



## Student Misconduct Rule

### **1 Name of Rule**

- 1.1 This is the Western Sydney University International College (WSUIC) Student Misconduct Rule.

### **2. Purpose and application**

- 2.1 This Rule applies to all students enrolled in courses of WSUIC.
- 2.2 Any student who engages in any one or more of the following types of misconduct is considered to be in breach of this Rule.
- 2.3. Academic misconduct includes
- a. cheating in exams
  - b. contract cheating
  - c. collusion
  - d. plagiarism
  - e. any other matters as outlined in WSUIC's Academic Integrity Policy
- 2.4 General misconduct, includes misconduct that occurs:
- a. within a student residence located on any property under the control of WSUIC or Western Sydney University (WSU)
  - b. during an off-campus activity anywhere within or outside Australia, including field work, placements, exchanges or internships with other education providers, institutions or organisations;
  - c. during any period of intermission from enrolment, including because of deferment, temporary exclusion or suspension;
  - d. in any mode of delivery of educational services, including on-campus or online or
  - e. where the respondent student has otherwise consented to be bound by this Rule (including under any agreement).
- 2.5 It is important to note that "Misconduct", for the purpose of this policy, does not mean the failure to meet satisfactory academic progress requirements. This is addressed in the **WSUIC Academic Progress Policy**.



**3. Effect**

- 3.1 This Rule supersedes and revokes any previous rules, policies or procedures of WSUIC relating to student misconduct.
- 3.2 Nothing in this Rule has the effect of invalidating any past act validly performed under any previous rule, policy or procedure of WSUIC relating to student misconduct.

**Part 2 - Dictionary and Delegations of Authority**

**4. Definitions**

- 4.1 In this Rule the following words have these meanings, unless the context otherwise requires.

| <b>Word or expression</b>  | <b>Definition</b>   |
|----------------------------|---|
| <i>Academic Misconduct</i> | Conduct by a student that in any way undermines or otherwise puts at risk the academic integrity of any course, unit of study or assessment (including examinations) or WSUIC's academic reputation   |
| <i>Appeals Committee</i>   | A Committee convened under Part 7 - Committee Terms of Reference and Procedures to decide appeals under Part 5 - Appeals  |
| <i>Authorised Officer</i>  | A person (other than a Committee) with authority under this Rule to do the following things:<br>(a) hear and decide an allegation of misconduct;<br>(b) impose a Sanction;<br>(c) make a Temporary Restriction Order; or<br>(d) impose a Suspension Order |
| <i>Campus</i>              | A place designated as a campus of the WSUIC including any buildings, facilities or services available on that campus  |
| <i>Category 1 Sanction</i> | A Sanction specified in clause 26   |
| <i>Category 2 Sanction</i> | A Sanction specified in clause 27   |
| <i>Category 3 Sanction</i> | A Sanction specified in clause 28   |
| <i>Chair</i>               | A person appointed to chair a Committee   |
| <i>Course</i>              | A program of study leading to any qualification conferred by WSUIC  |
| <i>Decision-maker</i>      | The responsible Authorised Officer or Committee that makes a decision under this Rule   |



| <b>Word or expression</b>           | <b>Definition</b>   |
|-------------------------------------|---|
| <i>Exclude or Exclusion</i>         | Termination of enrolment or prohibition from enrolling in a unit or a course for a defined period of time or permanently  |
| <i>Expel or Expulsion</i>           | Permanent expulsion from the WSUIC  |
| <i>General Misconduct</i>           | Conduct by a student that is contrary to accepted standards of behaviour at WSUIC including conduct that:<br>(a) places at risk the health, safety or welfare of any person;<br>(b) places at risk the business or other operations, systems or activities of WSUIC<br>(c) disrupts or interferes with another person's ability to access or enjoy WSUIC's facilities or services   |
| <i>Guidelines</i>                   | Guidelines issued under clause 7  |
| <i>Misconduct</i>                   | Academic misconduct or general misconduct   |
| <i>Respondent Student</i>           | A student against whom an allegation of misconduct is made  |
| <i>Sanction</i>                     | A Category 1 Sanction or Category 2 Sanction, or Category 3 Sanction  |
| <i>Student</i>                      | A person who, at the time of the alleged misconduct, is:<br>(a) admitted to a course or unit of study of WSUIC, whether or not enrolled (including where the student has completed that course or unit of study, but has yet to graduate);<br>(b) otherwise studying or undertaking a student-related activity at WSUIC including as part of any exchange or other arrangement with another university or education provider;<br><br>A student does not include a person:<br>(a) who is an employee of WSUIC and<br>(b) the misconduct alleged is required to be dealt with under the terms of that person's employment with (as the case may be) WSUIC |
| <i>Student Misconduct Committee</i> | A Committee convened under Part 7 - Committee Procedures and Procedures to hear and decide allegations of misconduct under Part 4 – Misconduct Procedures where the penalty imposed has the option of a Sanction 2 level outcome.   |
| <i>Suspension Order</i>             | An order made under Part 9 - Suspension Orders  |
| <i>Temporary Restriction Order</i>  | An order made under Part 8 - Summary Temporary Restriction Orders   |
| <i>Term</i>                         | A period of time during which a unit of study is taught and   |



| <b>Word or expression</b> | <b>Definition</b>  |
|---------------------------|--|
|                           | Assessed   |
| <i>WSUIC</i>              | Refers to Western Sydney University International College                                      |
| <i>Unit of Study</i>      | A component of a course, including any field work or placement with an external person or body |

