

## Student Misconduct Procedures

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<b>Description</b>	This document is provided to assist University staff to implement the <i>Student Misconduct Policy</i> .

### Related documents

[Student Misconduct Policy](#)

[Student Charter](#)

[Student Sexual Assault, Harassment, Bullying and Discrimination Policy](#)

[Procedures for Reporting and Responding to Student Sexual Assault, Harassment, Bullying and Discrimination](#)

[Griffith Health Local Protocol - Fit for Professional Practice](#)

[Student Wellbeing and Safety Policy](#)

[Student Wellbeing and Safety Procedures](#)

[Health Safety and Wellbeing Policy](#)

[Student Complaints Policy](#)

[Student Complaints Procedures](#)

[Information Technology Code of Practice](#)

[Staff Guidelines on Decision-making in Student Cases](#)

[Information Security Policy](#)

[Personal Information Privacy Plan](#)

[Academic Records Procedure](#)

[Griffith University Copyright Matters](#)

[Code of Conduct](#)

[Staff Sexual Assault and Sexual Harassment Policy](#)

[Staff Harassment, Bullying and Discrimination Policy](#)

[Reporting and Resolution of Staff Sexual Assault, Harassment, Bullying and Discrimination Procedures](#)

[Griffith University Act 1998](#)

[\[The Student Misconduct Policy\]](#) [\[Handling Unacceptable Behaviour\]](#) [\[Forms of Student Misconduct\]](#) [\[Important Principles\]](#) [\[Initial Actions of a Decision-maker\]](#) [\[Decision-maker's Procedures\]](#) [\[Penalty Orders Available\]](#) [\[Suspension from Classes, Facilities or Services\]](#) [\[Referring a Case to the Student Misconduct Committee\]](#) [\[Dealing with a Volatile, Dangerous or Unstable Situation - Interim Suspension\]](#) [\[Appeals\]](#) [\[Campus Service\]](#) [\[Student Grievance\]](#)

## 1. THE STUDENT MISCONDUCT POLICY

The *Student Misconduct Policy* approved by the University Council in December 2004 provides a formal framework for the University to deal with the behaviour of students which can be construed as misconduct. In summary, the policy:

- lists student behaviours and conduct which are deemed to be misconduct and able to be dealt with under the policy;

- states that any person may report a student for possible misconduct; this means any staff member or another student or even a member of the public;
- defines "decision-makers" who are Deans, Pro Vice Chancellors and Office Directors;
- sets out the actions to be taken by decision-makers, which are to ensure due process and natural justice;
- provides decision-makers with a range of penalties which can be applied to resolve many cases of student misconduct; however, decision-makers cannot exclude a student from the University;
- provides for decision-makers to refer cases to the Student Misconduct Committee, defines the procedures to be followed by the Student Misconduct Committee, and the penalties which it can impose, which include excluding the student;
- sets out appeal procedures to protect students at each stage of the process.

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## 2. HANDLING UNACCEPTABLE BEHAVIOUR ON THE PART OF STUDENTS

The existence of the *Student Misconduct Policy* does not mean that staff must use this policy to deal with all cases of unacceptable behaviour on the part of students. It is important that staff are encouraged and supported to deal with many types of undesirable behaviour. For example -

- a student disrupting a class should be told to stop by the lecturer or tutor;
- a student being rude or aggressive to an administrative officer should be told that their attitude/actions are unacceptable;
- a student making noise in the library should be told to stop or leave by library staff;

In these and many other situations of low-level misbehaviour, university staff and their immediate supervisors should exercise their authority, should make clear to the offending student that the behaviour is unacceptable and will not be tolerated, and should take steps to manage the situation.

Staff should be polite at all times. In particular, staff who may regularly be exposed to students displaying unacceptable behaviour should be trained in how to deal with such students and should know what support they can expect from fellow staff and/or supervisors in situations. Staff in schools and offices should discuss and agree on appropriate local responses to low-level student misconduct.

