of candidates for appointment, and seek to achieve a gender balance in persons appointed to the pool. For Monash South Africa and Monash University Malaysia, it must seek to ensure all equity groups are represented. If a person ceases to be qualified to be a member of the pool, the academic board may appoint a member to the consequential casual vacancy.

Discipline Regulations, regulation 35.

Electing to substitute a student panel member

A student may elect to be heard by an additional faculty or academic staff member in substitution for a student panel member. The student's election must be made in writing and delivered within 4 working days of the date of the hearing notice to:

- the dean (or delegate), for a faculty discipline panel;
- the chair of the GRC (or delegate), for a research discipline panel; or
- the President of the Academic Board (or delegate), for a university discipline panel.

The recipient of the notice of election must:

- in the case of a faculty discipline panel, appoint a member of staff of the faculty;
- in the case of a research discipline panel, appoint a member of academic staff or senior member of the academic community except where a report includes an allegation of academic misconduct, in which case the member of the panel must be a member of the academic staff nominated by the dean of the teaching faculty of the unit in which the misconduct arose; or
- in the case of a university discipline panel, a member of academic staff of a faculty (other than the faculty of law) or a former member of the GRC.

The recipient of the notice of election should refer to the provisions relating to appointment of panel members (including those relating to students of Monash South Africa or Monash University Malaysia) set out at [faculty discipline panel](#), [research discipline panel](#), or [university discipline panel](#), as appropriate, when substituting a student member for an additional faculty or academic member.

Discipline Regulations, regulation 38.

Objecting to a panel member

A student may object to a panel member on the ground of a reasonable apprehension of [bias](#). The student's objection must be made in writing and delivered within 4 working days of the date of the hearing notice to:

- the dean (or delegate), for a faculty discipline panel;
- the chair of the GRC (or delegate), for a research discipline panel; or
- the President of the Academic Board (or delegate), for a university discipline panel.

The objection must set out full details of the alleged apprehended bias relied on by the student. The objection must be dealt with prior to the day of the hearing. In the event that it is unable to be dealt with in this time, the hearing date must be postponed.

The recipient of the notice of objection may either:

- without determining the objection, arrange for the appointment of a substitute panel member from the same category of qualification; or
- require the Chief Operating Officer of the University to appoint an adjudicator to consider and decide the objection.

The adjudicator is to be a legally qualified person.

The adjudicator will determine the objection and 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](#).

The adjudicator may:

- dismiss the objection if it is not substantiated, in which case the panel will be convened as originally appointed; or
- uphold the objection if satisfied there is a reasonable apprehension of bias, direct a substitute panel member be appointed in their place.

Notice of the adjudicator's decision is given to the student in writing. If the objection is upheld, the notice to the student must include the name of the substitute panel member.

Discipline Regulations, regulation 38.

Duties of a Panel Member

Panel members are appointed to act fairly and impartially, a manner consistent with the role where they will decide the matters alleged. Panel members must cooperate with the chair who is responsible to ensure the conduct of panel members towards the student and other persons involved in the process is fair. Panel members must respect the sensitivity of the information which they acquire through the process and not use or disclose it for any purpose not relevant to the university's management of student conduct. Importantly the confidentiality of the panel's private deliberations must be maintained. Panel members must bring an open mind to the matter to be determined and not prejudge the issue. Any panel member not able to fulfil these obligations should excuse themselves as a panel member and may have their appointment revoked in the event that they do not or cannot fulfil these obligations.

Part 5 – Panel Hearing Process

Drafting allegations

The allegations should contain sufficient detail so the student is clear what is alleged against them enabling a proper opportunity to respond. Prior to finalising an allegation consider whether it makes clear:

- what is the alleged misconduct;
- the type of misconduct alleged;
- when and where it is said to have taken place; and
- the role the student is alleged to have played in the commission of the alleged act.

Prior to the hearing the student must be clear of the allegation against them. Accordingly the allegation should only be amended to correct minor 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 based on the new matters contained in the amended allegation.

Multiple allegations or reports about the conduct of one student

Where a report or reports are made alleging more than one act of misconduct or more than one type of misconduct, and the misconduct arose out of the same or related circumstances, the panel must deal with the allegations at the same time. This is required even if the reports of misconduct originate from different sources.

For example, where a student is found in possession of unauthorised material (e.g. notes or a mobile phone) in an examination and this breaches an exam rule (general misconduct) and the student is further observed using the notes or mobile phone to access content (academic misconduct), the Manager, Examinations Unit (at Monash University Malaysia, Manager of Student Administration) must refer the allegations of general and academic misconduct to the Associate Dean of the teaching faculty.

Each act of misconduct alleged is to be the subject of a separate finding of misconduct and the panel must ensure that finding one act of misconduct proven does not mean another act of misconduct is proven. Each allegation must be determined based on the evidence before the panel relevant to that allegation. For example, the evidence may support a finding of general misconduct by possession of a mobile phone but not be sufficiently persuasive to prove academic misconduct by cheating using the mobile phone.

Discipline Regulations, regulation 41 and 47.

Joint hearings (hearing misconduct involving more than one student)

Where two or more students have engaged jointly in an act of misconduct, the panel must hear the allegations against the students together unless:

- The chair is satisfied it would be unreasonable or impractical to hear the allegations together; or
- Within 4 working days after delivery of the hearing notice or appeal notice, a student objects in writing to the allegations being heard together on the ground that this would cause the student unfair prejudice, and the chair grants the application.

In most cases joint acts of misconduct will be heard together by a single panel to ensure that the evidence of/about each student is known before the panel determines what took place and the responsibility of each student, if any, for what is found to have taken place.

Where there is a joint hearing, each student must be the subject of individual findings and, if applicable, penalty. The findings and any penalty may differ for each student based on the evidence and the findings of the panel about what took place.

Discipline Regulations, regulation 48.

Hearing notice and student reply

In order to convene a hearing of the allegations of misconduct, the chair must arrange for the student to be sent a [hearing notice](#). The hearing notice/s must inform the student in writing of the allegation of misconduct, detail the evidence relied on as relevant to the allegations including the names of any witnesses and the nature of their evidence, the date, time and place of the hearing, and the names of the panel members and who will chair the panel. The notice of the hearing date must be at least 10 working days prior to the hearing date. A hearing date may be set within a shorter timeframe if the student consents to a shorter notice period.

The evidence is the documents, academic work (including drafts and source material for academic misconduct cases), written statements and other material which tends to suggest the alleged misconduct took place or did not take place. If material in support of the alleged misconduct is confidential or provision of it to the student may expose a person to a risk to their safety, then it is sufficient if the substance of material adverse to the student without details (including the names of persons involved)

is provided. Given the complexity of this assessment, it is prudent to seek advice of the university solicitor/campus solicitor about whether this is appropriate in the circumstances and to check the substance of the material adverse to the student is set out.

The student may [elect to substitute a student panel member](#) or [object to a panel member](#). The substitution or objection must be dealt with prior to the day of the hearing. In the event that it is unable to be dealt with in this time, the hearing date must be postponed.

At least 4 working days prior to the hearing date or as otherwise agreed by the chair, the student must give [written notice](#) of the names of any witnesses required for questioning by the student and the names of any witnesses the student wishes to give evidence, a brief outline of the evidence they will give, and any person attending with the student to assist them (at Monash University Malaysia, to represent them). The student must arrange for witnesses they call to attend the hearing. The faculty must arrange for witnesses they call to attend the hearing. Where the student wishes to question a witness the faculty relies on to support the allegation, the faculty should organise for the witness to attend.

In advance of the hearing the panel members should be provided with a copy of all the material provided to and submitted by the student.

Discipline Regulations, regulation 38.

Powers of the panel

The panel has the power to manage the conduct of the hearing which includes the power to:

- request further information verbally or in writing from the person who made the report;
- [request any information](#) relevant to the report from any person, faculty or body;
- consider any information supplied by the student during an investigation;
- hear evidence and question any witness or other person in attendance at the hearing including the student; and
- where considered necessary, adjourn the hearing for a set period of time and on set conditions.

