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## Student Conduct Statute

### Student Policy Group

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#### 1 Purpose

Students are expected to act in ways that are consistent with the role and guiding values of the University, and to regulate their own conduct so as not to impede or prejudice the work of other members of the community. They are entitled to work, learn, study and participate in the social aspects of the University's life in an environment of safety and respect. It is expected that students will act with integrity and demonstrate respect for others.

This statute sets out the procedures that apply in the event that a student is alleged to have breached acceptable standards of conduct as described herein.

#### 2 Organisational Scope

This is a University-wide statute. It shall apply to all students and Hall Residents at Victoria University of Wellington.

#### 3 Definitions

For purposes of this statute, unless otherwise stated, the following definitions shall apply:

Class:	Lecture, tutorial, laboratory session, field trip, practicum, supervisory session and other contexts in which teaching is occurring.
Clinician	Counsellor or Registered medical practitioner.
Complainant:	Any member of the University community who alleges a breach of this statute by a student or Hall resident.
Deciding Manager:	Any University staff member with management responsibilities (including Heads of School, Deputy Heads of School, Managers of services, Directors of a Central Service Unit, Institute or Centre, members of the Senior Management Team, and Hall Managers of a Hall of Residence that is covered by this statute as provided in the residential handbook).
Hall Resident:	A resident in a Hall of Residence which is managed by or on behalf of the University, or which is covered by this statute as provided in the residential handbook.
Member of the University Community:	Includes all students, all staff of the University, the VUW Foundation and Victoria Link Limited, Council Members, persons on contract to the University, visiting scholars, professors emeriti, Hall residents and persons providing services to the University.

Respondent:	A student or Hall resident against whom an allegation of a breach of this Statute is brought.
Ruahine:	The senior Māori woman acknowledged as having expertise in tikanga at Te Marae o Te Herenga Waka.
Student:	Any person enrolled in a personal course of study at the University, or a person who is studying at the University under an exchange agreement with another institution.
Tohunga:	The senior Māori man acknowledged as having expertise in tikanga at Te Marae o Te Herenga Waka.
Class:	The Pro Vice-Chancellor (Māori).
Clinician	All premises, grounds and buildings owned by, in the possession of, or administered by the University, as well as Hall of Residences that are covered by this Statute as provided in the residential handbook.

## 4 Statute Content and Guidelines

### 4.1 Scope

- (a) The statute shall cover student conduct:
  - (i) within the University precincts; or
  - (ii) in the context of any official University activity; or
  - (iii) where the behaviour in question is directly and demonstrably related to his or her status as a student of the University.
- (b) A student of the University is in breach of this statute if he or she engages in any conduct within the jurisdiction of the University that is prohibited by clause 4.2 of this Statute.
- (c) A complaint may be made against a person's actions whilst they are a student.

### 4.2 Definition of Prohibited Conduct

Conduct prohibited by this Statute is:

- (a) Conduct in breach of any University statute, policy, rule of conduct within a Hall of Residence, or professional code approved by the University;
- (b) Conduct in breach of any provision of any New Zealand statute or regulation;
- (c) Discrimination as defined in the [Human Rights Act 1993](#);
- (d) Sexual harassment as defined in section 62 of the [Human Rights Act 1993](#);
- (e) Racial harassment as defined in section 63 of the [Human Rights Act 1993](#);
- (f) Racial disharmony as defined in section 61 of the [Human Rights Act 1993](#);
- (g) Academic misconduct, which means:
  - (i) the fabrication of data, including claiming results where none have been obtained;
  - (ii) the falsification of data, including fraudulent changing of records;

- (iii) plagiarism, which is the presentation of the work of another person or other persons as if it were one's own, whether intended or not. This includes published and unpublished work, material on the Internet and the work of other students and staff;
- (iv) misleading ascription of authorship such as listing authors without their permission, or attributing work to others who have not in fact contributed to the research;
- (v) intentional infringements of the guidelines issued by the University's [Human Ethics](#) Committee and [Animal Ethics](#) Committee, or of other relevant professional practices and codes of ethics;
- (vi) cheating or other dishonest practices in relation to assessment; and
- (vii) other academic or research practices which bring or are likely to bring the University into disrepute;

*Note: Academic misconduct does not include honest errors or honest differences in the interpretation of data or conclusions drawn.*