It should be remembered that sometimes the behaviour of students may be based on feelings of exasperation or injustice, and staff can often play a role in defusing such situations. Staff should be sensitive to the possible effects of cultural differences and language issues in interactions with students. Also, staff should be aware that some behaviours which concern or frighten others may be the result of psychiatric illness, substance abuse or severe distress. While the behaviours are undesirable, staff need to exercise judgement regarding an appropriate response.

Taking account of the advice to use discretion and good judgement, staff should exercise their authority and, as far as possible, control a situation. Staff are permitted to:

- require a student to leave the class or the location where the unacceptable behaviour is occurring;
- refuse to deal with the student (leave the counter, terminate the phone call, terminate the meeting) until the student has changed their behaviour;
- warn the student that they may be charged with misconduct if they do not change their behaviour;
- call a supervisor, another staff member or security staff for assistance in managing a situation;
- invoke local and appropriate sanctions, such as removing the student's access to resources or privileges, or subtracting marks for an assessment item<sup>1</sup>.

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<sup>1</sup> Academic actions such as docking marks can be used appropriately, such as taking off marks for a laboratory session if behaviour contravenes safety requirements; for a field trip where behaviour contravenes the instructions for the field trip; for tutorial exercises where a student does not contribute constructively; for group work where a student's conduct is unacceptable; and so on. In these academic situations, the Course Convenor should always be informed and be supportive of the action. The student has the right to make a complaint (*Student Complaints Policy*) if they consider the actions of the staff member to be unfair.)

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### 3. FORMS OF STUDENT MISCONDUCT WHICH WOULD BE HANDLED UNDER THE POLICY

The definitions of Student Misconduct in Section 2 of the *Student Misconduct Policy* provide the framework within which the decision to treat a particular incident as student misconduct should be made. With due regard for the policy, and without detracting from the responsibility of staff to deal with situations locally, promptly and effectively, the following are examples of behaviours where the *Student Misconduct Policy* should be invoked:

- any occurrence, or threat, of physical violence or harm;
- vandalism;
- repeated verbal aggression, abuse, vilification, obscenity, particularly when the student has been warned that such conduct will not be tolerated;
- behaviour by one student which academically harms another student.

Notwithstanding, a staff member has the right to refer to a decision-maker the behaviour of a student which they consider to be misconduct and which is covered by the definitions in the Policy. The referral can be in any form - in person, by telephone, in writing, or by e-mail.

Note that in some situations the staff member should also complete an Incident Report under the University's *Health and Safety Policy*.

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### 4. IMPORTANT PRINCIPLES

All staff members involved in a student misconduct situation, whether as a decision-maker, complainant, committee member or in any other capacity, should adhere to.

#### 4.1 Principle of Natural Justice

Decision-makers must act fairly and without any actual or perceived bias:

- A person is innocent until proven guilty;
- Justice delayed is justice denied.

Persons should have an opportunity to present their views and respond to any adverse material:

- People should know the origin of evidence against them;
- All parties to a decision should be heard and all relevant arguments considered before a decision is made.

#### 4.2 Principle of Confidentiality

Details of an allegation and information about the complainant, the student, the investigation, the committee deliberations and the correspondence, should be restricted to persons who have a need to know in order to carry out their role in the process.

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### 5. THE INITIAL ACTIONS OF A DECISION-MAKER

On the basis of the information provided to the decision-maker, or the situation which has occurred or is occurring, the decision-maker should initially assess whether there is a volatile, dangerous or unstable situation which needs to be controlled at once. Refer to section 10 for the process to be invoked in this case.

The decision-maker should also consider whether the misconduct allegation comes within their area of responsibility. In general:

- For student misconduct occurring within a teaching situation - lecture, tutorial, laboratory, field trip, professional placement - the decision-maker is the relevant Dean;

- Student misconduct occurring in the Library or a Learning Centre should be dealt with by the Director, Library & Learning Services;
- Student misconduct occurring in the residences should be dealt with by the Director, Campus Life;
- Student misconduct on campus or in a university building, but not connected with a class, should be dealt with by the Director, Campus Life;
- Student misconduct in an administrative interaction with Student Life, Griffith Graduate Research School or the International Office is the province of the Deputy Registrar, the Dean, Griffith Graduate Research School or the Vice President (Global), respectively.