The panel must not consider any evidence, material or other information related to any incident of prior misconduct by the student for the purpose of determining the allegation, except when determining a report of academic misconduct the panel may consider any prior advice or instruction or finding relevant to plagiarism, collusion, cheating or other academic integrity requirement of the University.

If the student does not attend the hearing, the panel may make a determination based on the material available in the student's absence.

Discipline Regulations, regulation 41.

Conduct of the hearing

The chair of the panel will manage the orderly and fair conduct of the hearing. The procedure used in the conduct of the hearing is at the discretion of the panel.

The panel will be assisted by a secretary who will take minutes of the hearing. The secretary assists the panel members. The secretary plays no role in the decision making itself. The minutes are not a verbatim record or a transcript, but nevertheless should be a detailed and accurate record of what takes place at the hearing – the allegations, the responses, the evidence, any decisions on process, and the decisions (including reasons) on the facts and allegations. The minutes should not set out the private deliberations and discussions of the panel before it makes its decision. The minutes may be referred to in an appeal.

The procedure adopted for the hearing needs to be sufficiently flexible to respond to the circumstances of the particular

case. The chair must ensure that the hearing is conducted in a respectful manner, providing a reasonable opportunity to the student to respond to the allegations and evidence against him/her before a finding is made.

By the chair and panel members asking questions of the student, the student should be given the opportunity to comment on adverse evidence and inferences before a finding is made. Where necessary or appropriate the chair should adjourn the hearing to facilitate a fair hearing process (for example the student may ask for a short adjournment to speak to their support person). Or the hearing may be adjourned for a longer period (even to another date) in order for the panel to inquire into a matter relevant to its findings on the issues before it.

Providing a reasonable opportunity to the student to respond does not mean an unlimited opportunity. The chair may cut short irrelevant or unhelpful evidence or submissions and focus on issues of assistance to the panel's functions. The chair should stop any disrespect, discourtesy, badgering or harassment of any person during the hearing.

The hearing will usually involve the following steps:

- Introduction by the chair of the panel members, secretary and the student and any person in attendance as their support person or representative (where permitted). Request all mobile devices be turned off and put away during the hearing.
- The chair will confirm that the student has the relevant papers that are before the panel members (or summaries of the content of this paperwork if there is good cause for the student not to have access to the full documents).
- The chair will read the allegation/s of misconduct to the student and request the student to indicate, in turn, whether each allegation is admitted or not. The student may admit engaging in conduct that forms the basis of the allegation (e.g. possessing notes in an examination) but deny this constitutes academic misconduct as alleged (e.g. denying the notes were used to obtain an unfair advantage). In this case, the allegation is not admitted, only facts relevant to the allegation are admitted. The panel must go on to consider and determine the elements necessary to prove the allegation.
- If an allegation is admitted, the chair may ask the student and their support person or representative (where permitted) to leave the room while the panel determines if it is satisfied the allegation is proven. Any deliberations occur in private and are confidential. Once a decision is made, with the student and their support person in the room, and the chair will announce the panel's decision and reasons in brief. If the allegation is found proven the panel will proceed to hear any evidence on the question of penalty.
- If an allegation is not admitted, the chair will outline how the hearing of the allegation will proceed. The panel may ask questions of the student. The panel can hear from any witness it arranged to attend to be questioned by the panel and the student. A witness is only present in the room when giving evidence. Only one witness should be present at a time. The student may also bring witnesses for questioning. The student may submit other material and make a submission for consideration by the panel. The chair is responsible for the management of the hearing, and can intervene to ensure the orderly, respectful and fair treatment of any person in the hearing.
- At the conclusion of this hearing, the chair will ask the student and their support person or representative (where permitted) to leave the room while the panel determines whether the allegation is proven. These deliberations occur in private and are confidential. Once a decision is made the student and their support person will be invited back into the room and the chair will announce the panel's decision and reasons in brief.
- If the allegation is found proven the panel will proceed to hear any evidence on the question of penalty. As before, the hearing of the question of penalty will proceed under the management of the chair.
- The chair will outline how the hearing on the question of penalty will proceed. This will cover any witnesses the panel has arranged to attend to be questioned by the panel and the student's ability to ask questions of those witnesses, and any witnesses the student has arranged to attend for questioning (including the student) and any other documents and submission the student has for consideration by the panel.
- In some cases additional documentation or evidence is provided to the panel on the question of penalty. These may be provided by the faculty and/or the student. These should not be provided to the panel prior to this point and it may be necessary for the chair to allow a short adjournment for the panel members to read any new documents provided to them. When the panel commences hearing the question of penalty, the chair will ascertain that the student is in

receipt of relevant documents that are before the panel members, or summaries of the content of certain documents if there is good cause for the student not to have access to the full documents.

- At the conclusion of this hearing, the chair will ask the student and their support person or representative (where permitted) to leave the room while the panel determines a penalty. These deliberations occur in private and are confidential. Once a decision is made the student and their support person will be invited back into the room and the chair will announce the panel's decision and reasons in brief.

The panel will not hear submissions or comments about its findings. These are a matter for appeal.

A copy of records and evidence from the hearing, including the minutes, are to be securely stored in a university discipline file. When the entire case (including appeals) is concluded additional copies of papers held by panel members are to be securely destroyed.

Discipline Regulations, regulation 41.

Student rights at the hearing

A student may be accompanied and assisted, but not represented as an advocate, by one other person at the hearing, with the exception of Sunway campus. At Sunway campus, the student may be represented, accompanied and assisted by a person who must be a Sunway campus student or staff member.

At the hearing, subject to the direction of the chair to ensure the orderly conduct of the hearing, the student has the right to:

- Question witnesses whom the student notified the chair prior to the hearing the student wishes to question at the hearing;
- Bring witnesses to give evidence on the student's behalf;
- Present the student's case, including by giving evidence and making written and/or oral submissions to the panel; and
- Produce documents or other evidence.

The student is required to notify the chair at least 4 working days before the hearing of any witnesses the student wishes to question or have give evidence on the student's behalf. The chair may agree to reduce this notice period.

Discipline Regulations, regulations 40 and 53.

Requests for information by the panel

At any time as part of the hearing the panel may directly or through the secretary or other person assisting it, request information verbally or in writing. If the panel issues a [written notice](#) setting out information or records sought and the date by which it is required, then the recipient of the request must provide the information requested within the required timeframe or detailed reasons why the information cannot be provided. The request need not disclose the reasons for the request but should say that it is a request made by the discipline panel under the Discipline Regulations.

University staff and students are bound by the requirement to respond to a request. Persons outside the university are not bound to respond to the request. A person responding to a notice may provide legitimate reasons for not providing the information or records sought, including that they do not exist anymore or are the subject of confidentiality obligations.

Discipline Regulations, regulation 50.

Part 6 – Panel Hearing – Decision Making

Determination of the allegation by the panel

When making a determination the panel must carefully read and understand the allegation of misconduct and form a view about whether the alleged misconduct took place. This involves having regard to both the alleged actions and any necessary intention alleged or required for the allegation of misconduct to be proven. This means regard can be had to both evidence about physical elements (i.e. factual matters) and mental elements (i.e. intention to do the act). Intention can be inferred based on the evidence. The intention is to do the act. It is not intention to engage in misconduct. A student may engage in misconduct even if they were unaware the act was misconduct. Ignorance is no excuse.

The panel must not consider evidence or findings about prior misconduct by a student to determine the report, except when determining a report of academic misconduct. Then the panel can consider previous advice or instruction provided to the student about plagiarism, collusion, cheating or other academic integrity requirement of the University.

For plagiarism, the University's approach is usually educative in the first instance and then uses the evidence of education to infer intention if the lesson is not learned. For example, a student whose name appears on the Plagiarism Register following an earlier instance of plagiarism may be found to have *intentionally* plagiarised, because the student was made aware of the prohibition on plagiarism at the time their name was placed on the Plagiarism Register. The intention to plagiarise is inferred because the latter incident occurred with knowledge of the prohibition on plagiarism.