- (h) Misuse of information, which includes:
  - (i) perusing personal information files or any other information, whether on a University database or other information collection, to which the person has no authorised access;
  - (ii) intentionally introducing erroneous or misleading material into, falsifying, or deleting without authorisation information from, any University database or information collection; and
  - (iii) any act or omission in breach of the [Privacy Act 1993](#) or the [Official Information Act 1982](#);
- (i) Misuse of University computer systems, which includes:
  - (i) accessing, storing, viewing, publishing or distributing pornographic material;
  - (ii) publishing or distributing any material that is defamatory or offensive, or in any way constitutes harassment or excessive mail to other users (for example, hoax letters); and
  - (iii) copying, loading or downloading any software or other material (including games, movies and music) in breach of copyright license conditions;
- (j) Other inappropriate conduct which includes but is not limited to:
  - (i) being in any part of the University precincts, knowing that he or she is not entitled to be there at that time;
  - (ii) wilfully impeding the activities of the University, whether in teaching, research or otherwise;
  - (iii) knowingly failing to comply with any reasonable direction given to him or her by the person in charge of a group of students going to, engaged in, or returning from a field trip or any other activity conducted or sponsored by the University beyond the University precincts;

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<sup>1</sup> In cases of alleged plagiarism, please refer to the [Dealing with Student Plagiarism Procedure](#)

- (iv) knowingly failing to comply with any reasonable direction given to him or her by a staff member of the University or by a Hall Manager, or any person acting under the authority of a Hall Manager, in a Hall of Residence;
- (v) wilfully or recklessly damaging or defacing, or wilfully moving without authority, any property of the University, or any other property within the University precincts;
- (vi) wilfully creating any nuisance;
- (vii) being under the influence of illegal drugs;
- (viii) being under the influence of alcohol in a situation where this is inappropriate;
- (ix) wilfully obstructing any member of the University community or any person employed at the University in the due performance of his or her functions or of the work he or she is required to perform;
- (x) wilfully failing to comply with the directions on any notice erected with the authority of the Director, Facilities Management and governing entry, speed and exit of vehicles, and the location of parking spaces;
- (xi) committing any criminal offence;
- (xii) committing any breach of any rule of conduct (verbal or written) made by any authorised person provided that reasonable notice of that rule has been given to students generally or to the student charged with misconduct before the misconduct is alleged to have taken place.

*Note: Examples of this might include failing to comply with laboratory rules or requirements of students on a field trip.*

- (xiii) threatening, or repeatedly or excessively insulting, any other person;
- (xiv) behaving in any way, without reasonable cause, which brings or is likely to bring the University into disrepute;

*Note: This is not intended to apply to reasonable behaviour by students in the exercise of academic freedom.*

- (xv) knowingly assisting another member of the University community in the commission of, or counselling, procuring or encouraging another member of the University community to commit, any breach of this statute;
- (xvi) bribing or attempting to bribe staff by offering gifts or services in return for personal favour; and
- (xvii) falsifying or attempting to falsify any document, whether or not it is for the purpose of a benefit or advantage.

#### **4.3 Resolving Complaints Informally**

- (a) When appropriate, the University encourages the use of informal methods for resolving disputes. For advice on whether an informal process is appropriate, the Facilitator and Disputes Advisor may be contacted in confidence.
- (b) Specific resource people that may be called upon to assist with informal resolutions include the Facilitator and Disputers Advisor, sexual harassment contact people, Associate Deans (students), Faculty Managers, and the VUWSA Student Advocate.

#### **4.4 Resolving Complaints Formally**

##### **4.4.1 Procedure for Misconduct and Serious Misconduct (other than Hall Misconduct)**

- (a) The complainant shall make their complaint to the Head of School or other relevant manager who shall notify the Facilitator and Disputes Advisor of the complaint as soon as possible.
- (b) Except as provided in clause 4.4.1(d), the alleged prohibited conduct will fall into one of the following two categories:
  - (i) misconduct, which shall be dealt with by the relevant Head of School, Deputy Head of School or a manager at a comparable level of seniority; or
  - (ii) serious misconduct, which shall be dealt with by the relevant Pro Vice-Chancellor.
- (c) Prior to the complaint being investigated, the decision as to whether the alleged conduct is misconduct or serious misconduct shall be made by the Facilitator and Disputes Advisor or the University's General Counsel in consultation with the relevant deciding manager.
- (d) The manager's line manager or another appropriate deciding manager shall deal with the complaint if the relevant manager:
  - (i) is in any way implicated or otherwise involved in the complaint; or
  - (ii) has already taken urgent action on the matter under clause 4.5.
- (e) If the deciding manager considers that the complaint discloses a possible breach of this statute, she or he shall:
  - (i) advise the respondent in writing of the substance of the complaint, the relevant clause/s of this statute that have allegedly been breached, their entitlement to representation, and the advisory and support services offered by VUWSA via the Student Advocate and their contact details; and
  - (ii) provide the respondent with copies of any written material relating to the complaint and a reasonable opportunity to then respond to the allegation/s; and
  - (iii) give due consideration to any explanations/comments from the respondent before any decision is made; and
  - (iv) determine whether or not the alleged misconduct/serious misconduct has been established to the standard of proof commensurate to the seriousness of the alleged misconduct/serious misconduct. For example, where the relevant allegation involves a significant pejorative assessment of the respondent (such as dishonesty or sexual harassment), the standard of proof will be high and fall between the civil standard of the balance of probabilities and the criminal standard of beyond reasonable doubt. In less serious cases (such as minor plagiarism or inconsiderate behaviour towards staff or other students), the standard of proof will be the balance of probabilities.
  - (v) advise the respondent in writing as soon as practicable of their decision; and
  - (vi) inform the complainant of their decision.

