STATUTE NO 23 – STUDENT DISCIPLINE

1. **PROPOSED AMENDMENT** - (addition in **bold**, deletions struck through)

To repeal the entire attached statute.

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Statute No. 23—Student Discipline  
(approved 20/11/2001) (last amended 07/10/2005)

The purpose of this Statute is to prescribe what constitutes misconduct, the penalties which may be applied for proven misconduct, and the procedures for dealing with such cases.

1. Definition of Misconduct

1.1 The following activities constitute misconduct by students:

(a) dishonesty in assessment, including plagiarism and unauthorised collusion;

(b) falsification of an academic record or research results, furnishing false or deliberately misleading information to the University or its staff, or use of the University's name, symbol or Seal without University authority;

(c) failure to obey the instruction of an examination supervisor, or any other lawful instruction given under any University Statute, regulation or by-law or under any Senate resolution;

(d) wilfully obstructing or disrupting any University teaching, study, research, examination or test;

(e) wilfully obstructing or disrupting any official University meeting, proceeding or ceremony or any University activity;

(f) harassing or discriminating unfairly against any person within the University on any grounds, including race (colour, ethnicity, national origin, nationality or descent), sex, pregnancy, marital status, age, sexual orientation, family responsibility, family status, political conviction, religious belief, disability or medical condition (not affecting work performance);

(g) wilfully interfering unduly with the freedom of speech within the University of any member of the University or of any speaker invited by any member of the University to express their views;

(h) wilfully interfering with the freedom of movement within the University of any member of the University or any guest or visitor;

(i) entering or remaining on any University building or lands which the student is forbidden to enter or remain on by an order made under the By-laws;

(j) wilfully obstructing or attempting to obstruct or deter any University staff members in the performance of their duties;

(k) wilfully damaging, wrongly dealing with, wrongly using or misappropriating any University property, or the property within the University of any person;

(l) engaging in abusive, threatening or obscene communications on, from or to University premises or by use of University facilities including mail or computing or network facilities;

(m) using University computing or network facilities in breach of University Rules, approved by the Pro Vice Chancellor (Resource Management), on the use of such facilities;

(n) assaulting or attempting to assault any person within the University, or causing any person to hold reasonable fears for her or his safety or physical or psychological well-being;

(o) failing to comply with any penalty imposed under any University Statute, Regulation, Rule, By-law or Senate resolution.

1.2 When determining whether an activity constitutes misconduct, a construction shall be preferred which permits freedom of speech and freedom of expression by students, where such speech or expression is consistent with like freedoms given to others and the personal and property rights of any person affected.

1.3 The burden of proving an allegation of misconduct rests with the University. The standard of proof is the balance of probabilities.

1.4 This Statute also applies to former students in cases where the alleged misconduct is dishonesty in assessment (including plagiarism, unauthorised collusion or falsification of research results). Any disciplinary action against former students must be initiated within 12 months of cessation of enrolment, except that there shall be no time...
limit where the alleged misconduct occurred:
(a) whilst the person was enrolled for a doctoral or research masters degree, or
(b) as part of a thesis submitted for a bachelor honours degree or a coursework masters degree.

2. Penalties

2.1 The penalties that may be imposed for misconduct are:
(a) a caution;
(b) requirement to rewrite and resubmit an assignment or other assessment component, or to write and submit another assignment in its place;
(c) failure in an assessment component of a unit, or a reduced mark for that component;
(d) failure in a unit;
(e) suspension of all or any of the student's rights and privileges, including exclusion from classes, examinations or other forms of assessment, from use of facilities, withholding the student's assessment results and/or graduation, and prohibition of re-enrolment;
(f) a fine of up to $300;
(g) suspension of the student's enrolment for one or two semesters;
(h) expulsion from the University.

2.2 Where a student is found guilty of misconduct, one or more of the above penalties may be imposed.

2.3 The academic penalties available in 2.1 (b) and (c) shall only be applied for misconduct involving dishonesty in assessment. In determining what penalty to impose in such cases, officers shall take account of any guidelines approved by Academic Council.