## **5. Interpretation**

5.1 In this Rule, unless the context requires otherwise:

- a. the singular includes the plural and vice versa;
- b. other grammatical forms of defined words and expressions have corresponding meanings;
- c. a reference to a clause, a Part or a Schedule means a clause, part or schedule in this Rule;
- d. a reference to any law, by-law, regulation or other statutory instrument includes any amendment, re-enactment or replacement of it;
- e. a reference to a position within WSUIC (such as a College Director and Principal) means the person employed in or appointed to that role, and includes any person acting in that role temporarily;
- f. a reference to "includes", "including", "for example" or other similar expressions does not limit what else is included;
- g. a reference to a business day means Mondays to Fridays inclusive, except:
  - i. public holidays gazetted in New South Wales; or
  - ii. days when the WSUIC is closed for business as published on its website from time to time.

## **6. Powers and delegations**

6.1 The Authorised Officer/s or Committee listed in Schedules 1 and 2 have power to deal with the matters indicated in the tables opposite their description.

6.2 An Authorised Officer or a Committee:

- a. has power to summon a staff member or student to give evidence at any hearing of misconduct.



- b. may obtain advice or assistance from another person (such as a Course Convenor), but always remains responsible for performing the delegated function; and
  - c. may exercise a function that is preliminary or ancillary to the exercise of any delegated function.
- 6.3 An Authorised Officer may designate another person in writing to fulfil a delegated function as that Authorised Officer's nominee if the Authorised Officer:
- a. reasonably believes there is or may be a conflict of interest, or actual or perceived bias, if he or she exercises that function; or
  - b. is otherwise unavailable to exercise that function.
- 6.4 An Authorised Officer may invite a second individual to co-hear matters indicated in the tables opposite their description. Should a second individual be in attendance the respondent student must be advised in writing at least three business days prior to the hearing.
- 6.5 Any delegation of authority given under this Rule applies to the occupant of the position to whom it is made, including any person acting in that position.
- 6.6 The College Director and Principal may designate another person to perform another Authorised Officer's function under this Rule in circumstances where:
- a. the position of that Authorised Officer no longer exists; or
  - b. that Authorised Officer is for any reason unable or unavailable to exercise that function.

## **7 Guidelines**

- 7.1 WSUIC may make guidelines not inconsistent with this Rule about any of following matters:
- a. establishment of a Student Misconduct Committee, including selection and membership;
  - b. alternative methods for managing behaviours that warrant educative or remedial interventions rather than these being dealt with as misconduct under this Rule;
  - c. to ensure consistency in the way misconduct is managed and sanctions are imposed under this Rule.
- 7.2 Guidelines may be made by:
- a. WSUIC Academic Board in relation to academic misconduct or
  - b. the College Director and Principal and/or the Academic Director, in relation to general misconduct.



### **Part 3 - Reports and Preliminary Action**

#### **8 Reporting misconduct**

- 8.1 Any person who reasonably suspects a student has committed misconduct may report it to any one of more of the following:
- a. any member of staff, who if not an Authorised Officer, must then refer it promptly to the appropriate Authorised Officer; or
  - b. directly to the Academic Director.

#### **9 Preliminary action**

- 9.1 Following a discovery or referral of alleged misconduct, the Authorised Officer must as soon as possible (but generally within 10 business days) conduct a preliminary assessment of the allegation, and:
- a. determine if the outcome of the allegation if proven would attract a Category 1, or 2 sanction. If a Category 2 then a Misconduct Committee is convened
  - b. may interview the respondent student before deciding what, if any, further action to take;
  - c. dismiss the allegation if it is trivial or misconceived and does not warrant any further action; or
  - d. may arrange for an investigation of the allegation, which may or may not include interviewing the respondent student.
- 9.2 If the Authorised Officer or the Misconduct Committee proposes to interview a student under this Part, he or she must first notify the respondent student in writing of the general nature of the allegation and:
- a. invite the respondent student to attend an interview to discuss the allegation;
  - b. advise the respondent student that he or she may bring along a support person or an advocate to the interview, but subject to the requirements of clause 56; and
  - c. if the respondent student does not attend interview, then the Authorised Officer will decide the next steps in his or her absence; and
  - d. give the respondent a copy of this Rule.
- 9.3 The Authorised Officer or the Misconduct Committee does not have to interview, or give copies of any evidence to the respondent student in this preliminary process if he or she reasonably believes that this would:
- a. unreasonably compromise or undermine the integrity of an investigation; or
  - b. risk the health, safety or welfare of the respondent student, any witness or any other person involved in the investigation of the allegation.



- 9.4 Following interview or investigation, the Authorised Officer or Misconduct Committee is to:
- a. dismiss the allegation if there is no substance to it; or
  - b. if considered appropriate, refer the matter to be dealt with under another WSUIC rule, policy or process, rather than the matter being dealt with as misconduct under this Rule; or
  - c. if the respondent student has admitted misconduct and as appropriate:
    - i. impose a Category 1 or 2 sanction, or combination of Category 1 and 2; or
    - ii. recommend a Sanction 3 be imposed by the Board of Directors

## **10 Notice to student**

- 10.1 Following a decision, the Authorised Officer or Student Misconduct Committee must notify the student of the decision made, and:
- a. where the respondent student has admitted the misconduct and a Sanction has been imposed, advise the respondent student that he or she has a right to appeal that Sanction under Part 5 - Appeals; and
  - b. enclose a copy of this Rule.