##### **4.4.2 Procedure for Hall Misconduct**

- (a) The complainant shall make their complaint to the Hall Manager of the relevant Hall of Residence.

- (b) If the Hall Manager considers that the complaint discloses a possible breach of this Statute, she or he shall:
- (i) advise the respondent (orally or in writing) of the substance of the complaint, the relevant clause/s of this statute that have allegedly been breached, their entitlement to representation, and the advisory and support services offered by VUWSA via the Student Advocate and their contact details; and
  - (ii) provide the respondent with copies of any written material relating to the complaint and a reasonable opportunity to then respond to the allegation/s; and
  - (iii) give due consideration to any explanations/comments from the respondent before any decision is made; and
  - (iv) determine whether or not the alleged misconduct/serious misconduct has been established to the standard of proof commensurate to the seriousness of the alleged misconduct/serious misconduct. For example, where the relevant allegation involves a significant pejorative assessment of the respondent (such as dishonesty or sexual harassment), the standard of proof will be high and fall between the civil standard of the balance of probabilities and the criminal standard of beyond reasonable doubt. In less serious cases (such as inconsiderate behaviour towards other residents), the standard of proof will be the balance of probabilities.
  - (v) advise the respondent in writing as soon as practicable of their decision; and
  - (vi) inform the complainant of their decision; and
  - (vii) maintain a record of any disciplinary action.
- (c) In cases of serious misconduct where the Hall Manager considers that the respondent's presence on the University campus may pose a risk to the safety and wellbeing of members of the University community, a Pro Vice-Chancellor may after giving due consideration to any explanations and comments from the respondent, take further disciplinary action against the respondent including any of the remedies provided for in clause 4.6.2.

#### 4.4.3 Tikanga Māori

- (a) The University is committed to acknowledging the Treaty of Waitangi by working in partnership with Māori. The spirit of tikanga is to seek resolutions to disputes and complaints in a manner that encourages a facilitated open exchange of views with a view to seeking consensus and acceptance from all parties as to the resolution.
- (b) A complaint may be addressed by applying tikanga Māori if the complainant, respondent, deciding manager, and Te Marae o Te Herenga Waka agree to such a process including, the participants in that process and the procedure to be followed. The Toiahurei, Tohunga and Ruahine will speak for Te Marae o Te Herenga Waka. The Toiahurei will have the responsibility of ensuring that all the other parties are sufficiently aware of tikanga before agreeing to the process.
- (c) For the purposes of this statute, tikanga comprises at least the following elements:
- (i) Resolution of the dispute will take place within Te Tumu Herenga Waka.
  - (ii) Te Reo Māori will be used for te kawa o te marae. Within Te Tumu Herenga Waka, Te Reo Māori may be used and statements will also be repeated in English or an interpreter will be provided if this is necessary to ensure that all the parties have a clear understanding of what is being communicated.

- (iii) The process will be facilitated by the Toiahurei, and the Tohunga and Ruahine o Te Herenga Waka, unless they are involved as a party to the dispute, in which case their involvement will not be in a facilitator capacity.
- (iv) All parties have the right at their discretion to be supported by whānau.
- (v) Where possible, decisions in respect to a complaint will be negotiated by the parties. Where consensus is unable to be reached, the decision shall be made by the Toiahurei, the Tohunga and Ruahine o Te Herenga Waka. The decision may include any of the remedies provided for in clauses 4.6.1, 4.6.2 and 4.6.3.

*Note: Parties who are not familiar with tikanga may find that the concept of confidentiality is treated differently than in other processes such as set out in clause 4.4, in that more people are usually involved in working together to reach a resolution.*

#### **4.5 Urgent Action**

- (a) Before a complaint is investigated by the deciding manager, urgent interim action may be taken if it is required to ensure that the work of members of the University community is not impeded or prejudiced, or that the peace and good order of the University and the safety and wellbeing of its members are maintained.
- (b) In all cases other than Hall misconduct, any urgent action taken under clause 4.5 shall be reported in writing to the Office of the Facilitator and Disputes Advisor as soon as practicable, which shall assume responsibility for notifying the relevant persons of the action taken for enforcement purposes.