2.4 Any penalty imposed under this Statute may be suspended by the person or body imposing it: (a) until the time for appealing against it has expired; or (b) for a longer period or indefinitely. Any such suspension may be subject to such terms and conditions (including undertakings by the student) as the person or body granting it thinks fit.

2.5 Subject to the rights of appeal provided in this Statute, any decision under this Statute that a student has been guilty of misconduct and any imposition of a penalty on a student is final and conclusive.

2.6 A student expelled from the University shall not be re-enrolled except with the approval of the General Counsel.

3. Disciplinary Action

3.1 The following persons may exercise disciplinary powers under this Statute. The types of misconduct for which different persons may exercise disciplinary powers are not mutually exclusive.

<table>
<thead>
<tr>
<th>Person</th>
<th>Type of misconduct</th>
<th>Penalties available</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pro Vice Chancellor (Academic)</td>
<td>misconduct in an examination</td>
<td>• a caution&lt;br&gt;• exclusion from any examination or supervised assessment, if this is necessary to preserve order and decorum in the examination or supervised assessment&lt;br&gt;• a fine&lt;br&gt;• suspension of all or any of the student's rights and privileges within the University for up to 14 days&lt;br&gt;• failure in that unit</td>
</tr>
</tbody>
</table>
| misconduct in or in relation to the Library | • suspension from the University for up to 2 semesters  
|                                         | • expulsion from the University  
| non-payment of a fine or debt to the University, by the deadline | • a caution  
|                                         | • suspension of all or any of the student’s rights and privileges in relation to the Library, including exclusion from the Library premises or any part of such premises for up to 14 days  
|                                         | • a fine  
|                                         | • suspension from the University for up to 2 semesters  
|                                         | • expulsion from the University  
| other instances of misconduct | • withholding of information concerning the student’s results in any unit or part of a unit, the granting of credit for any unit and the award of any degree or diploma  
|                                         | • prohibit re-enrolment  
|                                         | **Note:** The above penalties shall cease on payment of the overdue amount.  
|                                         | • a caution  
|                                         | • a fine  
|                                         | • suspension from using the University’s computing and networking facilities for a specified or indefinite period  
|                                         | • failure in the unit in which the misconduct occurred  
|                                         | • suspension from the University for up to 2 semesters  
|                                         | • expulsion from the University  

| Pro Vice Chancellor (Research) | Pro Vice Chancellor (Research) | any instance of misconduct by a postgraduate research student | • a caution  
• a fine  
• suspension of all or any of the student's rights and privileges within the University for up to 14 days |
|--------------------------------|--------------------------------|-------------------------------------------------------------|---------------------------------------------------------------|
| Executive Dean                 | Executive Dean                 | any instance of misconduct within that Division              | • a caution  
• a fine  
• if the student has acted unfairly or dishonestly in connection with any assessment in a unit conducted by that Division; fail in the unit or in assessment component(s) of the unit; a reduced mark for the assessment component; rewrite and resubmit an assignment or other assessment component; write and submit another assignment in its place  
• suspension of all or any of the student's rights and privileges within the Division for up to 14 days |
| Director of Information Technology | Director of Information Technology | any instance of misconduct in or in relation to the University's computing and networking facilities | • a caution  
• suspension from using those facilities for up to 28 days |
| Any member of academic staff   | Any member of academic staff   | any instance of misconduct in any class conducted or supervised by her or him | • exclude the student from that particular lecture, tutorial, seminar, laboratory or other class |

3.2 Before disciplinary action is taken under s.3.1 by a Pro Vice Chancellor (other than in the case of non-payment) or Executive Dean, he or she shall:

(a) interview the student, who shall be given written notice of the details of the alleged offence and of the date and time of the interview. That notice shall be sent so that it is received (see s.7.1) no less than 5 days before that interview, though the student may waive this period of notice. The student may bring another person, other than a legal practitioner, to attend the interview as a witness and to provide moral support; any greater role for that person is at the discretion of the staff member conducting the interview. If the student is not in Perth, or if a disability prevents the student's attendance, the interview may be held by telephone, teleconference or videoconference, if the officer agrees to this. Any student who comes to Perth for a disciplinary interview is responsible for her or his own transport and accommodation costs. If the student fails to attend the interview, the officer shall deal with the allegation in the absence of the student;

(b) investigate the allegation and take such advice and seek such information as the officer considers appropriate;

(c) if the alleged misconduct is likely to lead to a penalty of failure in a unit or to a more serious penalty, consult the University Secretary before taking action;
(d) if the student is found guilty of misconduct, notify the student in writing of the finding of misconduct, the penalty or penalties imposed, and of the appeal procedures, and copy this letter to the Office of Student Services. The Office of Student Services shall record the finding and the penalty on the computerised student records.

3.3 An officer can delegate to another staff member the investigative and interviewing roles in any disciplinary case, but not the authority to make a finding. The delegate shall provide the officer with a brief written report containing: (a) the charge and a summary of the evidence, (b) the student's response, (c) the reasons for concluding whether or not misconduct occurred, and, if a finding of misconduct is recommended, (d) the recommended penalty or penalties and the reasons for such. Before the officer considers this report, the student shall be given a copy and the opportunity, if he or she so wishes, to provide written comments within seven days.

3.4 Where an officer taking disciplinary action concludes that this action is more appropriately taken by another officer, the case may be transferred to that officer. The requirements of s.3.2 then apply anew.

3.5 The procedures in s.3.2 do not apply where disciplinary action is taken by the Director of Information Technology, or by academic staff for misconduct in a class conducted or supervised by them.

4. Appeals

A student may appeal against any finding of misconduct or penalty imposed under s. 3 of this Statute:

(a) if the penalty is other than suspension (for one semester or more) or expulsion from the University - to the Student Appeals Committee.

(b) if the penalty is suspension (for one semester or more) or expulsion from the University - to the Board of Discipline.

Any appeal must be lodged within 14 days of the student receiving (see s.7.1) written notification of the penalty. The Committee or Board may suspend the application of the penalty until it has made a decision on the appeal.

5. Student Appeals Committee

5.1 The student shall have the right to appear before the Committee, and to be assisted in presenting her or his case by a person other than a qualified legal practitioner. The Committee shall also take such advice and seek such information as is considered appropriate to reach a decision on an appeal.

5.2 The Student Appeals Committee will be constituted in accordance with the Students Appeals Committee Regulations.

5.3 Any member of the Committee who has a family or other personal relationship with an appellant, or other conflict of interest, shall withdraw from the meeting during consideration of that case, and be replaced by the alternate member or another student nominee (as applicable).

6. Board of Discipline

A. Powers and Functions

6.1 The Board of Discipline has authority to hear and adjudicate in the following situations:

(a) Where the penalty is suspension (for one semester or more) or expulsion from the University, the student may appeal to the Board against the finding of misconduct and/or the penalty. Any appeal must be lodged within 14 days of the student receiving (see s.7.1) written notification of the decision from which the appeal is made, and must contain details of the grounds upon which the appeal is based.

(b) The General Counsel may charge a student with misconduct and refer the charge to the Board of Discipline. Any such reference to the Board must be made within one month after the act of misconduct is discovered. Any reference to the Board shall be made by written notice to the Vice Chancellor.

6.2 The Board shall hear the case from the beginning.

6.3 If the Board finds that misconduct has been proved, it may apply any of the penalties in s.2.1. Alternatively, it may decline to record a finding of misconduct or to impose a penalty, if in its opinion the act of misconduct was trivial or for any other reason. In the case of a reference by way of appeal, the Board may affirm, vary or annul the penalty.
6.4 The decision of the Board shall be final and conclusive.