## **Part 4 - Misconduct Procedures**

### **11 Who hears and decides misconduct or appeals**

- 11.1 The Authorised Officer specified in Schedule 1 has the power to hear and decide allegations of misconduct that if substantiated, warrant a Category 1 Sanction or as prescribed in clause 13.2, a Category 2 Sanction.
- 11.2 A Student Misconduct Committee has the power to hear and decide allegations of misconduct that, if substantiated, warrant a Category 2 Sanction.
- 11.3 The Appeals Committee has the power to hear and decide all appeals.
- 11.4 Unless they consider it unreasonable or impractical, an Authorised Officer or a Student Misconduct Committee has power to hear and decide:
- a. multiple allegations against the same respondent student (including if the allegations traverse more than one category of misconduct); or
  - b. allegations involving more than one respondent student in relation to one incident or the same set of circumstances.



## **12 Fresh allegations**

- 12.1 If a fresh allegation is made about the same conduct or incident before a finding is made, then that fresh allegation may be heard and decided with the original allegation. However, the respondent student must first be given:
- a. another notice of hearing containing that fresh allegation; and
  - b. an opportunity to be heard in relation to that fresh allegation according to the procedure prescribed in this Part.

## **13 Where respondent student admits misconduct**

- 13.1 A respondent student may admit an allegation of misconduct at any stage of this process and, if so, must be given a reasonable opportunity to make an oral or written statement about any Sanction to be imposed.

If a student admits misconduct, before a notice of hearing is issued; and the misconduct is serious enough to warrant a Category 2 Sanction, the Sanction shall instead be decided by the Authorised Officer.

- 13.2 The respondent student must be notified of the Sanction, and any notice must include:
- a. the misconduct admitted by the respondent student;
  - b. details of any Sanction imposed;
  - c. a short statement of reasons for imposing that Sanction;
  - d. a statement that the respondent student has a right to appeal that Sanction under Part 5 - Appeals; and
  - e. a copy of this Rule.

## **14 Notice of hearing**

- 14.1 Before hearing an allegation of misconduct, the Authorised Officer or Student Misconduct Committee must send the respondent student a notice that:
- a. gives sufficient particulars of the allegation to enable the respondent student to respond to it;
  - b. states the date, time and place for the hearing (which is to be no less than 10 business days from the date on which the notice is sent);





- c. includes statements to the following effect:
    - i. that if the respondent student admits the allegation, then the respondent student may make a statement about an appropriate Sanction, either by attending the hearing or providing a written statement on or before the hearing date;
    - ii. if the respondent student attends the hearing, he or she may bring along a support person or an advocate, but subject to the requirements of clause 56; and
    - iii. if the respondent student does not attend the hearing without reasonable excuse, then the allegation will be heard and decided in his or her absence; and
  - d. encloses a copy of this Rule.
- 14.2 A notice of hearing may (but does not have to) include copies of any evidence about the allegation then available. Any available evidence may be excluded or redacted if disclosure at that time could unreasonably:
- a. compromise the integrity of the investigation of the alleged misconduct; or
  - b. place the health, safety or welfare of a person, including any witness at risk.

## **15 Requirements at hearing**

- 15.1 The Authorised Officer or Student Misconduct Committee must:
- a. ensure that the respondent student has been given notice of the hearing under clause 14;
  - b. confirm whether the respondent student admits or denies the allegation;
  - c. consider all available evidence about the allegation and make findings of fact based on any relevant evidence;
  - d. give the respondent student a reasonable opportunity to respond to the allegation and any evidence, and to present his or her own evidence or give any statements;
  - e. decide whether the allegation is sustained, and
    - i. if so, decide what, if any, Sanction should be imposed; or
    - ii. if not, dismiss it and take no further action.
- 15.2 At a hearing, a respondent student is entitled to a reasonable opportunity to:
- a. call witnesses to give evidence on his or her behalf;
  - b. respond to any evidence;
  - c. present any evidence or give oral or written statements;
  - d. subject to clause 16 question witnesses.



## **16 Questioning witnesses**

- 16.1 A respondent student or, if applicable, his or her advocate may only question witnesses:
- a. directly, with the permission of the Authorised Officer or Chair of the Student Misconduct Committee; or
  - b. through the Authorised Officer or the Chair of the Student Misconduct Committee.
- 16.2 Witnesses may be questioned in person or using some form of telecommunications (such as video conferencing) and with or without the respondent student being present. However, if the respondent student is not present, then he or she must be given details of the substance of that witness' evidence and a reasonable opportunity to respond to that evidence before any finding is made.

## **17 Failure of student to attend hearing or respond to notice**

- 17.1 A misconduct hearing must proceed to its conclusion if the respondent student does not attend the hearing without reasonable excuse.
- 17.2 The Authorised Officer or Chair of the Student Misconduct Committee has discretion to adjourn a hearing or extend a deadline for a short period of time, if he or she considers it is reasonable to do so in the circumstances.

## **18 Decision and report**

- 18.1 Following a hearing, the Authorised Officer or Student Misconduct Committee must:
- a. dismiss the allegation if satisfied that the allegation is:
    - i. not substantiated on the balance of probabilities; or
    - ii. so trivial as not to warrant imposing a Sanction; or
  - b. make a finding that the allegation is substantiated on the balance of probabilities and, if appropriate, impose a Sanction.
- 18.2 The Authorised Officer or the Student Misconduct Committee is to prepare and send the respondent student a report that sets out:
- a. the findings of fact;
  - b. a summary of the evidence on which those findings of fact are based;
  - c. any finding of misconduct;
  - d. if applicable, any Sanction to be imposed; and
  - e. a short statement of reasons.
- 18.3 A decision (including any Sanction) takes effect immediately from the date on which the report is sent to the respondent student, subject to any appeal.