##### **4.5.1 Urgent Disciplinary Powers of Persons in Charge of a Class**

- (i) If a person in charge of a class has reasonable grounds for believing that a student in the class has committed or is committing a breach of this statute and that immediate action is required to ensure that the activities within the class are not obstructed or impeded or to protect the safety and well-being of persons in that class, that person may exclude the student from the remainder of the class.
- (ii) An exclusion under clause 4.5.1(a) shall take effect as soon as the student has been advised.

##### **4.5.2 Urgent Disciplinary Powers of Persons in Charge of Facilities**

- (a) If a staff member or contracted security guard, who could be reasonably held to be in charge of a University facility (which includes venues) at the relevant point in time, has reasonable grounds for believing that a student has committed or is committing a breach of this statute at that facility and that immediate action is required to ensure that the activities within the facility are not obstructed or impeded, or to protect the safety and well-being of persons, that person may exclude the student from the facility for a period not exceeding 24 hours.

*Note: Staff members who could be reasonably held to be in charge of a facility include, but are by no means limited to, the Director Facilities Management, Campus Care staff and contractors, the General Manager of the Student Union, supervisors of Student Computing Suites, the Librarian, and Hall Managers and their deputies at Hall of Residence.*

- (b) An exclusion under clause 4.5.2(a) shall take effect as soon as the student has been advised.

##### **4.5.3 Urgent Interim exclusion from the University**

- (a) Except as provided in clause 4.5.3(b), where a Head of School, or other relevant manager, believes on reasonable grounds that a student has committed or is

committing a breach of this statute and that immediate action is required to ensure that either the work of members of the University community is not impeded or prejudiced, or that the peace and good order of the University is maintained, he or she may:

- (i) instruct the student to cease the misconduct and/or vacate the area where the misconduct has occurred; and/or
  - (ii) suspend the student from attendance at the University, or from particular classes, for a period not exceeding two weeks; or
  - (iii) exclude the student from any designated part of the University for a period not exceeding two weeks.
- (b) In cases of Hall misconduct, the Hall Manager may suspend or exclude the student only from the relevant Hall of Residence, and any suspension from classes or exclusion from any other part of the University must be approved by the Director of Student Services.
- (c) Before suspending or excluding a student under clause 4.5.3(a), the relevant manager shall provide the student with a reasonable opportunity to comment on the proposed temporary suspension or exclusion, and take into consideration any effects the suspension or exclusion may have on that student's personal course of study.
- (d) A suspension or exclusion under clause 4.5.3(a) shall take effect as soon as the student has been advised.

#### **4.6 Disciplinary Action**

##### **4.6.1 Misconduct**

Where a complaint of misconduct is established, the deciding manager may take disciplinary action against the respondent. Such action may include:

- (a) requiring a public or private apology from the respondent, either written or oral;
- (b) requiring an undertaking/s from the respondent as to future behaviour;
- (c) an educational or supervision programme for the respondent;
- (d) requiring the respondent to undergo, at the University's expense, an assessment by a clinician if the deciding manager considers that the respondent may pose a risk to the safety and wellbeing of themselves or member/s of the University community, or that the respondent is likely to disrupt or impede the activities of the University;
- (e) a change to a specified document(s);
- (f) an oral or written warning;
- (g) an order to pay compensation for any loss or damage caused by or arising from the misconduct;
- (h) suspension from some or all classes for a period not exceeding the balance of the current trimester;
- (i) suspension of access to all or any part of the University facilities or services for a period not exceeding the balance of the current trimester;
- (j) the withdrawal of some or all library services for a period not exceeding the balance of the current trimester;
- (k) the withdrawal of some or all information technology services for a period not exceeding the balance of the current trimester;

- (l) in the case of misconduct relating to assessment, cancellation in full or in part of the mark for the item of assessment in respect of which the misconduct occurred and/or the award of a fail grade for the course;
- (m) action which may relieve any distress caused to the complainant and/or repair any damage caused by the respondent, and/or correct the respondent's conduct;
- (n) any of the remedies provided for in clause 4.6.2 but only in circumstances where it has been established by the University that the student has previously committed the same or similar conduct, and after consultation with the University's General Counsel has taken place.