6.5 If the student has been wholly or partially successful, the Board may award the student the whole or part of the student’s costs of the hearing, but the student shall not be entitled to costs in respect of any other proceedings or determination under this Statute. If the Board awards costs, it shall fix the amount payable. This amount shall be paid to the student from University funds.

B. Constitution

6.6 The Board of Discipline shall consist of—

(a) a Chair appointed by the Senate after consideration of a recommendation from the Chair of Legislation Committee. The Chair shall be a qualified legal practitioner who is not a member of the University staff. The appointment shall be for a term specified by Senate.

(b) two members of full-time academic staff, one of whom shall be female and the other male.

(c) two students, one of whom shall be female and the other male.

6.7 The staff and student members shall be selected randomly by a method determined by the Director of Information Technology. This selection shall take place when a case has been referred to the Board. The members so selected shall then serve for one year. Any person selected may decline membership, in which case the random selection shall continue until the vacancies have been filled. If a member of the Board ceases to be a staff member or student of the University, or has personal involvement in the case, the Director shall select a replacement member by the same method. The Director shall inform the student of the method of random selection, if requested by the student.

C. Proceedings

6.8 The quorum of the Board shall be the Chair and any two other members.

6.9 The Vice Chancellor shall appoint a person, other than the University Secretary, as the secretary of the Board. In any case before the Board, the secretary shall give the student not less than five days’ written notice of the hearing. This notice shall include the time and place of the hearing, particulars of the charge (if the reference is under s.6.1(b)), details of the student’s rights under s.6.10, and a copy of the procedural guidelines of the Board.

6.10 The student is entitled:

(a) to present oral and written submissions to the Board;

(b) to be represented by another student or a member of the University or Guild staff who is not a qualified legal practitioner;

(c) to apply to the Chair to be permitted to be legally represented at the hearing. The Chair may allow such representation if, having regard to the circumstances of the case or the severity of the penalty appealed against, the Chair considers it desirable that the student be legally represented. If the Chair allows legal representation to the student, the University may also be legally represented.

(d) to be present with her or his representative throughout the hearing, except when the Chair and the members of the Board wish to confer privately among themselves or to consider their decision;

(e) either personally or by her or his representative to call and examine witnesses, cross-examine witnesses called by the University, and address the Board;

(f) to apply to the Chair to participate in the hearing by teleconference or videoconference if the student is not in Perth, or if a disability prevents the student’s attendance. If the Chair allows this form of participation, the Chair shall determine whether the costs should be met by the student or the University. Any student who comes to Perth for a hearing of the Board is responsible for her or his own transport and accommodation costs.

6.11 If the student fails to appear despite having received notice, the Board may proceed with the hearing in the student’s absence or order an adjournment.

6.12 The Vice Chancellor may appoint a member of the University staff who is not a legal practitioner to represent the University at the hearing. This person may call and examine witnesses, cross-examine witnesses called by the student, and address the Board.
6.13 The Chair shall have a deliberative vote only. If the votes are equally divided, the case shall be determined in favour of the student.

6.14 The Board shall not deal with more than one charge or appeal at the same hearing, unless in its opinion the charges or appeals arise out of instances of alleged misconduct which comprise a series of instances of the same or similar character; were committed in the furtherance of a common objective; or occurred during group activity by the students.

6.15 Hearings of the Board shall be open to members of the University, unless the student elects for a private hearing or the Chair orders that the hearing be closed on the grounds that, in her or his view, order otherwise cannot be maintained.

6.16 The Chair shall have complete authority to keep order and may order the removal of any person, including a student in respect of whom the hearing is taking place or the representative of such a student, for unruly conduct.

6.17 The Board's procedures, including the order in which evidence may be called and addresses heard, shall be at the discretion of the Chair. The rules of evidence do not apply.