## **Part 5 - Appeals**

### **19 Grounds of appeal**

- 19.1 A respondent student may appeal to an Appeals Committee against a finding of misconduct or the imposition of a Category 1 or Category 2 Sanction.
- 19.2 An appeal may only be made on any one or more of the following grounds:
- a. a failure to accord procedural fairness in hearing and deciding the allegation or any Sanction;
  - b. that there is new or fresh evidence that was not known or reasonably available to the respondent student before the finding of misconduct was made; or
  - c. that the Sanction imposed is:
    - i. inconsistent with Part 6 - Sanctions for Misconduct; or
    - ii. excessive and out of proportion to the misconduct, as decided by the Chair of Appeals Committee taking into account any current and relevant Guidelines.

### **20 Lodging an appeal**

- 20.1 A respondent student must lodge an appeal with the Academic Director no later than 10 business days following notification of a misconduct decision.
- 20.2 A notice of appeal must specify:
- a. the finding or Sanction under appeal;
  - b. the ground(s) of appeal under clause 19.2; and
  - c. if this is a ground of appeal, details and copies of any new or fresh evidence.

### **21 Appeals procedures**

- 21.1 The Appeals Committee:
- a. must hold a hearing for an appeal where a ground of appeal is on the basis of new or fresh evidence; or
  - b. may, in its discretion, hold a hearing or decide the appeal on papers for an appeal made on any other ground.
- 21.2 For appeals involving a hearing, the Chair must send the respondent student a notice that:
- a. specifies the date, time and place for the hearing (to be no less than 10 business days from the date on which the notice is sent);



- b. includes statements to the effect that:
    - i. if the respondent student attends the hearing, he or she may bring along a support person or an advocate, but subject to the requirements of clause 56; and
    - ii. if the respondent student does not attend the hearing without reasonable excuse, then the allegation will be heard and decided in his or her absence; and
  - c. encloses a copy of this Rule.
- 21.3 For appeals on the papers, the Chair must send the respondent student a notice that:
- a. states that the appeal will be decided on the papers;
  - b. invites the respondent student to make any further written submissions in support of the appeal by a deadline not less than 10 business days from the date of the notice;
  - c. includes a statement that the Appeals Committee will proceed to decide the appeal if the respondent student does not respond within that time; and
  - d. includes copies of:
    - i. this Rule; and
    - ii. any submissions of WSUIC concerning the appeal.
- 21.4 An appeal must proceed to its conclusion if the respondent student does not:
- a. attend the hearing without reasonable excuse; or
  - b. respond to a notice given under clauses 21.2 or 21.3 within the specified deadline.
- 21.5 If a respondent student withdraws an appeal before the Appeals Committee decides it, then:
- a. the appeal shall be deemed to be dismissed; and
  - b. the original decision (including any Sanction) shall stand.
- 21.6 The process for appeals to the International College's Appeals Committee will be in accordance with Clauses 21.1 to 21.5

## **22 Appeal decision**

- 22.1 The Appeals Committee must limit its inquiry to the grounds of appeal specified in the notice of appeal and in accordance with Clause 19.2
- 22.2 For appeals involving a ground of new or fresh evidence, the Appeals Committee is to:
- a. decide whether that ground is made out; and
  - b. if so, consider and decide the allegation afresh, taking into account that new or fresh evidence, and make a finding on the balance of probabilities; or
  - c. if that ground is not made out, dismiss the appeal.



- 22.3 For appeals on any other ground, the Appeals Committee must:
- a. dismiss the appeal if the ground is not made out; or
  - b. uphold the appeal (in whole or in part) if:
    - i. a ground of appeal is made out; and
    - ii. the original finding of misconduct should be varied or set aside; or
    - iii. the original Sanction should be varied or set aside.
- 22.4 If the Appeals Committee allows an appeal, it must either:
- a. substitute its own finding and, if applicable, set aside or vary any Sanction; or
  - b. if it decides that the original finding or Sanction should not be set aside or varied, despite allowing the appeal, confirm that finding or Sanction.
- 22.5 Any appeal must be decided on the basis of:
- a. the material and evidence that was before the Authorised Officer or the Student Misconduct Committee;
  - b. where a ground of appeal, any fresh or new evidence submitted by the respondent student; and
  - c. any submissions of the respondent student or of the University concerning the appeal.

## **23 Notification of outcome of appeal**

- 23.1 The Appeals Committee is to prepare and send to the respondent student a report that sets out:
- a. its findings and decision (including any sanctions) on the appeal;
  - b. a summary of the evidence or submissions on which its decision is based;
  - c. a short statement of reasons; and
  - d. any avenues of external review or appeal available to the respondent student in accordance with the National Code 2018 enacted under the Education Services for Overseas Students Act 2000 (Cth) (as amended).
- 23.2 The decision of the Appeals Committee takes effect immediately from the date on which it sends its report to the respondent student.

## **24 No further appeal available**

- 24.1 There is no further avenue of internal review or appeal following completion of an appeal under this Part 5 – Appeals, however, the respondent student has the option to access any external appeals mechanisms that are available. See **WSUIC Student Complaints Policy**.