The panel may find an allegation proven if satisfied that it is *more likely than not* that the alleged misconduct took place (the balance of probabilities). If the evidence is evenly balanced, the allegation is not proven. Where the alleged misconduct is akin to an allegation of a criminal offence then clearer evidence may be required to find that it is more likely than not that the conduct occurred. For example, where it is alleged the student stole money, clearer evidence may be required for the panel to find it more likely than not that the allegation is proven. Unless the panel finds this level of probability, the alleged misconduct is not proven.

To make its determination the panel must look to the evidence that is relevant and that it considers reliable. Relevant evidence is evidence that has a rational bearing on the question for decision – the allegation of misconduct. Evidence about the circumstances leading up to and subsequent to the alleged misconduct may assist in forming a conclusion about the misconduct. Irrelevant evidence must be disregarded. Evidence is irrelevant if it does not assist the panel to reach a decision on whether the misconduct took place.

The panel should narrow the issues under investigation and then test the evidence looking at its veracity, likelihood, consistency, any corroboration (although this is not essential), and whether it is believable. A decision should not be based on rumour or speculation, guesswork, preconceptions, suspicions or unfounded assumptions. Supporting documents can assist in this process, with contemporaneous records being more reliable than those made some time later.

Evidence can be disregarded if it is considered unreliable or not truthful. Evidence can be given limited or no weight, that is less or no serious regard, if it is for some reason less reliable. For example, hearsay (that is evidence from a person about what they were told but of which they do not have first-hand knowledge) may be unreliable. Also where a person has been found to be untruthful on one matter, their evidence on another matter may be considered unreliable unless it is corroborated from another source. Corroboration may come from another person or a document. Disputed evidence that a person has engaged in similar conduct on another occasion is usually unreliable, unless there are striking similarities between the past conduct and the alleged conduct.

In making a determination about whether misconduct is proven or not, the panel must document both the decision and the reasons for reaching the decision, referring to the facts found proven and the evidence on which the fact is found proven. The panel should ensure that the student has had an opportunity to respond to each of the facts in dispute before a finding is made.

In cases where unanimity is not achieved, a majority decision is the decision of the panel. The panel should only produce a single set of reasons for its decision, being the reasons for the unanimous or majority decision, which is the decision of the panel.

Discipline Regulations, regulation 41.

HDR students and academic or research misconduct

When determining whether academic or research misconduct was proven for a HDR student, the panel should assess whether it was a serious case of academic or research misconduct. Such a finding maybe necessary to assess the implications for the student's scholarship, if any. A finding of a serious case of academic or research misconduct may result in termination of the scholarship according to the scholarship conditions.

In assessing whether it is a serious case of academic or research misconduct the panel should have regard to whether the act or omission comprising the misconduct was wilful or deliberate and creates a serious risk to the integrity of the academic work or research.

Findings of a panel

After hearing and considering the evidence and submissions the panel must make a decision. A decision of the panel is a decision of the majority of panel members. The panel may either:

- Dismiss the report if the alleged misconduct is not proven; or
- Find the misconduct proven and then proceed to consider the imposition of a penalty.

Discipline Regulations, regulation 41.

Determining a Penalty

When imposing a penalty the panel must consider the following:

- punishment of the student found to have engaged in the misconduct;
- deterrence of future misconduct, which may be by the student or others;
- rehabilitation of the student, so that the student does not engage in misconduct in future;
- protection of the university community or a university precinct, as appropriate;
- protection of any relevant public interest
- the nature and severity of the misconduct found proven;
- 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 student's misconduct to the university or any other person;
- any previous finding of misconduct against the student, which must be notified to the panel at the time of their deliberation on the question of penalty but not beforehand; and
- any penalty guidelines issued by the Monash University Council.

Penalty guidelines set out in [Appendix 2](#) may be considered but must not replace the panel making a decision based on the facts and circumstances of the particular case. The circumstances include the seriousness of the misconduct, the seriousness of the consequences of the misconduct, any remorse, any understanding or insight demonstrated to the panel, the likelihood of further misconduct and any mitigating personal circumstances. Penalty guidelines must not be applied as a rule and have been developed solely to give decision makers a sense of a typical penalty that may apply in an ordinary case.

Discipline Regulations, regulation 43.

Penalty options available to a panel

If the panel finds an allegation of misconduct proven, the panel must determine what, if any, penalty to impose. After finding misconduct proven, a panel must impose a penalty unless:

- the misconduct is found to be minor in nature; or
- the panel is reasonably satisfied that the student is unlikely to engage in another act of misconduct.

Where a panel determines that an act of *general misconduct* has been proven, the panel may impose one or more of the following penalties:

- A record of misconduct on the student's record with [no further penalty imposed](#) or with a further penalty;
- A [reprimand](#);
- With the agreement of the student, a [consent penalty](#);
- Placing a restriction on a student contacting certain staff or students or groups of staff or students;
- A [fine](#) not exceeding five penalty units (N.B. at Monash South Africa and Monash University Malaysia the equivalent level of fine is determined by the Pro-Vice Chancellor);
- A requirement to make [restitution](#) to the university or a person who has suffered loss as a consequence of the act of misconduct to 'make good' any damage caused;
- [Prohibition](#) from entering a university precinct for a specified period;
- [Suspension](#) from a unit or course of study;
- [Exclusion](#) from the university..

The panel may prohibit a student from entering an area of the University where this is considered necessary to protect any person or university property. The prohibition must specify:

- the area which the student is prohibited from entering;
- the period of time for which the prohibition applies; and
- any other conditions related to entry.

If a student is prohibited from entering an area of the University, the panel must ensure that the student can continue to complete any unit/s in which the student is or may be enrolled while complying with the prohibition, and has reasonable access to all the necessary resources for the student to undertake this study (e.g. library access).

Where a penalty includes a restitution requirement, it may only require a student to make good damage caused and does not extend to other matters such as providing compensation.

Where a panel determines that an act of *academic misconduct* has been proven, the panel may impose one or more of the penalties listed above and:

- [Disallow the work or a mark](#) with or without allowance to resubmit the work within a specified period on specified conditions;
- [Impose a mark of zero in the unit](#) in which the work forms the whole or a part.

Where a panel determines that an act of *research misconduct* has been proven, the panel may impose one or more of the penalties listed above for general and:

- [Disallow the research or a mark](#), with or without allowance to resubmit the work with a specified period on specified conditions;
- Notification of a person affected by the misconduct of the act of research misconduct (e.g. a journal publisher).

Disallowance of work or research or a mark after finding academic or research misconduct may be achieved by prohibiting assessment where assessment has not yet occurred or by disallowing the mark where the work/research has already been assessed.

Where the penalty is to disallow the work or a mark after a finding of academic misconduct, the panel must further state that the student be allowed to resubmit the piece of work within a set period of time and on set conditions or deem the disallowance to be a failure and award a mark of zero.

Where a piece of work has not been assessed pending the outcome of a disciplinary process and no penalty is imposed, the panel must instruct the appropriate assessor to assess the work.

A penalty may be imposed with conditions.

Discipline Regulations, regulation 42.

Notifying the student of the decision

Within 7 working days of making a decision, the chair of the panel must provide the student with [written notice](#) setting out the decision and penalty (if any) imposed. This notice must include the reasons of the panel for reaching this decision and, if applicable, penalty. At Monash University Malaysia campus the notice should also be sent to the registrar.

The notice of decision should be retained on the student file, and notified to persons responsible for the implementation of the decision. For a coursework student, this will be the chief examiner and any other relevant staff member in the teaching Faculty and, if applicable, the managing Faculty. For an HDR student, this will also include the student's main supervisor, the Associate Dean (Graduate Research) or equivalent, and Monash Graduate Education via email graduate-education@monash.edu. Where the student lives in university residences, this may also include Monash Residential Services.

Discipline Regulations, regulation 41.