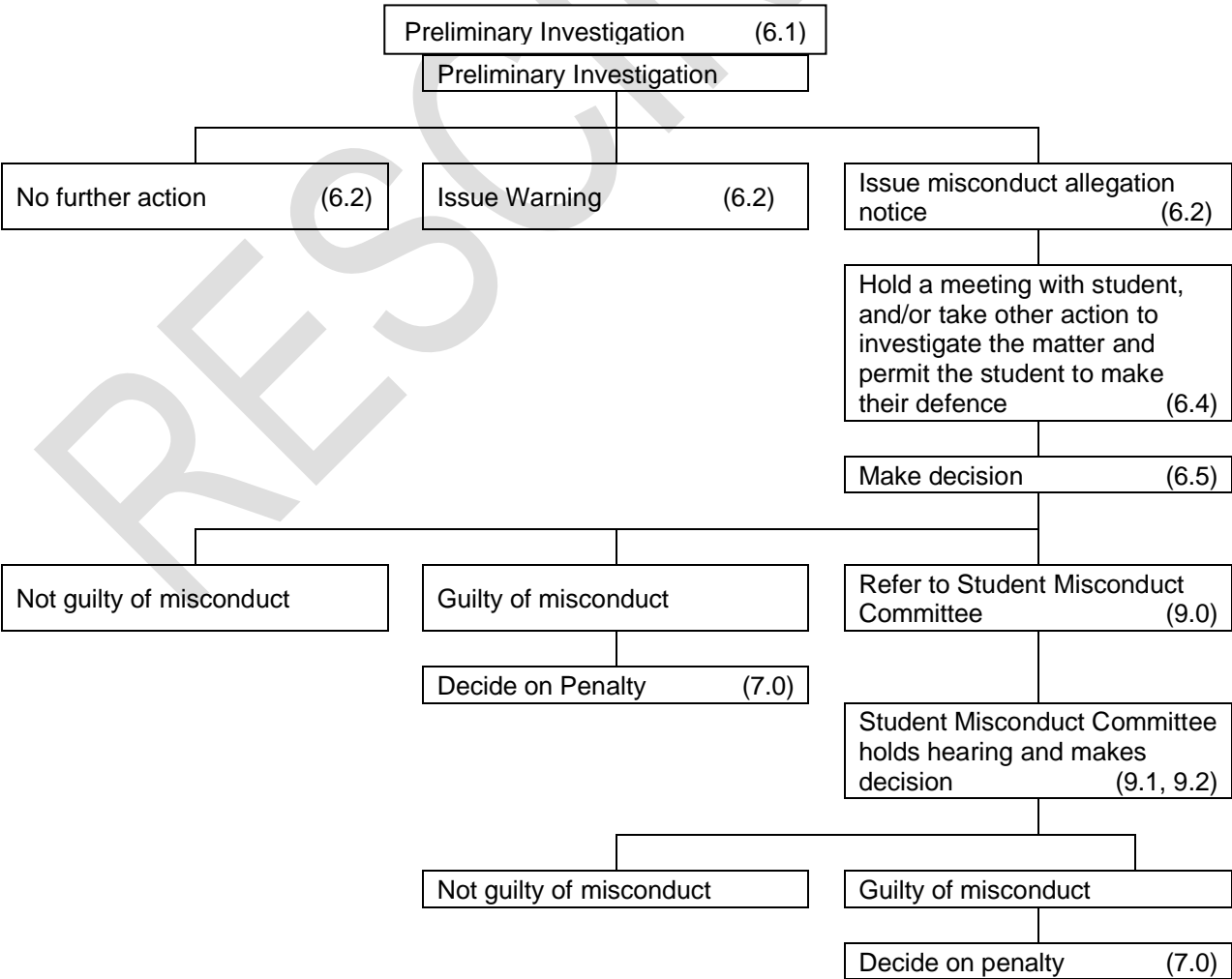
Nevertheless, there will be some ambiguous situations, such as an incident in a laboratory, where it may be the responsibility of the Dean, or in a computing laboratory where it may be the responsibility of either the Chief Technology Officer or the Dean.