## **Part 6 - Sanctions for Misconduct**

### **25 Categories**

- 25.1 There are three categories of Sanctions that may be imposed for misconduct:
- a. Category 1 Sanctions, which may be imposed by:
    - i. an Authorised Officer or a Student Misconduct Committee if a finding of misconduct is made; or
    - ii. an Appeals Committee in relation to an appeal under Part 5 - Appeals;
  - b. Category 2 Sanctions, which may only be imposed by:
    - i. A Student Misconduct Committee if it makes a finding of misconduct;
    - ii. an Authorised Officer specified in clause 29 if a student admits to misconduct that warrants a Category 2 Sanction before a notice of hearing is issued; or
    - iii. an Appeals Committee in relation to an appeal under Part 5 - Appeals; and
  - c. Category 3 Sanctions, which may only be imposed by the Board of Directors on the recommendation of:
    - i. a Student Misconduct Committee; or
    - ii. an Authorised Officer under clause 29

### **26 Category 1 Sanctions**

- 26.1 A Category 1 Sanction is any one or more of the following:
- a. a reprimand;
  - b. reduction of a mark, including to zero, or a "fail" for an assessment task, examination or final grade;
  - c. a direction to pay up to \$500.00 for repair or replacement of damaged or lost property;
  - d. a direction to give an apology;
  - e. a direction not to approach, contact or attempt to contact a staff member or another student, but only to the extent that this does not unreasonably interfere with the respondent student's ability to attend classes or undertake his or her studies;
  - f. a direction that the respondent student gives a written undertaking to not repeat or continue the behaviour or activity that is the subject of the finding of misconduct;
  - g. restricted or conditional access to or use of any University campus (including buildings), facilities or services for a period of up to one full teaching session.



## **27 Category 2 Sanctions**

- 27.1 A Category 2 Sanction is any one or more of the following:
- a. temporary exclusion from a:
    - i. specified unit of study; or
    - ii. specified course;
  - b. permanent exclusion from a specified course; or
  - c. a direction to pay a specified amount for repair or replacement of damaged or lost property up to a value not exceeding \$2,000;
  - d. suspension from WSUIC or from undertaking a specified activity connected with the respondent student's course for a period of up to two consecutive and full teaching terms;
  - e. expulsion from WSUIC;
- 27.2 A determination that the respondent student should not be granted the relevant award for the course or courses in which he or she was enrolled at the time the alleged misconduct occurred.

## **28 Category 3 Sanctions**

- 28.1 A Category 3 Sanction is revocation of an award conferred on the respondent student.
- 28.2 A Category 3 Sanction may only be imposed by the Board of Directors in accordance with its Charter.
- 28.3 There is no internal avenue of review or appeal against a decision by the Board of Directors to impose a Category 3 Sanction.

## **29 Category 2 Sanctions for admitted misconduct**

- 29 The following Authorised Officers may impose a Category 2 Sanction or recommend to the Board of Directors that a Category 3 Sanction be imposed where a respondent student admits to misconduct before a notice of hearing is given under clause 16:
- a. The Academic Director for both academic and general misconduct.

## **30 Restrictions or conditions following temporary exclusion or removal**

- 30.1 Any readmission to WSUIC or a course following temporary exclusion or suspension is subject to any:
- a. applicable criteria for admission or entry to WSUIC or that course at the time of readmission; and



b. if applicable, conditions or restrictions specified by the Committee in its decision.

### **31 Suspended Sanctions**

31.1 A Sanction may be suspended with or without conditions unless:

- a. the Sanction is a Category 2 Sanction for temporary or permanent exclusion, suspension or expulsion;
- b. the Sanction is a Category 3 Sanction; or
- c. the respondent student has previously been given a suspended Category 1 or Category 2 Sanction for the same or similar misconduct.

31.2 A respondent student may be required to comply with any one or more of the following as a condition of suspending a Sanction:

- a. to undertake to do or not to do something to minimise risk of further misconduct or to the health, safety and welfare of any person;
- b. to undertake counselling, training or other remedial action;
- c. to apologise either verbally or in writing to any person aggrieved by the respondent student's misconduct;
- d. to contact or report to a specified person, such as a Course Convenor, at specified intervals.

31.3 If the respondent student fails to comply with a condition imposed under subclause (2), then the full Sanction will apply and take effect immediately when WSUIC gives the respondent student notice to that effect.

### **32 Effective date**

32.1 The effective date of a Sanction may be adjusted, backdated or delayed to take account of:

- a. the start or finish of a teaching session; or
- b. the length of any previous summary temporary restriction or suspension order made in relation to the respondent student for the misconduct.

### **33 Matters to be taken into account**

33.1 A Sanction must be proportionate to the type and circumstances of the misconduct, and take into account the following:

- a. the nature, severity and impact of the misconduct;
- b. any previous finding of misconduct against the respondent student;
- c. the personal circumstances of the respondent student;





- d. the objective of deterring future incidences of misconduct
  - e. the objective of protecting the WSUIC community and the good governance and reputation of WSUIC;
  - f. any WSUIC policies, conventions or guidelines relating to standards of behaviour (including academic honesty and integrity) expected of students.
- 33.2 Any Sanction imposed under this Rule in relation to conduct that occurred within a student residence does not affect or preclude any other action concerning the respondent student's continued occupancy of or access to that student residence.