How to write reasons

When a student's interests are affected by a decision under the Discipline Regulations, it is important to explain to the student why the decision was made. Transparency in decision making makes it more likely the student will understand and accept the decision. Or if appealed, it enables the decision maker on appeal to understand how the decision was reached and assess whether the appeal ground relied on is proven. If a finding about particular evidence is not set out, it may be assumed that the issue was not considered.

Generally the decision and reasons must be given or confirmed in writing in a decision letter. The decision letter should include the following items:

- that the matter has been determined under the Discipline Regulations;
- the allegation being determined, including whether it is of general, academic or research misconduct;
- whether the student took advantage of the opportunity to respond and a summary of any response given to the allegation;
- the material findings of fact and the oral and documentary evidence on which those findings are based (and where evidence was specifically disregarded or given less weight it is useful to point this out and state why);
- a logical explanation linking the facts to the decision; and
- the decision.

Reasons for the decision should not be a simple statement of conclusion or outcome without explanation, nor a complex analysis of every detail of evidence.

When writing reasons for a penalty decision, the same principles apply. The focus of the reasons about penalty should be:

- an assessment of the seriousness of the misconduct in the circumstances;
- a clear statement of any mitigating or exacerbating factors found to exist;
- the penalty imposed; and
- a logical explanation of how this penalty was determined having regard to the matters listed above and penalty principles.

When discussing evidence, phrases that may be of use when describing how the evidence was considered include, as appropriate:

This evidence was found to be persuasive because

This evidence was given limited weight because

This evidence corroborated the statement that

The recollection of X of this event was given greater weight than to the recollection of Y because

The evidence of X about ABC was disregarded because it was

Not relevant

Not helpful to determine the allegation because

Part 7 – Appeals

Grounds for appeal

A student who has been found to have committed an act of misconduct by a responsible officer or a discipline panel may appeal against:

- the finding and the penalty or the penalty alone; or
- where the student admitted misconduct, the penalty alone.

This appeal must be based on one or more of the following five grounds:

- There was actual bias or a reasonable apprehension of [bias](#) on the part of the decision maker. Where the appeal relates to the decision of a panel, and the student has not previously lodged an objection against a panel member, a student may only appeal on the ground of reasonable apprehension of bias where this relates to the conduct of a panel member during the hearing;
- There was a [breach of natural justice which has potential to affect the outcome of the investigation or hearing](#);
- The [penalty imposed was excessive](#), except where the penalty was a fine imposed by a responsible officer for:
 - possession of a mobile phone or unauthorised material in examination;
 - falsification of a university parking permit;
 - theft or damage to university property;
 - theft within the university precinct;
- There is [new evidence that was not reasonably available to the student during the investigation or hearing, that has the potential to affect the outcome of the investigation or hearing](#); or
- The [decision was manifestly wrong](#).

At Monash University Malaysia, 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.

Discipline Regulations, regulation 45 and 53.

Making an appeal

For an appeal to be valid, it must be:

- [made in writing](#);
- lodged no later than 20 working days from the date of deemed service of the notice of the decision being appealed;
- made on a ground of appeal outlined under [grounds of appeal](#); and
- delivered to the relevant person as set out in the table below or their delegate.

Decision under appeal (Australian campuses)	Appeal to be delivered to person below or delegate:
Decision of an Associate Dean <i>about an act of academic misconduct alone or a combination of academic and general misconduct</i>	Dean of the responsible faculty
Decision of the Chair of GRC <i>about an act of research misconduct alone or in combination with any other act or acts of misconduct</i>	The GRC
Decision of a faculty discipline panel, research discipline panel or university discipline panel	President of the Academic Board

Decision under appeal (Monash University Malaysia)	Appeal to be delivered to person below or delegate:
Decision of a Deputy Head of School, Associate Dean or senior officer of a defined area <i>about an act of general misconduct or academic misconduct alone or a combination of these</i>	Dean of the responsible faculty
Decision of the Chair of GRC <i>about an act of research misconduct alone or in combination with any other act or acts of misconduct</i>	The GRC
Decision of the Director of Student Services <i>about general misconduct</i>	President of the Academic Board
Decision of a panel	President of the Academic Board

Decision under appeal (Monash South Africa)	Appeal to be delivered to person below or delegate:
Decision of the Executive Dean <i>about an act of academic misconduct alone or in combination with general misconduct</i>	Dean of the responsible faculty
Decision of the Executive Dean <i>about an act of research misconduct alone or in combination with any other act or acts of misconduct</i>	The GRC
Decision of the Revenue and Collections Manager <i>about an act of general misconduct alone which involved one or more students all from the same school at MSA</i>	Dean of the responsible faculty
Decision of the Revenue and Collections Manager <i>about an act of general misconduct alone which involved multiple students from different schools at MSA</i>	President of the Academic Board
Decision of a panel	President of the Academic Board

The failure to use the template appeal form, or indeed any other template document, does not invalidate an appeal or other act. As long as the written document provided in place of the template document contains the key information required by the Discipline Regulations, then it meets the requirements of the Discipline Regulations. Substantial compliance with most procedural steps is adequate, however the Discipline Regulations sets out critical procedural steps that must be complied with, such as time limits and the need to specify grounds of appeal.

Discipline Regulations, regulation 45.

Duties of the appeal recipient

For an appeal against a decision of the responsible officer, the recipient of the appeal (as listed in column 1 below) or delegate will then convene the panel designated in column 2 to hear the appeal.

Recipient of appeal (or nominee)	Panel to hear appeal
Dean of the responsible faculty	Faculty discipline panel
GRC	Research discipline panel
President of the Academic Board	University discipline panel

If the appeal is from a decision of a panel, the President of the Academic Board or delegate must appoint a chair of a university discipline panel within 10 working days of receiving the notice of appeal.

Discipline Regulations, regulation 45.

Power of a chair of university discipline panel to dismiss an appeal against a panel decision

A chair of the university discipline panel may review the notice of appeal and dismiss it if satisfied that the ground of appeal relied on is [frivolous](#), [vexatious](#), [misconceived](#) or [lacking in substance](#). If the decision is made to dismiss the appeal, within 7 working days of making the decision the chair must provide the student with a written notice of the decision and the reasons for the decision. At Monash University Malaysia the notice should also be sent to the registrar. This decision is final.

If the chair does not dismiss the appeal on any of these grounds, then the chair will request the President of the Academic Board to constitute the panel.

Discipline Regulations, regulation 45.

Constituting a panel

A faculty discipline panel is to be constituted as set out at [faculty discipline panel](#).

A research discipline panel is to be constituted as set out at [research discipline panel](#).

A university discipline panel is to be constituted as set out at [university discipline panel](#).

Electing to substitute a student panel member

A student may elect to substitute a student panel member according to the process set out at 'Electing to substitute a panel member'.

Objecting to a panel member

A student may [object to a panel member](#) according to the process set out at 'Objecting to a panel member'.

Nature of the appeal hearing – de novo or strict rehearing

Where an appeal against a decision of a responsible officer or a discipline panel is substantiated (i.e. the appeal ground is proven), then the panel conducts a hearing to make the decision under appeal afresh.

For all decisions except a penalty decision found to be excessive, the appeal panel conducts a de novo hearing. A de novo hearing requires the panel to consider all the issues under appeal afresh based on the evidence available to the appeal panel at the time of their hearing. This means new evidence may be presented to the appeal panel by a party to the appeal that was not before the original decision maker.

Where the appeal is granted on the ground of excessive penalty, the appeal panel conducts a rehearing in the strict sense. A rehearing in the strict sense requires the panel to consider only the evidence before the original decision maker together with arguments presented about why the original penalty was excessive and make its own finding as to the appropriate penalty in those circumstances.

Discipline Regulations, regulation 46.

Procedure for the panel hearing, powers of the panel and the students rights

A panel appeal hearing will adopt the same procedures outlined in [Part Five – Panel Hearing Process](#) with changes to reflect the functions of the panel and the focus of its enquiries as set out under [Nature of Appeal Hearing](#). For the purposes of this section, the reference to a 'hearing notice' is taken to mean an 'appeal notice'.