6.18 The decision of the Board and its reasons shall be communicated in writing to the student.

7. **Miscellaneous Provisions**

7.1 Any written notice required under this Statute shall be regarded as received if given to that person by hand, sent to the email address or fax number nominated by that person, or posted to the last address known to the Office of Student Services as that person's place of residence. A notice sent by post is to be taken to be given and received three days after it is posted, except where the address is a place outside Australia, in which case it is taken to be given and received seven days after it is posted. A notice sent by email or fax is taken to be given and received on the day it is sent. A notice sent by email must be sent by post also.

7.2 Nothing in this Statute affects the powers or authority of any person or body in the University under any Act of Parliament, or any other Statute, Regulation, By-law or Senate resolution not inconsistent with this Statute.

7.3 Statute No.23 — Discipline is hereby repealed.
STATUTE NO 26 – STUDENT MISCONDUCT

1. PROPOSED AMENDMENT - (addition in bold, deletions struck through)

1. This Statute comes into operation on the day it is published in the Government Gazette.

Regulations

2. Regulations will be made under this Statute for the discipline of students of the University. The Regulations will specify:

2.1. the misconduct for which a student may be disciplined by the University

2.2. the procedure for dealing with allegations of misconduct made against a student;

2.3. the penalties that may be imposed on a student if any allegation of misconduct is upheld;

2.4. the capacity for an appeal against any finding of misconduct against a student;

2.5. any other matters which the Senate considers necessary to give effect to this Statute and the Regulations

Repeal

3. Statute No. 23 – Student Discipline is hereby repealed.

Transitional Provisions

4. On the date the Regulations are made, any disciplinary action previously taken, commenced or implemented under Statute No. 23 – Student Discipline shall be completed in accordance with the provisions of Statute No. 23.

5. Any allegations of misconduct made against a student after the date the Regulations are made, shall be dealt with under the Regulations notwithstanding that the matter giving rise to the allegations may have taken place prior to the date upon which the Regulations are made
Student Discipline Regulations

Objects

1. The University's Code of Ethics and Student Code of Conduct are founded on the three fundamental principles of justice, respect and responsible care, and the University endeavours to promote adherence to the Student Code of Conduct by students.

The objects of these Regulations are to:

1.1. discourage behaviours which the University considers to be inappropriate;
1.2. implement a fair process for responding to alleged instances of misconduct; and
1.3. provide for the imposition of penalties in instances of where misconduct is established.

Definitions

2. In these Regulations, the following, capitalised words have the following meanings:

2.1. "Academic Misconduct" means any form of academic dishonesty relating to a Unit, whether in an undergraduate, postgraduate or honours course, and includes, but is not limited to:

2.1.1. cheating in relation to assessment;
2.1.2. plagiarism;
2.1.3. submission of the same, or substantially the same, completed assessment in more than one unit;
2.1.4. failure to comply with rules for a particular assessment (for example, what material can be brought into an examination room);
2.1.5. unauthorised collusion; and
2.1.6. fabricating, falsifying or misstating results as part of an assessment.

2.2. "Allegation Notice" means a notice provided to a student under Regulation 17.

2.3. "Arbiter" means the Deputy Vice Chancellor (Academic) or delegate, unless he or she has an actual or perceived Conflict of Interest in which case it will be another University employee appointed by the Vice Chancellor.

2.4. "Business Day" means a day (other than a Saturday or Sunday) that the University is open for business at its South St campus.

2.5. "Conflict of Interest" includes but is not limited to a situation where a person has:

2.5.1. a personal involvement in the alleged misconduct;
2.5.2. a past or present familial relationship or close personal ties with anyone involved in the complaint or alleged misconduct; or
2.5.3. close professional ties with anyone involved in the complaint or alleged misconduct (for example conducting a joint research project).

2.6. “Director” means the Director authorised by the Deputy Vice Chancellor (Academic).

2.7. “General Misconduct” has the meaning specified in Part 1 of Schedule A.

2.8. “Investigator” means:

2.8.1. in the case of an allegation of General Misconduct, the Senior Officer;

2.8.2. in the case of an allegation of Academic Misconduct, the person authorised by the Deputy Vice Chancellor (Academic); or

2.8.3. in either case, any replacement person as described in Regulation 15, who conducts an investigation as described in Regulations 11 to 16.