### **Part 7 - Committee Terms of Reference and Procedures**

34. The Misconduct Committee will operate under the Terms of Reference for WSUIC's Misconduct Committee available on WSUIC's SharePoint.

The Appeals Committee will operate under the Terms of Reference for WSUIC's Appeals Committee available on WSUIC's SharePoint.

### **Part 8 - Temporary Restriction Orders**

#### **35 Who may impose**

- 35.1 The Authorised Officers designated in Schedule 2 have power to summarily impose Temporary Restriction Orders as specified in Schedule 2.

#### **36 Purpose**

- 36.1 An Authorised Officer may summarily impose a Temporary Restriction Order on a student:
- a. where the circumstances warrant immediate or urgent action; and
  - b. where that student's conduct is unreasonably:
    - i. antisocial; or
    - ii. disruptive or a threat to others or to the academic or business activities or systems of the University; or
  - c. in respect of any conduct by that student for which a Suspension Order may be made under Part 9 - Suspension Orders.

#### **37 Procedure**

- 37.1 A Temporary Restriction Order:
- a. may be given verbally or in writing;
  - b. takes effect immediately from when it is given;
  - c. may be imposed for a length of time not exceeding three clear business days from the date it is made.



37.2 An Authorised Officer may inform himself or herself as to any matter before imposing a Temporary Restriction Order but does not have to give the respondent student an opportunity to be heard before making that order.

37.3 A Temporary Restriction Order:

- a. must be proportionate to the circumstances;
- b. should, if reasonably practicable, try to minimise any unreasonable academic disadvantage to the respondent student; but
- c. is to take account of, as the paramount consideration, any risk to the:
  - i. health, safety and welfare of the respondent student or of others;
  - ii. security or integrity of any University land, buildings, business or systems (including any academic activity).

### **38 Notification**

38.1 An Authorised Officer must within one business day of making a Temporary Restriction Order:

- a. confirm its nature, scope and length in writing to the respondent student, if given verbally;
- b. notify the person specified in Schedule 2 to whom it must be notified, and provide the following details:
  - i. the name and student identification number of the respondent student;
  - ii. when and where the alleged incident occurred;
  - iii. a brief description of the incident;
  - iv. the nature, scope, length and dates of the Temporary Restriction Order; and
  - v. a recommendation as to whether the incident warrants further investigation or proceedings for misconduct.

38.2 Following notification, the person to whom the Temporary Restriction Order is notified must decide whether the incident warrants further investigation or action for misconduct.

### **39 Compliance**

39.1 A respondent student who is given a Temporary Restriction Order must comply with it.

### **40 No appeal**

40.1 There is no internal avenue of review or appeal against a decision to summarily impose a Temporary Restriction Order.



## **Part 9 - Suspension Orders**

### **41 Who may impose**

- 41.1 The following Authorised Officers have power to impose Suspension Orders:
- a. the College Director and Principal
  - b. the Academic Director

### **42 Purpose**

- 42.1 A Suspension Order may be made for the purpose of preventing or minimising any of the following risks:
- a. risk to the health, welfare or safety of the respondent student or to others;
  - b. risk to the security or integrity of any land, buildings, business or systems of WSUIC
  - c. risk to the integrity of any evidence or investigation into suspected or alleged misconduct;
  - d. risk that misconduct will occur or continue.
- 42.2 A Suspension Order for an allegation of misconduct involving an offence punishable by 12 months' imprisonment or more (and regardless of whether the respondent student is charged with that offence), shall apply automatically, unless the Authorised Officer is reasonably satisfied:
- a. the risk can be managed without the need for a Suspension Order, and on the condition that the respondent student complies with any reasonable management strategies specified by the Authorised Officer.

### **43 Nature and scope**

- 43.1 A Suspension Order may withdraw, restrict or limit any right, entitlement or privilege applicable to a student of WSUIC, including:
- a. attendance at, lectures or other activities related to the respondent student's study or enrolment;
  - b. entry onto any premises or into buildings of WSUIC
  - c. access to or use of any facilities, services or other resources of WSUIC (including libraries, laboratories, equipment or computers);
  - d. directing the respondent student not to contact or approach another student or any member of staff of WSUIC while on WSUIC' premises or through use of any WSUIC facilities, services or other resources.



- 43.2 A Suspension Order:
- a. subject to clause 46.2, must be proportionate to the circumstances;
  - b. may be made at any time before or during an investigation or hearing for misconduct under this Rule;
  - c. takes effect immediately from the date on which Suspension Order is notified to the respondent student or a later time specified in that notice;
  - d. may be imposed for a specified period of time or for an indefinite period of time until conclusion of proceedings under this Rule; and
  - e. may be extended or renewed.

#### **44 Procedure**

- 44.1 If the total length of any Suspension Order (including if it is extended or renewed) exceeds or is likely to exceed 10 business days, the respondent student must be given an opportunity to be heard on the issue of suspension by a notice that:
- a. summarises the alleged conduct to which the proposed Suspension Order relates;
  - b. specifies the type of Suspension Order and length being considered;
  - c. invites the respondent student to have the opportunity to be heard on the issue of suspension only, either by:
    - i. attending an interview at a time, date and place specified in that notice, which is to be no earlier than two business days from the date on which the notice is sent; or
    - ii. providing a written response by a date specified in that notice, which is to be no earlier than three business days from the date on which the notice is sent;
  - d. include statements to the effect that:
    - i. if the respondent student does not attend the interview on, or respond by, the specified deadline, then the Suspension Order described in that notice shall take effect immediately following expiry of that deadline without further notice; or
    - ii. if the respondent student attends the interview or provides a written response, then a final decision will be made after considering the respondent student's response; and
    - iii. includes a copy of this Rule.
- 44.2 The Authorised Officer must consider any response provided by the respondent student before making or extending a Suspension Order.