When the decision under appeal was made by a panel and not by a responsible officer, upon receipt of the hearing notice the student must state whether he or she wishes to exercise his or her right to be legally represented. Where the original decision maker was a panel, it may appoint a representative.

Discipline Regulations, regulations 40 and 46.

Role of the original decision maker at the appeal

At an appeal hearing the original decision maker can be expected to appear before the appeal panel, and may be legally represented only where the student is legally represented. The original decision maker may be the responsible officer if the appeal is against the officer's decision, or a panel where the appeal is against the panel decision. Where the original decision maker was a panel, it may appoint a representative.

The role of the original decision maker is, without disclosing any confidential deliberations prior to reaching a decision, to explain its decision by reference to the material it considered important. In doing this the original decision maker assists the appeal panel in undertaking its review. The original decision maker has a unique contribution to make as it has the powers and responsibilities conferred by the Discipline Regulations. It has experience, knowledge and expertise not possessed by the appeal panel as the body primarily responsible for the exercise of these powers.

The original decision maker must not participate in the deliberations or voting of the appeal panel. All statements and evidence of the original decision maker are to be made in the presence of or made known to the student.

Discipline Regulations, regulation 41.

Is the appeal ground substantiated?

The first task of the appeal panel is to determine whether the appeal ground is substantiated. The panel should hear and receive evidence relevant to the appeal ground and must decide whether the appeal ground is substantiated or not. If not, the appeal is dismissed. If substantiated, then the appeal panel must go on to make the decision under appeal afresh.

Discipline Regulations, regulation 46.

Findings of the appeal panel and available penalties

Where the appeal ground is substantiated, and the appeal panel makes the decision under appeal afresh, following the hearing the panel may:

- affirm the decision of the responsible officer/original panel;
- vary the decision of the responsible officer/original panel; or
- set aside the decision of the responsible officer/original panel and substitute it with its own decision and penalty.

When the appeal panel substitutes the decision and penalty of a responsible officer, it may any penalty which the panel is entitled to impose, including a higher penalty.

The considerations that should be applied when determining a penalty are set out under [determining a penalty](#).

The decision must be made by the majority of the panel and is final. The panel should only produce a single set of reasons for its decision, being the reasons for the unanimous or majority decision, which is the decision of the panel.

Discipline Regulations, regulation 46.

Notifying the student of the decision

Within 7 working days of making a decision, the chair of the panel must provide the student with [written notice](#) setting out the decision and penalty (if any) imposed. At Monash University Malaysia the notice should also be sent to the registrar. This notice must include the reasons of the panel for reaching this decision and, if applicable, penalty.

The notice of decision should be retained on the student file, and notified to persons responsible for the implementation of the decision. For a coursework student, this will be the chief examiner and any other relevant staff member in the teaching Faculty and, if applicable, the managing Faculty. For an HDR student, this will also include the student's main supervisor, the Associate Dean (Graduate Research) or equivalent, and Monash Graduate Education via email graduate-education@monash.edu. Where the student lives in university residences, this may also include Monash Residential Services.

Discipline Regulations, regulation 46.

How to write reasons

When a student's interests are affected by a decision under the Discipline Regulations, it is important to explain to the student why the decision was made. Transparency in decision making makes it more likely the student will understand and accept the decision.

Generally the decision and reasons must be given or confirmed in writing in a decision letter. The decision letter should include the following items:

- that the matter has been determined under the Discipline Regulations;
- the finding that the appeal ground was upheld;
- the allegation being determined, including whether it is of general, academic or research misconduct;
- whether the student took advantage of the opportunity to respond and a summary of any response given;
- the material findings of fact and the evidence and other material on which those findings are based (and where evidence was specifically disregarded or given less weight it is useful to point this out and state why);
- a logical explanation linking the facts to the decision; and
- the decision.

Reasons for the decision should not be a simple statement of conclusion or outcome without explanation, nor a complex analysis of every detail of evidence.

When writing reasons for a penalty decision, the same principles apply. The focus of the reasons about penalty should be:

- an assessment of the seriousness of the misconduct in the circumstances;
- a clear statement of any mitigating or exacerbating factors found to exist;
- the penalty imposed; and
- a logical explanation of how this penalty was determined having regard to the matters listed above and penalty principles.

When discussing evidence, phrases that may be of use when describing how the evidence was considered include, as appropriate:

This evidence was found to be persuasive because

This evidence was given limited weight because

This evidence corroborated the statement that

The recollection of X of this event was given greater weight than the recollection of Y because

The evidence of X about ABC was disregarded because it was

Not relevant

Not helpful to determine the allegation because

Part 8 - Exclusion for safety reasons

Serious allegations of misconduct that involve an immediate and serious safety risk to the person concerned or any other member of the University community may be referred to the Deputy Vice-Chancellor (Education) for consideration for management according to Part 13 of the Monash University (Council) Regulations. For advice on this process you should contact the Safer Community Unit or the Office of the General Counsel.

Part 9 – Other Matters

Delegating to another person to perform a role/function

Any person with a power or function under the Discipline Regulations may [appoint a delegate](#) to exercise that power or perform that function, except:

- a panel member cannot delegate to another person to attend a hearing or to make (or vote on) a finding of misconduct; or
- any power of function conferred by Council.

When delegating the person to perform a power or function –

- ensure that the delegate is appropriately qualified and experienced and at a sufficiently senior level within a relevant division or faculty of the University to perform the power or function;
- consider the imposition of conditions or limitations on the delegation. For example:
 - If an associate dean delegates a person to exercise his or her power to make a decision on an allegation of academic misconduct, the associate dean may impose a condition that the delegate report back on the decision (once made) or consult with the associate dean before making a decision and/or imposing a penalty.
 - A delegation may be limited to a particular function (rather than a general delegation of all powers/functions) – for example the dean may delegate another person to convene faculty discipline panels.
 - A delegation may be limited to a particular area – for example an associate dean may delegate a person physically located at another campus, to perform all (or some) of his or her functions in relation to students alleged to have committed an act of academic misconduct at that campus.

In addition to the above considerations, if the associate dean chooses to delegate a person to make decisions regarding whether a person has committed an act of academic misconduct, that person must be a member of the faculty's teaching staff.

When delegating a function or a power, the original holder of the function or power may still exercise that power or function. For example if an associate dean delegates the head of school to perform functions in response to a report of misconduct under the Discipline Regulations, the associate dean may still exercise powers in response to any report of misconduct under the Discipline Regulations. However, in this case the associate dean must take great care that the power has not already been exercised by the head of school under the delegation.

Discipline Regulations, regulation 55.

Functions/powers of an acting appointee

A person acting in a role or position can exercise the powers and functions conferred upon that role or position by the Discipline Regulations. For example an acting associate dean has all of the powers of an associate dean in considering and taking action on a report of misconduct under the Discipline Regulations.

Suspending a disciplinary proceeding

There are situations where, for legal reasons, it may become necessary for a responsible officer or panel to suspend activity under the Discipline Regulations. This can occur at any stage of the handling of a report under the Discipline Regulations. Most commonly the need to suspend will arise where factual matters in the report are the subject of a criminal investigation or prosecution and the continuation of the process under the Discipline Regulations may interfere with the administration of criminal justice. Once the impediment to the discipline process has been resolved, the disciplinary process may resume.

Resuming a disciplinary process

When a student graduates or discontinues their course of study while a report of misconduct is pending and not finalised, the disciplinary process must cease. It may resume if the student later enrolls at the university in any course.

To make a student aware of this consequence, where a discipline process ceases because enrolment ends, a faculty should write to the student to inform the student the disciplinary process cannot continue because the person is no longer a student of the University. The letter should inform the student that, should they reenrol at the University, the faculty may resume the disciplinary process. Meanwhile, no finding has been made on the report of misconduct.

In addition the faculty should ensure it has gathered and securely stored all evidence relevant to the report, in the event it is needed at some stage in the future. The faculty should also arrange for Central Student Administration to apply an encumbrance on the student's Callista record that requires the faculty be informed if the student reenrols at the University. Then if the student reenrols in any course, the faculty must then decide if it wishes to commence, continue or conclude a disciplinary process and enforce any penalty in relation to the prior misconduct.