2.9. “Senior Officer” means those Officers of the University as set out in Part 2 of Schedule A.

2.10. “Student Appeals Committee” means the Committee constituted in accordance with the policy for student appeals as approved by Academic Council.

2.11. “Unit” means a basic component of study, completed over a teaching period, and includes both coursework and non-coursework units.

2.12. “Unit Coordinator” means the unit coordinator for the particular unit in respect of which Academic Misconduct is alleged to have occurred.

***Emergency Exclusions***

3. A security officer of the University or other person so authorised by the Vice Chancellor, may, at any time and without a hearing, exclude a student from campus on such terms as are reasonably necessary to protect person, property or to prevent serious disruption of University activities.

4. Within three Business Days of such exclusion, either the Director or delegate must send the student written notice of the terms of the exclusion, the reasons for it, and a copy of these Regulations or a website link to them.

5. The exclusion will continue until either:

5.1. its term expires;

5.2. it is revoked by the Director or delegate;
5.3. five Business Days have passed and the matter has not been referred for formal investigation for General Misconduct under Regulation 11; or

5.4. The matter has been referred for formal investigation for General Misconduct under Regulation 11 and the process has concluded with no further requirement that the student be excluded from campus.

**Reporting Misconduct**

6. Any person may report any alleged misconduct by a student:

6.1. where the allegation relates to General Misconduct, to the Director or to the Faculty Dean of the faculty in which that student is enrolled; and

6.2. where the allegation relates to Academic Misconduct, to the Unit Coordinator of the relevant Unit.

**Research Misconduct**

7. An allegation involving misconduct in the course of research may be referred to the Deputy Vice Chancellor (Research) or a person authorised by the Deputy Vice Chancellor (Research), for consideration in accordance with relevant University policy in relation to research misconduct.

**Initial Review of Misconduct**

8. Subject to Regulation 10, in relation to any allegation of Academic Misconduct, the Unit Coordinator may decide to take no action against the student on the basis that:

8.1. no offence was committed;

8.2. the alleged Academic Misconduct is minor and the student has no record of any previous Academic Misconduct; or

8.3. the allegations relate to misconduct in the course of research, and the Unit Coordinator is satisfied that they are being appropriately addressed in accordance with relevant University policy in relation to research misconduct.

9. If no action is taken against a student because the alleged Academic Misconduct is minor and the student has no record of any previous Academic Misconduct, the student may be required to receive instruction (for example attendance at a workshop) on how to avoid Academic Misconduct in the future.

10. If a student disputes alleged Academic Misconduct which the Unit Coordinator considers is minor or the Unit Coordinator otherwise considers an investigation is warranted then the Unit Coordinator must report the Academic Misconduct to the Investigator.

11. The Director or Faculty Dean, as the case may be, will refer all allegations of General Misconduct to a Senior Officer for investigation who has no actual or perceived Conflict of Interest.
Investigating Misconduct

12. The Investigator may either:

12.1. consider that there is sufficient evidence in support of an allegation and that no investigation is warranted, in which case an investigation will be deemed to have been completed for the purposes of Regulation 17 and notice may be issued in accordance with that Regulation;

12.2. commence an investigation process in relation to the allegation; or

12.3. decide that on the information available no offence was committed, and dismiss the allegation.

13. As part of any investigation process, the Investigator:

13.1. must, within five Business Days of the allegation being brought to her or his attention, send a written notice to the student that an allegation is being investigated and providing a description of the nature of that allegation; and

13.2. may request in that notice that the student attend an interview.

The Investigator must give at least five Business Days’ notice of an Interview time and date (unless the student agrees to a shorter notice period). The student is not required to attend and, if the student does attend, the student may exercise his or her right to silence at any time.

14. The Investigator’s role is not that of prosecutor – the Investigator must be conscious of any information that may exonerate the student.