**45 Notification**

- 45.1 A Suspension Order must be in writing and must:
- a. specify the alleged conduct to which the suspension relates;
  - b. specify the nature and length of the Suspension Order and from when it takes effect;
  - c. include a short statement of reasons for imposing the Suspension Order; and
  - d. include a statement that the respondent student may, at any time, apply to have the Suspension Order varied or lifted at any time if the respondent student may demonstrate, to WSUIC's reasonable satisfaction, that circumstances have changed to an extent that warrant variation or lifting of the Suspension Order.

**46 Variation, lifting and expiry**

- 46.1 An Authorised Officer may vary or lift a Suspension Order at any time to take account of any changes in circumstances, including the continued likelihood of any risks, by following the process specified in clauses 48 and 49.
- 46.2 A Suspension Order ends on the earliest of:
- a. 5.00 pm on the expiry date specified in the notice;
  - b. if and when it is revoked; or
  - c. conclusion of proceedings under this Rule.

**47 Compliance**

- 47.1 A respondent student against whom a suspension order is made must comply with it.

**48 No appeal**

- 48.1 There is no avenue of internal review or appeal against a Suspension Order.

**Part 10 Miscellaneous**

**49 Procedural powers**

- 49.1 An Authorised Officer or a Committee:
- a. may decide their own procedures, subject to this Rule;
  - b. is not bound by the rules of evidence;
  - c. may make inquiries and obtain evidence about any matter, consistent with the rules of procedural fairness; and



- d. may summon any student or member of staff of WSUIC to give evidence.

## **50 Student and staff cooperation**

- 50.1 All students and members of the staff of WSUIC must:
  - a. reasonably cooperate with any process conducted under this Rule;
  - b. not do or attempt to do anything (including withholding or tampering with evidence) to undermine or interfere with the integrity of a process under this Rule; and
  - c. behave in an appropriate and civil manner in any hearing.
- 50.2 A respondent student or a witness may be directed to leave a hearing if his or her behaviour is unreasonably disruptive.

## **51 Hearings to be conducted in private**

- 51.1 Hearings under this Rule must be conducted in private.

## **52 Support persons**

- 52.1 A respondent student may bring along a support person to assist the respondent student or to speak on his or her behalf (including as an advocate) at any hearing or an allegation of misconduct or an appeal. However, that person must be available at the date and time specified in the notice of hearing.
- 52.2 A support person may be directed to leave a hearing if that person unreasonably disrupts or delays the hearing. If this occurs, the hearing or appeal may proceed to completion in the absence of that support person.

## **53 Allowance for academic disadvantage**

- 53.1 WSUIC must make reasonable allowance for any academic disadvantage a respondent student suffers (such as permission to re-sit an examination or an extension of time to complete an assessment task) following a Temporary Restriction Order or Suspension Order where subsequently:
  - a. no further action is taken under this Rule; or
  - b. the allegation of misconduct is not sustained.

## **54 Fairness and conflicts of interest**

- 54.1 Authorised Officers and Committee members must always:
  - a. act fairly, reasonably, and without bias;
  - b. disclose promptly any actual or potential conflict of interest and manage or work around that conflict of interest in accordance with any policy of WSUIC relating to



- c. conflicts of interest; and
  - d. treat all matters dealt with under this Rule as strictly confidential and not discuss them with anyone else, except on a strictly 'need to know' basis for the purposes of this Rule, including seeking legal or other professional advice.
- 54.2 Authorised Officers and Committees should also act as quickly and with as little formality as possible, but in accordance with this Rule.
- 54.3 Wherever possible, a respondent student must be notified promptly of any delays in investigating or making a decision in relation to misconduct.

## **55 Other action**

55.1 Any action taken under this Rule does not preclude WSUIC from doing any of the following in relation to the circumstances involving the alleged misconduct:

- a. commencing legal action against the respondent student; or
- b. reporting the matter to the police or other external organisation (such as a professional registration body or a regulatory authority), regardless of whether WSUIC is under a legal obligation to do so.

## **56 WSUIC may designate person to present evidence for WSUIC**

- 56.1 WSUIC may designate a person to present evidence or make submissions on behalf of WSUIC to a Committee.

## **57 Status of prescribed deadlines**

- 57.1 Except for minimum periods of notice to be given to a respondent student, any deadlines specified in this Rule are indicative only.
- 62.3 Non-compliance does not render a decision or action void or capable of being set aside merely for that reason.

## **58 Meaning of no further internal review or appeal**

- 58.1 If a clause in this Rule states that a decision cannot be the subject of any further internal review or appeal under this Rule, then that decision cannot be the subject of any further review or appeal under any other internal rule, policy or process of WSUIC.
- 58.2 However, this does not preclude a respondent student from exercising a right of review of that decision by a court, tribunal or other external body with power to do so.

## **59 Administrative errors or omissions**



- 59.1 A decision made under this Rule may be corrected where:
- there is an obvious clerical or typographical error or omission in the text;
  - a document (or a reference to it) was omitted;
  - there is an error arising from an accidental slip or omission; or
  - there is a defect of form.
- 59.2 Any correction made to a decision must be notified to the respondent student promptly following discovery of that error, defect or omission.