Discipline Regulations, regulation 51.

Electronic service of documents

Any notice can be delivered personally, via email to a student's email address as recorded on the university's student information system, or by post. It is deemed to be delivered on the day of delivery when delivered personally, the day it is sent by email when sent by email, and when sent by post it is deemed to be delivered on the date for ordinary delivery for the type of mail used (e.g. ordinary, express post or certified mail).

Discipline Regulations, regulation 54.

Operation and effect of a penalty of suspension, exclusion or prohibition

A student who is *prohibited* from entering a university precinct by a senior officer in a defined area remains a student of the University and may pursue any course or unit of study but must not enter, access or otherwise be present on or in the specified university precinct for the period of the prohibition.

A student who is *prohibited* from entering a university precinct by the vice-chancellor (or delegate) or Deputy Vice-Chancellor (Education) for safety reasons remains a student of the University but is precluded from pursuing any course or unit of study except with the permission of the vice-chancellor (or delegate) or Deputy Vice-Chancellor (Education) and must not enter, access or otherwise be present in or in the specified university precinct for the duration of the exclusion.

A student who is *suspended* from a course of study by a discipline panel remains a student of the University but is precluded from pursuing any course or unit of study for the period of the suspension and must not, without the written consent of the associate dean in the student's faculty, attend any lectures, tutorials or other classes, sit any examinations or submit any work for credit or gain any credit towards a course or unit of study.

Except for an *exclusion* by the vice-chancellor (or delegate) or Deputy Vice-Chancellor (Education) for safety reasons (where the

person remains a student until the matter is determined by a discipline panel), a student who is *excluded* from the University ceases to be a student of the University.

Unless directed otherwise by the discipline panel, the *suspension or exclusion* of a student from the University does not take effect until [the time allowed to lodge a notice of appeal has expired](#) or, where a notice of appeal is lodged in time, until the final determination of the appeal. A panel may order that the suspension or exclusion takes immediate effect where satisfied this is reasonably necessary due to exceptional circumstances including where the student:

- is under 18 years of age and refuses to maintain care arrangements approved under the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007*;
- is missing;
- has medical concerns which endanger the student's wellbeing;
- has engaged or threatens to engage in behaviour that is reasonably believed to endanger the student or any other person; or
- is at risk of committing a criminal offence.

Discipline Regulations, regulation 44.

Annual Report

Each year the dean of the faculty (for each faculty discipline panel, the chair of the GRC for each research discipline panel), and the director, executive services for each university discipline panel, must provide a confidential report of all proceedings before a panel to the Academic Board.

Discipline Regulations, regulation 27

Part 10 – Definition of key terms and concepts

Days

“Working days” is a day other than a Saturday or Sunday and:

- for conduct at Monash Australia a University holiday or Victorian public holiday, or
- for conduct at Monash South Africa and Monash University Malaysia, a University holiday or a public holiday under local law.

Types of Misconduct

“General misconduct” means conduct contrary to accepted standards of behaviour. Many examples are listed in regulation 30(3) of the Discipline Regulations. The examples illustrate the focus on conduct that may harm a person, property or the University, is in breach of a direction or policy at the University or the law, or otherwise impedes the orderly conduct of the university's activities. It covers knowing (an intentional act) and reckless (an act done without regard to its risk or disregarding a known risk) conduct. The obligation not to cause harm to a person extends to a person at or in the vicinity of a university precinct or university activity, and not just persons who are on university premises. The obligation not to cause harm focuses on personal injury or harm (whether physical or mental) and not mere reputational harm.

“Academic misconduct” means conduct that seeks to gain for the student or another person an unfair or unjustified academic advantage in a course or unit of study. It is explained in regulation 30(4) of the Discipline Regulations. It covers knowingly cheating in an exam or other form of assessment, and knowing or reckless breach of a condition under which an examination or other form of assessment is to be undertaken where the breach is to seek to gain an unfair academic advantage. The most common type of academic misconduct is plagiarism, where there is evidence the student knew or was reckless to whether

material copied should have been acknowledged or formatted as a direct quote and passed off another author's work as the student's own. Published and unpublished work may be plagiarised. Evidence of an intention to seek an advantage may be inferred, particularly where there has been a prior warning about plagiarism (e.g., given informally or under the Student Academic Integrity Policy) or the extent of the student's progress through a course indicates the student should be aware of academic citation requirements.

A breach of a condition for the conduct of an examination or other form of assessment (e.g. possession of a prohibited item) without evidence of seeking to obtain an unfair academic advantage is general misconduct. Submission of a false document to seek to obtain an unfair academic advantage is academic misconduct. For example, submitted a forged medical certificate to obtain an extension of time to submit an assignment under special consideration procedures. Submission of a false document where there is no intention to obtain an unfair academic advantage is general misconduct.

“Research misconduct” means conduct in connection with research that is dishonest (an act done knowing it is not honest), reckless (an act done without regard to its risk or disregarding a known risk) or negligent (an act done without taking reasonable care) and seriously deviates from accepted standards within the scientific and scholarly community for proposing, conducting or reporting research. Many examples are listed in regulation 30(5) of the Discipline Regulations. The examples illustrate the focus on the need for research integrity by ensuring the process for conducting research, the inputs into research and the outputs from research are honest, meet ethical requirements and are the original work of the researcher or any named contributor.

Key concepts

“Natural justice” means a fair process is used when the rights of a student may be adversely affected under the Discipline Regulations by requiring:

- that the student has a reasonable opportunity to show why a finding and action should not take place against him/her under the Discipline Regulations; and
- the decision maker has an open mind when considering the student's situation, free of bias; and
- the mandated process for dealing with allegations of misconduct (and not mere formality requirements, such as the requirement to use a particular form) be followed.

The Discipline Regulations sets out rights and obligations that seek to ensure a student is accorded natural justice (a fair process) including:

- the requirement for a student to have notice of the allegation against them;
- the opportunity for the student to respond to that allegation either at a meeting (in summary matters) or a discipline hearing (in matters referred to a panel) and/or in writing, while acknowledging a student may not use this opportunity, in which case the allegation can be determined in the student's absence;
- the right of the student to be assisted, accompanied or represented by another person in presenting a response to the disciplinary allegation;
- the right of the student to raise an objection to the decision maker on the grounds of bias, which objection must be determined before the matter proceeds to a decision;
- the flexibility in process used by the decision maker to inquire into the matters in order to reach a decision, while requiring the decision maker to ensure matters adverse to the student that will be taken into account by the decision maker have been (or are) drawn to the attention of the student, so that the student has the opportunity to consider and respond to the matter before a decision is made.

“Rules of evidence” are rules that apply in court cases to determine the material that the court can and cannot consider. Decision makers under the Discipline Regulations are not a court conducting an adversarial process. Instead the decision maker is conducting an inquiry into the matters alleged. This inquiry must be conducted according to the rules of natural justice (fair process) and court based rules about evidence do not apply. Instead the decision maker must look for and rely upon evidence that has a rational bearing on the question for decision. This is relevant evidence. Relevant evidence must

be considered. Irrelevant evidence does not have a rational bearing on the question for decision. Irrelevant evidence must be disregarded in making a decision.

“**Bias**” is directed at the mind of the decision maker and covers actual bias or a reasonable apprehension of bias. Natural justice requires the decision maker to have an open mind about the question to be determined, to be impartial and not have a personal interest in the outcome.

A person who is actually biased, that is the person has a closed mind to the question to be determined or has prejudged the issue or will be influenced by personal factors in making the decision, must step aside as the decision maker. If a decision maker steps aside, a substitute decision maker must be appointed. A successful claim of actual bias would be rare as it requires clear evidence of bias, such as a statement of prejudgement or open hostility.