15. The Investigator may be replaced at any time during the course of the investigation (for example if a Conflict of Interest becomes apparent) by another Senior Officer approved by (in the case of General Misconduct) the Faculty Dean or Director, or (in the case of Academic Misconduct) the Deputy Vice Chancellor (Academic).

16. The Investigator must, at the conclusion of the investigation, provide a report to the Arbiter. This requirement will not apply in relation to allegations of Academic Misconduct if the Investigator is the same person as the Arbiter.

Allegation Notice

17. Within seven Business Days of the Arbiter receiving a report or, if the Arbiter is the Investigator, completing the investigation, he or she must either dismiss the allegation (and provide written notice of that fact to the student) or provide written notice to the student ("Allegation Notice") that:

17.1. sets out full particulars of the alleged misconduct;

17.2. includes a copy of any report prepared under Regulation 16;

17.3. contains a copy of these Regulations or a website link to them;

17.4. gives the name and contact address of the Arbiter;
17.5. advises the student that he or she may give a written submission in response to the allegation; and

17.6. advises whether the student will be offered a hearing, and if so, include the proposed date and location for that hearing and the matters set out in Regulations 19 and 25 below.

18. The Arbiter is not required to offer the student a hearing. However, if the student is not offered a hearing then, if the allegation is upheld, the Arbiter must not suspend nor expel the student, nor impose any penalty under Regulation 39.

Response by the Student

19. If the student does not respond to the offer of a hearing or does not attend for the hearing, the Arbiter may proceed without a hearing, or the hearing may proceed in the student's absence.

20. If the student intends to rely on a written submission, a copy of the submission must be provided to the Arbiter (where there will be a hearing) prior to the hearing and, in all other cases, within seven Business Days of the receipt or deemed receipt of the Allegation Notice.

Hearing

21. If the student accepts the offer of a hearing, the hearing shall be convened and conducted by the Arbiter on the date set down in the Allegation Notice.

22. In accepting a hearing, the student may choose to admit the offence and have a hearing in respect of penalty only.

23. The student must be given at least five Business Days' notice of the date and location of the hearing (unless the student agrees to a shorter notice period).

24. If the student does not attend then the Arbiter may proceed with the hearing or adjourn, at the Arbiter's discretion.

25. The student may nominate a support person to attend the hearing with them, who:

25.1. must not be associated or allegedly associated with the alleged misconduct;

25.2. must not be a qualified legal practitioner; and

25.3. with the permission of the Arbiter, has the right to be heard and may speak on behalf of the student.

26. The student or any support person may be excluded from the hearing if he or she disrupts or impairs the conduct of the hearing. The hearing may continue in his/her absence.

27. For the avoidance of doubt, Regulations 25 and 26 do not limit any legal obligations the University may have to ensure that a student with special needs has adequate support to address those needs at any hearing.
28. The Arbiter may adjourn and reconvene any hearing as required.

29. If the identity of an Arbiter changes during the hearing process (for example where a Conflict of Interest becomes apparent) then the matter will be re-heard from the beginning by the new Arbiter, unless the student and new Arbiter agree otherwise.

**Fairness**

30. In conducting the hearing and/or considering any written submission, the Arbiter:

30.1. is not bound by the rules of evidence and may follow any procedure he or she considers appropriate;

30.2. may inform himself or herself in relation to any matter he/she thinks fit;

30.3. must act fairly, having regard to the requirements of natural justice; and

30.4. must ensure that the student is informed (e.g. by way of the Allegation Notice and/or subsequent notice) of the evidence to be taken into account in making the decision and give the student a reasonable opportunity to respond to that evidence.

31. A student (and any support person present) has the right to remain silent at any hearing, and no negative inference must be drawn as a result of the student exercising this right.

**Decision**

32. The Arbiter may only uphold any allegation of either Academic Misconduct or General Misconduct if satisfied that it has been proved on the balance of probabilities.