#### **4.6.2 Serious Misconduct**

Where a complaint of serious misconduct is established, the Pro Vice-Chancellor may take disciplinary action against the respondent. Such action may include:

- (a) any of the remedies provided for in clause 4.6.1;
- (b) any of the remedies provided for in clause 4.6.3;
- (c) disenrolment and exclusion from enrolment in some or all classes for a period not exceeding two years;
- (d) suspension of access to all or any part of the University facilities or services for a period not exceeding two years; and
- (e) the withdrawal of some or all information technology services for a period not exceeding two years.

#### **4.6.3 Hall Misconduct**

Where a complaint of Hall misconduct is established, the Hall Manager may take disciplinary action against the respondent. Such action may include:

- (a) requiring a public or private apology from the respondent, either written or oral;
- (b) requiring an undertaking/s from the respondent as to future behaviour;
- (c) an oral or written warning;
- (d) a fine not exceeding twice the single room weekly full board rate;
- (e) an order to pay compensation for any loss or damage caused by or arising from the misconduct;
- (f) assignment of a community service project within the Hall of Residence which bears some relevance to the respondent's conduct;
- (g) exclusion of the respondent from any particular area of, or particular social activities in, the Hall of Residence;
- (h) exclusion of the respondent from the Hall of Residence for any specified period which he or she thinks fit;
- (i) eviction from the Hall of Residence on not less than 24 hours' notice provided prior consultation has taken place with the Director, Student Services;
- (j) requiring the respondent to undergo, at the University's expense, an assessment by a clinician if the deciding manager considers that the respondent may pose a risk to the safety and wellbeing of themselves or member/s of the University community, or that the respondent is likely to disrupt or impede the activities of the University.

## **4.7 Appeals**

### **4.7.1 Process**

- (a) With the exception of those complaints that have been addressed using the tikanga Māori process, the complainant or the respondent may appeal to the Disciplinary Appeals Committee against the decision of the deciding manager in accordance with clause 4.7.
- (b) The Disciplinary Appeals Committee is convened by the Assistant Vice Chancellor (Academic) or, a person at a comparable level of seniority as nominated by the Vice-Chancellor. The Committee shall comprise the Convener, a student member of the VUWSA Executive, a member of the University's Equity Committee, and a member of Council.
- (c) The complainant or the respondent must advise the Convener of the Committee of the appeal within four weeks from the date of the decision of the deciding manager. The period may be extended if the Convener is satisfied that there are good and exceptional reasons why the notice was not given within that period.
- (d) In determining an appeal, the Committee may rehear any or all of the evidence before the deciding manager, and may receive any further evidence orally or in writing that is relevant.
- (e) The complainant, the respondent, and the deciding manager, must be provided with copies of any written material the Committee may consider in making its determination, and are entitled to make submissions in writing and appear in person before the Committee, accompanied by a representative or support person if so desired.
- (f) The Committee must give due consideration to all of the evidence and submissions before it.
- (g) The Committee will not allow an appeal unless it is satisfied that the decision of the deciding manager:
  - (i) was unsound because of some material defect in the procedures followed by that manager;
  - (ii) was plainly wrong on the basis of the information before the deciding manager; or
  - (iii) has been shown to be plainly wrong in the light of additional information which, for good reasons, the party appealing was unable to have considered by the deciding manager.
- (h) If the Committee allows an appeal, it may substitute a different direction or provision for that made by the deciding manager, or remit the matter back to the deciding manager for reconsideration.
- (i) The Committee must provide written reasons for its decision to the complainant, the respondent, and the deciding manager.
- (j) The decision of the Committee on an appeal will be final and binding and complete the University's internal complaints process.

### **4.8 Records of Complaints**

The deciding manager will ensure that all complaints against students that have been upheld will be recorded on the student's file in the University or Hall of Residence student record system. In all cases other than Hall misconduct, the Facilitator and Disputes Advisor must be informed in writing of any upheld complaints.

## 5 Legislative Compliance

The University is required to manage its policy documentation within a legislative framework. The legislation directing this statute is the:

[Human Rights Act 1993](#)

## 6 References

[Dealing with Student Plagiarism Procedure](#)

[Human Ethics Policy](#)

[Animal Ethics Policy](#)

[Assessment Handbook](#)

Previous Version: [archived StudentConductStatute 20080415.pdf](#)

## 7 Appendices

None

## 8 Approval Agency

University Council

## 9 Approval Dates

This statute was originally approved      27 August 2001

This version was approved on:              25 June 2007

This version takes effect from:              16 April 2008

This statute will be reviewed by:            1 April 2010

## 10 Statute/Policy Sponsor

Deputy Vice Chancellor

## 11 Contact Person

The following person may be approached on a routine basis in relation to this statute:

Jon Everest

Facilitator and Disputes Advisor

Extn. 5023