The decision maker must also step aside if affected by a reasonable apprehension of bias. A reasonable apprehension of bias exists if a fair minded and informed observer would *reasonably suspect* that in all the circumstances the decision maker does not bring an open mind to the matter to be decided or has prejudged the issue or will be influenced by personal factors in making the decision. The test is not whether the student believes the panel member is affected by bias, or the panel member honestly believes he or she is not biased. The issue is decided by the likely decision of an objective fair minded and informed observer who is attributed with knowledge of the key issues raised in support of the claim of bias. The suspected bias must be highly probable or likely for it to be necessary for the decision maker to step aside. Prior knowledge of a student or their circumstances alone is not enough to form such a suspicion, more is required. To ensure there is no bias, a decision maker should not also be a person giving oral or written evidence about the matter to be determined.

A spurious allegation of bias must not be used by a student to “shop” for a preferred decision maker. An allegation of bias must be raised by a student at the first reasonable opportunity after the identity of the proposed decision maker is known and the factual matters giving rise to the allegation of bias are known. A failure by a student to make an allegation at the first reasonable opportunity may mean the student has waived the right to object to the decision maker on the grounds of bias. A bias objection should be raised before a decision maker presides (at a meeting or hearing), or at the latest at the commencement of the meeting or hearing, and must not be withheld until an adverse decision is known. The objection needs to be determined before the matter proceeds. Whether an objection is granted depends on the circumstances of each case.

Penalties under the Discipline Statute

“**Record of misconduct**” is a formal statement recorded on the student’s university file that he or she was found to have committed the misconduct. It remains on the student file for as long as that file is retained by the University. It is also recorded on the discipline registry, if established.

“**No Penalty**” is a penalty imposed where misconduct has been proven and the panel considers that no additional penalty should be imposed because the misconduct was minor in nature and the panel is reasonably satisfied that the student is unlikely to engage in another act of misconduct.

“**Reprimand**” is a serious formal rebuke and censure for the misconduct, with likely consequence that any later misconduct will have more serious penalty consequences.

“**Consent penalty**” imposes a condition intended to encourage rehabilitation and a change in behaviour to avoid further misconduct. A consent penalty cannot be imposed without the consent of the student. The Discipline Regulations provide examples of consent penalties in regulation 42. For *general misconduct* a consent penalty could be a requirement for the student to:

- Seek counselling;
- Assist with a university event or activity;
- Apologise to any person aggrieved by the misconduct;
- Write a reflective piece of writing in relation to the act of misconduct.

For *academic misconduct* a consent penalty could be a requirement for the student to:

- Not enrol in more than a specific number of units;
- Enrol in a particular unit;
- Develop a study plan to be approved by a member of the academic staff;
- Write a reflective piece of writing in relation to the act of misconduct;
- Seek academic counselling;
- Make contact with a course supervisor at specific intervals;
- Meet the conditions or requirements imposed by an academic progress committee.

For *research misconduct* a consent penalty could be a requirement for the student to:

- Withdraw or remove the research from publication;
- Withdraw or remove any data from publication;
- Write a reflective piece of writing in relation to the act of misconduct;
- Seek academic counselling or research skill development; and
- Apologise to any person aggrieved by the misconduct.

Adherence to a consent penalty is monitored by the relevant responsible officer, and so must be informed to the responsible officer. If the student fails to comply with a consent penalty, the responsible officer should seek an explanation from the student for the non-compliance. After considering any explanation provided, a decision may be made to either:

- Extend time for compliance or waive the need for compliance if appropriate in the circumstances, where the student provides reasonable reasons for non-compliance; or
- In all other cases report the matter to the usual decision maker, who must determine whether the student has failed to comply with the consent penalty. If non-compliance is found to have occurred, the consent penalty is annulled and the decision maker may impose a new penalty having regard to the findings and the evidence.

“Disallowance of work, mark or research” for work not yet assessed means that assessment is prohibited, and for work/research already assessed means that the mark assessed is disallowed. At the time of making the decision, the decision maker may decide to permit resubmission of the work/research within a specified time and subject to set conditions, or the disallowance of the work/research may be deemed to be a fail and a zero mark recorded for that work/research.

“Impose a mark of zero for unit” means to record the student’s mark for the unit as a zero.

“Fine” is a monetary sum that must be paid to the University. The amount of the fine is calculated based on the value of one penalty unit. At Monash Australia the value of one penalty unit for 1 July 2015 – 30 June 2016 is \$151.67. For Monash South Africa and Monash University Malaysia an equivalent amount is determined by the Pro-Vice Chancellor. At Monash South Africa the value of one penalty unit determined by the Pro-Vice Chancellor is ZAR200. At Monash University Malaysia the value of one penalty unit determined by the Pro-Vice Chancellor is RM150.00. This amount is then multiplied by the number of penalty units imposed as the penalty. 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” is a requirement to make restitution to the University or the person who has suffered loss and can only be imposed to require a student to “make good” damage caused by their misconduct and does not extend to providing compensation. Restitution may be by making a payment or undertaking certain actions.

“Prohibition” from entering a university precinct means that a student must not enter the specified area of the University for the period of time the prohibition applies and subject to any conditions imposed. A prohibition penalty is only imposed where it is considered necessary to protect any person or university property.

“Suspension” from a unit or course of study means that the individual remains a student at the University, but is precluded from enrolment in any course or unit of study for the duration of the suspension and so may not attend lectures, tutorials,

classes, sit examinations or submit work for assessment.

“Exclusion” means an individual ceases to be a student at the University.

Appeal Grounds

“Fivolous” is a finding that the appeal is not seriously made, or relies on trivialities that do not warrant a review of the decision under appeal.

“Vexatious” is a finding that the appeal is made to cause unjustified trouble. The appeal is not brought as genuine attempt to seek review of the decision concerned.

“Misconceived” is a finding that the appeal is made incorrectly, on a wrong basis. The appeal misunderstands the basis on which it can be made, and incorrectly asserts a ground of appeal that could not apply.

“Lacking substance” is a finding that the appeal lacks any merit. That is, on the merits there is no reasonable prospects the appeal will succeed.

“Excessive penalty” means a penalty that is extravagant or unreasonable, and not merely a penalty that is different to what another decision maker would choose to impose if deciding the case again.

“New evidence that was not reasonably available which had the potential to affect the outcome of the investigation or hearing” means evidence that was not reasonably available to the student at the time of the original decision had it been sought by the student, and had it been available it had the potential to alter the final decision.

“Manifestly wrong” is a decision that, having regard to the evidence before the original decision maker, is prima facie wrong and there is no basis on which reasonable decision maker could have made the decision. The test is not met merely because the appeal panel would make a different decision on the evidence had they been the decision maker.