Section 6 of the *Student Misconduct Policy* provides for a decision-maker to refer the matter to another decision-maker. Where there is ambiguity, the relevant decision-makers should confer and reach an agreement. Where a decision-maker considers that they have a conflict of interest or are closely involved in the misconduct situation, they should refer the matter to another decision-maker. In these cases, the advice of the Chair of the Student Misconduct Committee may be sought.

### 6. DECISION-MAKER'S PROCEDURES

Figure 1 summarises the decision-maker's procedures and references the explanatory sections in this document.

Standard formats for all correspondence including the allegation notice are provided to assist decision-makers. Copies of all correspondence must be forwarded to the Registrar's office and placed on the student's file.



## 6.1 Preliminary investigation

The policy provides for the decision-maker to make preliminary investigations in order to decide whether to proceed with a misconduct allegation. Therefore, in the first instance, the decision-maker should be sure that they have all the information to enable them to make this decision. As well as receiving an account of the alleged misconduct from the person lodging the complaint, the decision-maker may seek information from other persons who may have been involved in the situation or witnessed the incident. The decision-maker should check the student's file to see if there have been other instances where misconduct has been alleged.

The decision-maker may decide to interact with the student at this stage. If such an interaction is to occur before the issue of an allegation notice, it is recommended that the interaction be in person and be kept relatively informal.

Note that the *Student Misconduct Policy* says that the decision-maker may proceed in the way that the decision-maker considers appropriate without being bound by the rules of evidence and that the standard of proof required for decisions is the balance of probabilities (see section 19 of *Student Misconduct Policy*).

## 6.2 The Outcome of the Preliminary Investigation

The outcome of this first stage should be one of three possibilities:

- 1) The decision-maker decides to take no action - either because they consider the allegation false or likely to be false or too difficult to determine whether it is true or false; or because they consider the conduct not serious enough to be considered to be misconduct. In this case, the decision-maker should advise the person making the allegation of their views. If the student has been contacted, the decision-maker should make it clear to the student that no action is being taken. Also, in this case it is at the discretion of the decision-maker whether any record is added to the student's file.
- 2) The decision-maker decides to not proceed with an allegation of misconduct but to warn the student that the conduct was unacceptable and that any recurrence may result in an allegation of misconduct. This advice should be conveyed to the student in writing, and a copy should be given to the person lodging the complaint. The letter should be worded carefully to ensure that it is not construed as a reprimand made under the *Student Misconduct Policy*. A format for a warning letter is provided. The correspondence must be placed on the student's file.
- 3) The decision-maker issues a misconduct allegation notice.

## 6.3 The misconduct allegation notice

Under the policy, the misconduct allegation notice must:

- provide details of the alleged misconduct;
- give the student a copy of, or an opportunity to inspect, all relevant documents held by the decision-maker;
- advise the student that they have the opportunity to appear before the decision-maker to answer the allegation;
- advise the student that they may be accompanied by or represented by another person (but not legally represented) when meeting with the decision-maker;
- include advice that the student's results may be withheld pending the resolution of the allegation;
- include a copy of the *Student Misconduct Policy*.

The notice will either specify the time, date and place of a meeting between the student and the decision-maker, or indicate the process whereby a suitable time for the meeting can be arranged. The misconduct allegation notice must be placed on the student's file. A format for an allegation notice is provided.

## 6.4 The Decision-maker's Meeting with the Student

The policy provides for the decision-maker to proceed in the way the decision-maker considers appropriate, without being bound by the rules of evidence, and also provides for there to be a meeting between the student and the decision-maker at this stage of the process. The meeting

may be just between the decision-maker and the student, with or without a companion (but not legally represented), or may include other persons, where the decision-maker considers this to be appropriate and helpful.