## **60 Recording and implementing decisions**

- 60.1 Subject to any right of appeal a respondent student has under this Rule, any finding of misconduct and any Sanction(s) imposed shall be recorded on WSUIC's electronic and other records relating to the respondent student in accordance with the **State Records Act 1998 (NSW)**.
- 60.2 All relevant WSUIC staff (including any prescribed in Schedules 1 or 2) will be notified about any decision or action taken under this Rule for the purpose of recording and implementing the decision.

## **61 Concurrent legal proceedings or police investigation**

- 61.1 The College Director and Principal or the Academic Director may, at any stage of proceedings under this Rule adjourn or suspend any investigation or hearing of an allegation of misconduct (including any appeal) if there is a police investigation or criminal proceedings in relation to the same conduct.
- 61.2 A decision under subclause (61.1) does not:
- affect any Temporary Restriction Order or Suspension Order already made;
  - prevent a Temporary Restriction Order or a Suspension Order from being made at any time; or
  - prevent reactivation of or commencement of new proceedings (including another or a further investigation) under this Rule.

## **62 Savings provisions**

- 62.1 If before this Rule commences, a person or a committee has commenced hearing an allegation of, or an appeal in relation to, misconduct under a process prescribed in another rule or policy, but has not yet made a decision, then that matter shall continue to be dealt under that rule or policy, until all processes in that rule or policy are completed or exhausted.
- 62.2 Any act, matter or thing that immediately before this Rule commenced had effect pursuant to any by-law, rule, policy or other instrument of WSUIC is taken to have effect under this Rule.





**63 Rule Source:**

63.1 This Rule was developed and informed by:

Western Sydney University The College Misconduct Rule

63.2 In order to provide consistency and continuance of practice for students throughout their Bachelor studies including the completion of their Diploma or Foundation studies. The above Rule has been adapted to meet the specific requirements of students undertaking study at the International College.

**Attachments**

- (1) *Schedule 1* - Authorised Officers and Committees who may hear and decide misconduct or appeals
- (2) *Schedule 2* - Authorised Officers who may make Temporary Restriction Orders



**SCHEDULE 1**

**Authorised Officers and Committees and levels of responsibility**

| <b>Authorised Officer or Committee</b> | <b>Responsibility</b>   |
|--|---|
| Appeals Committee                      | Hear and decide all appeals lodged under Part 5 - Appeals   |
| College Director and Principal         | Hear and decide: (a) academic misconduct attracting a Category 1 or 2 Sanction<br>(b) general misconduct attracting a Category 1 or 2 Sanction<br>(c) impose a Category 1 or 2 Sanction where respondent student admits academic or general misconduct before notice of hearing issued. |
| Academic Director                      | Hear and decide (a) academic misconduct attracting a Category 1 or 2 Sanction<br>(b) impose a Category 1 or 2 Sanction where respondent student admits academic before notice of hearing issued.  |
| Student Misconduct Committee           | Hear and decide academic or general misconduct attracting a Category 2 Sanction unless misconduct is admitted before notice of hearing issued   |

**SCHEDULE 2**

**Authorised Officers who may impose Temporary Restriction Orders**

| <b>Authorised Officer</b>   | <b>Designated restricted areas or activities</b>   | <b>Person to whom restriction must be notified within 24 hours (clause 44(2).)</b> |
|---|--|--|
| Any officer within Campus Safety and Security                                       | Any WSUIC premises facilities or services  | Manager of Quality and Student Administration or Academic Director                 |
| Any member of academic staff of WSUIC   | (a) Any classroom, laboratory or other teaching facilities<br>(b) Any area (including offices and common areas) on WSUIC premises<br>(c) Any area (on or off a campus) where the respondent student undertakes any other activity related to his or her course | Course Convenor or Academic Director   |
| Any person supervising or monitoring an examination (including casual invigilators) | Any area where or in immediate vicinity of where an examination is being conducted   | Course Convenor or Academic Director   |



International College

|  |  |  |
|--|--|--|
| <b>Authorised Officer</b>  | <b>Designated restricted areas or activities</b> | <b>Person to whom restriction must be notified within 24 hours (clause 44(2).)</b> |
| Any person (including any third party) responsible for the management of Western Sydney University Village |  |  |

### Approval and Amendment History

|                              |  |
|------------------------------|--|
| <b>Approval Authority:</b>   | Western Sydney University International College Board of Directors |
| <b>Policy Owner</b>          | Academic   |
| <b>Approval Date:</b>        | 27 April 2018  |
| <b>Date for Next Review:</b> | 28 April 2020  |

| <b>Amendments</b>    |                |  |
|----------------------|----------------|--|
| <b>Revision Date</b> | <b>Version</b> | <b>Summary of changes</b>  |
| 27/04/2018           | 1.0            | New Rule Developed   |
| 08/01/2021           | 2.0            | Reference to WSUIC's Academic Integrity Policy<br>Updates to Clause 34 by referencing it to WSUIC's Misconduct Committee Terms of Reference<br>Updates to Schedule 1: responsibilities for Academic Director   |
| 22/08/2023           | 2.1            | Updates to Definition with removal of definition of Committee, as Misconduct Committee only deals with the Rule 01 where as Appeals Committee refers to Appeals and Complaints<br>Update to Clause 9.4 c.i to include combination of Category 1 and 2<br>Update to Student Services Manager Title to Manager of Quality and student Administration |