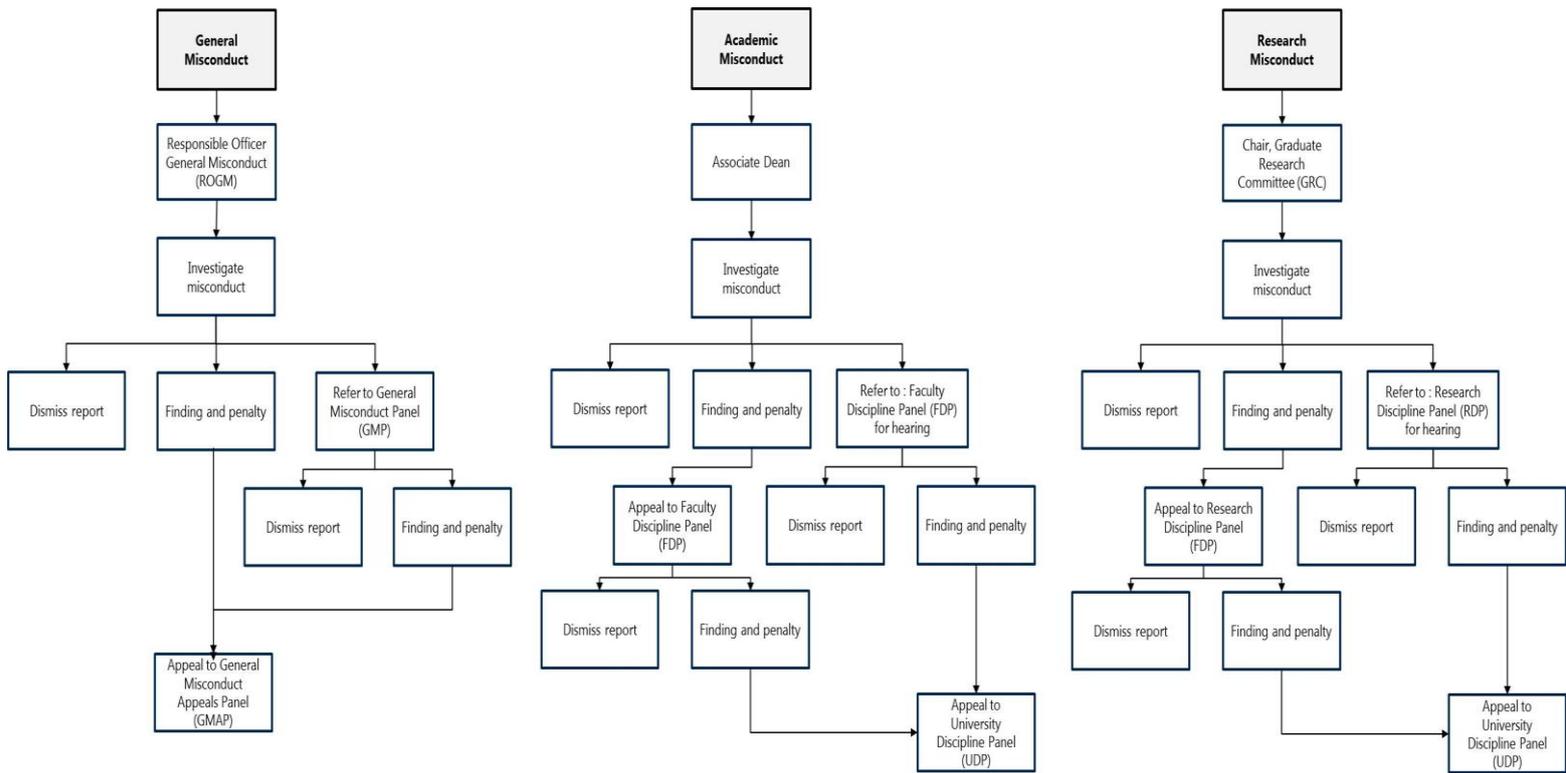
“Breach of a rule of natural justice which has the potential to affect the outcome of the investigation or hearing” means a breach of [natural justice](#) that is of such a consequence it had the potential to alter the final decision. It is not a minor procedural error.

Part 11 – Transitional matters

Any student discipline matter reported before 28 May 2014 must be managed and completed in accordance with Statute 4.1 – Student Discipline. The student discipline process begins when a report of misconduct is made in accordance with the Statute and concludes when a final decision is made under the Statute and when the student has no further right to appeal. At Monash University Malaysia this is when the student has no further right to appeal under the PHEIA.

Discipline Regulations, regulation 56.

Appendix 1 – Student Discipline Framework



Appendix 2 – Penalty Guidelines issued by the Monash University Council

Offence/Circumstance	First offence not of a serious nature and student: <ul style="list-style-type: none"> expresses remorse; and/or does not appear to have understood the consequences or impact of his/her actions 	First offence of a serious nature (e.g. deliberate disregard for or a clear attempt to circumvent rules), or second offence not of a serious nature	Second offence of a serious nature.
ACADEMIC MISCONDUCT			
Plagiarism	<i>Record of guilt and disallowance of work.</i>	<i>Record of guilt and:</i> <ul style="list-style-type: none"> imposing a zero in the unit; and suspension. 	<i>Record of guilt and imposing zero in unit and either:</i> <ul style="list-style-type: none"> suspension; or

			<ul style="list-style-type: none"> • <i>exclusion.</i>
Collusion	<i>Record of guilt and disallowance of work.</i>	<i>Record of guilt and:</i> <ul style="list-style-type: none"> • <i>imposing a zero in the unit; and</i> • <i>suspension.</i> 	<i>Record of guilt and imposing zero in unit and either:</i> <ul style="list-style-type: none"> • <i>suspension; or</i> • <i>exclusion.</i>
Cheating in an examination (including by using a mobile phone)	<i>Record of guilt and disallowance of work.</i>	<i>Record of guilt and:</i> <ul style="list-style-type: none"> • <i>disallowance of the exam or imposing a zero in the unit; and</i> • <i>suspension.</i> 	<i>Record of guilt and imposing zero in unit and either:</i> <ul style="list-style-type: none"> • <i>suspension; or</i> • <i>exclusion.</i>
Cheating by having another person complete an assessment/exam	<i>Record of guilt and disallowance of work.</i>	<i>Record of guilt and:</i> <ul style="list-style-type: none"> • <i>imposing a zero in the unit; and</i> • <i>suspension.</i> 	<i>Record of guilt and imposing zero in unit and either:</i> <ul style="list-style-type: none"> • <i>suspension; or</i> • <i>exclusion.</i>
Assisting someone else to cheat	<i>Record of guilt and disallowance of work.</i>	<i>Record of guilt and:</i> <ul style="list-style-type: none"> • <i>imposing a zero in the unit; and</i> • <i>suspension.</i> 	<i>Record of guilt and imposing zero in unit and either:</i> <ul style="list-style-type: none"> • <i>suspension; or</i> • <i>exclusion.</i>
Falsifying documents to support a special consideration application	<ul style="list-style-type: none"> • <i>Record of guilt* and:</i> • <i>disallowance of the work; and</i> • <i>conditional penalty focussed on cause of conduct.</i> 	<i>Record of guilt and:</i> <ul style="list-style-type: none"> • <i>disallowance of the work or imposing a zero in the unit; and</i> • <i>suspension with conditions focussed on cause of conduct.</i> 	<i>Record of guilt and:</i> <ul style="list-style-type: none"> • <i>exclusion; and</i> • <i>imposing a zero in the unit.</i>
RESEARCH MISCONDUCT			
Failing to comply with ethics approval requirements	<i>Record of guilt* and:</i> <ul style="list-style-type: none"> • <i>reprimand; and</i> 	<i>Record of guilt and:</i> <ul style="list-style-type: none"> • <i>disallowance of research affected; and</i> 	<i>Record of guilt and exclusion.</i>

	<ul style="list-style-type: none"> • <i>conditional penalty to ensure compliance.</i> 	<ul style="list-style-type: none"> • <i>suspension.</i> 	
Misrepresenting (or falsifying) research results	<p><i>Record of guilt* and:</i></p> <ul style="list-style-type: none"> • <i>disallowance of research affected or conditional penalty requiring retraction from publication (as appropriate); and</i> • <i>reprimand.</i> 	<p><i>Record of guilt and:</i></p> <ul style="list-style-type: none"> • <i>disallowance of research affected or conditional penalty (as appropriate) requiring retraction from publication; and</i> • <i>suspension.</i> 	<p><i>Record of guilt and exclusion.</i></p>
Inadequate recording of data	<p><i>Record of guilt and reprimand.</i></p>	<p><i>Record of guilt and:</i></p> <ul style="list-style-type: none"> • <i>disallowance of research affected; and</i> • <i>conditional penalty to achieve compliance; or</i> • <i>suspension.</i> 	<p><i>Record of guilt and:</i></p> <ul style="list-style-type: none"> • <i>suspension with disallowance of research affected; or</i> • <i>exclusion.</i>
Plagiarism	<p><i>Record of guilt and disallowance of research affected.</i></p>	<p><i>Record of guilt and:</i></p> <ul style="list-style-type: none"> • <i>disallow the research affected; and</i> • <i>suspension.</i> 	<p><i>Record of guilt and disallow the research affected or mark and either:</i></p> <ul style="list-style-type: none"> • <i>suspension; or</i> • <i>exclusion.</i>

*** It would only be in very unusual circumstances that this would be an offence that is not of a serious nature due to the inherent seriousness of the offence.**