If it is not practicable to hold a meeting in a timely fashion (such as where the student is overseas), an exchange of letters and or a telephone conference may be substituted.

It is recommended that a file note relating the details of the meeting be placed on the student's file.

### 6.5 The Decision-maker's Decision

The decision-maker makes a decision, which is one of three possibilities:

- decides that the student is not guilty of misconduct; OR
- decides that the student is guilty of misconduct and decides to issue a penalty order, as provided for in the policy; ([see section 7](#)) OR
- decides to refer the allegation to the Student Misconduct Committee (see Section 9).

The decision-maker must give written notice of the decision as soon as practicable. The outcome notice must be provided to the student with a copy to the Deputy Vice Chancellor (Education) and a copy placed on the student's file. The original complainant may be given a copy of the notice or otherwise advised of the outcome.

The notice must give the reasons for the decision and must outline the rights of appeal. A format for a decision notice is provided.

## 7. PENALTY ORDERS AVAILABLE TO A DECISION-MAKER

The policy requires that the decision-maker must decide on a penalty that is proportionate to the misconduct, having regard to what is just in the circumstances. The student may appeal against a penalty.

The decision-maker may select one or more of following penalty orders:-

- a reprimand;
- a probationary enrolment;

This means that the student is advised that their continued enrolment is subject to their good behaviour. Any future instances of misconduct may result in suspension or exclusion. Note that an allegation of misconduct while the student is on a probationary enrolment must still be dealt with through the normal procedures outlined in [section 6](#):

- require the student to pay compensation equal to the cost of restoring or replacing an item;
- campus service ([see section 12](#));
- suspension from accessing or using all or any specified University facilities or services for a period not exceeding six months.

Where this penalty is invoked, attention must be paid to the impact of the suspension on the student's enrolment and ability to complete the courses in which the student is enrolled. Where the suspension is restricted to specific facilities, such as a computer lab, the library, or non-academic facilities, then the suspension may not necessarily affect the student's academic progress. However, if the suspension will affect the student's ability to complete courses, refer to [section 8](#):

- suspension from attending all or any specified classes for a specified period not exceeding six months (refer to [section 8](#));
- refuse or cancel credit for a course.

This penalty generally means taking away a passing grade which has already been awarded to the student. This can be done by changing a passing grade to a grade of Fail (2). This results in the student's GPA being lowered and, generally, the student must repeat the course in order to complete degree requirements, which will incur additional tuition fees or student contribution. If the decision-

maker wishes to cancel the credit but not award a fail grade, the advice of Student Life should be sought.

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## 8. SUSPENSION FROM CLASSES, FACILITIES OR SERVICES

Where a decision-maker wishes to impose a suspension for a period not exceeding six months, the decision-maker needs to consider the impact of the suspension on the student's ability to complete the courses in which they are enrolled. The impact will depend on the timing within the trimester, the type of suspension, and the status of the student's study in the trimester. Basically the suspension will be one of the following scenarios:

- 8.1 The suspension is to cause the cancellation of the student's enrolment in one, several or all courses for the trimester, without academic penalty (no fail grades) and without liability for tuition fees or student contribution.

In this case, the advice of the suspension must be conveyed to Student Life to effect the cancellation.

- 8.2 The suspension is to cause the cancellation of the student's enrolment in one, several or all courses for the trimester, with fail grades and with full fee liability.

This penalty is applicable where the student has already effectively ceased studying a course or courses, such that the student is going to be awarded fail grades. In this situation, the misconduct should not take away the grades which would apply through normal processes. To award fail grades for misconduct in other circumstances is an extreme penalty which is expected to be invoked only in exceptional circumstances.

- 8.3 The suspension is to come into effect for the next trimester. The student is permitted to complete the current trimester's enrolment but is prohibited from enrolling in certain courses, or all courses, for the next trimester.

In this case, the advice of the suspension must be conveyed to Student Life in order to put the suspension into effect.

Note that consideration should be given to withholding the grades from the student at the end of the current trimester, until the misconduct procedures are completely finished (Section 20 of *Student Misconduct Policy*).

Note also that applying a suspension to an international student may affect their student visa. If a decision-maker wishes to impose a suspension order on an international student the advice of Griffith International must be sought.

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## 9. REFERRING A CASE TO THE STUDENT MISCONDUCT COMMITTEE

The reason why a decision-maker refers a case to the Student Misconduct Committee is most likely to be that the decision-maker considers that the misconduct is major and that a penalty of exclusion is a possible outcome.

A decision-maker is encouraged to seek advice from the chair of the Student Misconduct Committee before deciding to refer the case to the Committee.

To refer a case to the Student Misconduct Committee, the decision-maker:

- i. issues an allegation notice and meets with the student, as detailed in [section 6](#);
- ii. advises the student that the case has been referred to the Student Misconduct Committee (a format for a referral notice is provided);
- iii. forwards the allegation notice, all documents and evidence pertinent to the case, and a summary of the decision-maker's investigation of the case to the Secretary of the Student Misconduct Committee, Student Business Services.

The decision-maker and the chair of the Student Misconduct Committee should agree on the respective roles of the decision-maker and the Student Misconduct Committee in investigating the case, so as to minimise duplication of effort, while still adhering to the requirements of the *Student Misconduct Policy*.

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### 9.1 Procedures for the Student Misconduct Committee

The Student Misconduct Committee follows the same procedures as set down for a decision-maker in considering the allegation. The Committee will hold a formal meeting and the student who is alleged to have committed the misconduct will be given the opportunity to appear at the meeting. The student must be given the opportunity to be accompanied by a companion (but not legally represented<sup>2</sup>). The Committee may ask the decision-maker to appear before the Committee. The Committee may also ask other relevant persons to present information to the Committee.

### 9.2 Outcome of the Student Misconduct Committee's process

The Student Misconduct Committee decides whether or not the student is guilty of misconduct. If a finding of misconduct is made, the committee may impose a penalty order which is one or more selected from the list which is given above for decision-makers ([section 7](#)) plus the penalty of exclusion from the University for a specified period or permanently.

The Committee's decision is conveyed to the student as soon as practicable after the Committee has reached its decision. The advice to the student must give the reasons for the decision and also include advice about their right to appeal.

A copy of the outcome notice (decision notice) is provided to the Deputy Vice Chancellor (Education) and a copy placed on the student's file. A copy of the decision advice is also provided to the decision-maker who brought the allegation.

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## 10. DEALING WITH A VOLATILE, DANGEROUS OR UNSTABLE SITUATION - INTERIM SUSPENSION

As well as handling the immediate situation by whatever means are appropriate, such as calling security, the decision-maker may seek an Interim Suspension of the student. The *Student Misconduct Policy* says that the Deputy Vice Chancellor (Education) may suspend a student on considering it necessary to avert a substantial risk of:

- injury to a person
- damage to property
- serious disruption of a university activity.

Note that security may remove a student from a university facility. An interim suspension is the means of barring the student from any or all of the University's campuses, or from a field trip or placement location, immediately and effectively until a penalty under the *Student Misconduct Policy* is imposed (which may be a longer suspension or exclusion).

If the decision-maker judges that an interim suspension is necessary and appropriate, the decision-maker communicates with the Deputy Vice Chancellor (Education). The communication should present the facts of the situation and state the risk which the decision-maker believes is required to be managed.

The Deputy Vice Chancellor (Education) assesses the seriousness and urgency of the risk. Where practicable the Deputy Vice Chancellor (Education) provides the student with an opportunity to explain why the suspension ought not to be imposed.

In imposing an interim suspension, the Deputy Vice Chancellor (Education) takes the following action:

- sends a formal notice of suspension to the student (a format for an interim suspension notice is provided);
- sends a copy of the notice to the decision-maker, with advice that all relevant staff are to be advised of the interim suspension and that if the student presents on campus, security is to be called;
- sends a copy of the notice to the Director, Campus Life for advice to security in order to monitor the suspension.

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<sup>2</sup> The *Student Misconduct Policy* permits the student to have legal representation at the appeal stage, but not at the initial decision stage.



Within 10 days of the issue of the interim suspension notice, the decision-maker is to issue the student with an allegation notice. ([See section 6](#)).

In preparing to issue the allegation notice, the decision-maker may decide not to proceed to a formal allegation of misconduct, preferring to take other action, such as issue a warning. In such a case, the Deputy Vice Chancellor (Education) should be requested to lift the interim suspension.

Where an allegation notice is issued, the decision-maker should forward a copy of the notice to the secretary of the Student Misconduct Committee, so that the arrangements for a meeting of the committee can be initiated.

Within 14 days of the issue of the allegation notice, the Student Misconduct Committee is required to hold its first meeting to deal with the allegation.

The interim suspension remains in force until one of the following events takes place:

- there is no allegation notice issued within 10 days. The Deputy Vice Chancellor (Education) shall formally advise the student that the suspension is lifted;
- the Student Misconduct Committee has not met within 14 days of the issue of the allegation notice. The Deputy Vice Chancellor (Education) shall formally advise the student that the suspension is lifted;
- The Student Misconduct Committee has finalised its consideration of the allegation. The notice of outcome from the Committee shall advise the student that the interim suspension is no longer in place, having been replaced by whatever is the decision of the Student Misconduct Committee;
- The Student Misconduct Committee or the Misconduct Appeals Committee lifts the interim suspension on appeal by the student;
- The Deputy Vice Chancellor (Education) lifts the suspension because the student is satisfied that the risk that necessitated the suspension has passed.

When the suspension is lifted, advice of that fact is conveyed to the original decision-maker and Campus Life.

Note that the student under an interim suspension must be permitted to come on to campus for the meeting with the decision-maker or the Student Misconduct Committee. The decision-maker, or the secretary of the Student Misconduct Committee, should make arrangements with Security to facilitate this.

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## **11. APPEALS**

The student who is found to have committed misconduct may appeal either against the decision that they have committed misconduct or against the penalty imposed, or both.

If the decision of misconduct and the imposition of the penalty were made by a decision-maker, the Student Misconduct Committee hears the appeal.

If the Student Misconduct Committee made the decision of misconduct and imposed the penalty, the Misconduct Appeals Committee will hear the appeal.

If the Student Misconduct Committee, in considering an appeal against a decision made by a decision-maker, decides that the outcome of the appeal is that the student is permanently excluded from the University, that decision is subject to an appeal which is heard by the Misconduct Appeals Committee.

The Misconduct Appeals Committee consists of members of Council, as prescribed in the policy, who are appointed by the Vice Chancellor for the purpose of hearing a specific appeal.

The process to be followed in hearing appeals, either by the Student Misconduct Committee, or the Misconduct Appeals Committee, is prescribed in the policy in some detail. A significant point is that legal representation is permitted for the student and for the university.

## 12. CAMPUS SERVICE

Campus service is considered a particularly appropriate penalty order where a serious incident has occurred but the student is remorseful and an academic penalty of suspension or exclusion seems unduly harsh. A reprimand may be considered to let the student off too lightly and downplay the gravity of the incident. In this case, a campus service order may be appropriate.

Central areas of the University, such as Student Services, Campus Life, Griffith International, Griffith Graduate Research School, may be able to provide suitable forms of campus service on request. The expectation is that it is administrative or manual work which does not require specific skills or work that is matched to the skills which the student has, such as design, web development, journalism.

Consideration should be given to withholding the student's grades until the campus service is satisfactorily completed (Section 17 of *Student Misconduct Policy*).

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## 13. STUDENT GRIEVANCE

In dealing with student misconduct, the most difficult situation is where the student has lodged an appeal or a complaint within the same time frame that the University wishes to proceed on misconduct. If such a situation arises, the advice must be sought from one or more of the Deputy Vice Chancellor (Education), the Registrar, the Chair of the University Appeals Committee or the Chair of the Student Misconduct Committee.