33. If the Arbiter upholds an allegation of General Misconduct, the Arbiter may impose a penalty in accordance with Regulation 38 (except that the Arbiter cannot suspend or expel the student if the student was not offered a hearing pursuant to Regulation 18).

34. If the Arbiter upholds an allegation of Academic Misconduct, the Arbiter:

34.1. may, if they have authority under Regulation 39, impose a penalty described in that Regulation (except that the Arbiter cannot suspend or expel the student if the student was not offered a hearing pursuant to Regulation 18); or

34.2. may otherwise impose any other penalty prescribed in Regulation 38.

The Arbiter may take into account previous findings of misconduct against a student in determining the appropriate penalty to impose.

35. Within five Business Days of the decision being made under Regulation 32, the student must be sent written notice of: the decision and the reasons for
that decision; the penalty imposed; the right to appeal under Regulation 42; and with whom and within what timeframe an appeal must be lodged. Reasons for decision must also include reasons for any decision to exclude or adjourn in accordance with regulations 25 or 28 respectively.

Extensions of Time

36. The student and the Arbiter may agree to extend any of the time limits mentioned in Regulations 17 to 35. Should the student not comply with any agreed extension of time under Regulation 20, the Arbiter may still proceed with a hearing.

37. The Vice Chancellor may, on the request of the Arbiter, extend any time limits under Regulations 17 to 35 if satisfied that

37.1. reasonable attempts to consult the student about an extension of time have been made;

37.2. the student is not materially prejudiced by such an extension of time.

Penalties

38. Subject to Regulation 39 the penalties that may be imposed for Academic Misconduct and General Misconduct are:

38.1. a caution;

38.2. a requirement that the student have no or limited contact with any particular staff member(s) or student(s) (this penalty can only be imposed for General Misconduct);

38.3. suspension (of up to 12 months) of, or placing conditions on the exercise of, any or all of the student’s rights and privileges, including: attendance at classes, participation in assessments and examinations, use of or attendance at facilities, access to assessment results, graduation, and re-enrolment;

38.4. requirement to rewrite and resubmit an assessment component, or to write and submit another assessment component in its place, including with a proviso that assessment will be for a reduced mark (this penalty can only be imposed for Academic Misconduct);

38.5. failure of a unit or units (this penalty can only be imposed for Academic Misconduct);

38.6. failure in an assessment component of a unit, or a reduced mark for that component, including receiving 0% for an assessment component with no possibility of a resubmission (this penalty can only be imposed for Academic Misconduct);

38.7. a suspension of the student’s enrolment for one or more teaching periods to a maximum equivalent of one year; or

38.8. expulsion from the University.
In addition, a person who has committed Academic Misconduct may be required to attend a workshop, on how to avoid Academic Misconduct in the future.

39. Only the Deputy Vice Chancellor (Academic), their delegate, or, in the case of a Conflict of Interest, another person appointed by the Vice Chancellor, can impose the following penalties for Academic Misconduct pursuant to this Regulation 39:

39.1. cancellation of current enrolments in all units at Murdoch;

39.2. a suspension of the student’s enrolment for one or more teaching periods to a maximum equivalent of one year; or

39.3. expulsion from the University,

provided that this will not limit the powers of the Student Appeals Committee.

40. Any penalty imposed under these Regulations can be suspended by the person imposing it for such period as that person sees fit. Any such suspension may be subject to such terms and conditions (including undertakings by the student) as the person granting it thinks fit.

41. A student expelled from the University shall not be re-enrolled except with the approval of the Vice Chancellor or their delegate.

Appeals

42. The student may appeal against any finding of misconduct under Regulation 32 or any penalty imposed under Regulations 38 or 39. Without limiting the effect of any of the following Regulations, appeals made against any finding of misconduct or penalty imposed under these Regulations shall be governed by the provisions of the policy for student appeals as approved by Academic Council.

Suspension of Original Decision

43. An appeal suspends:

43.1. any cancellation or suspension of enrolment; and

43.2. the implementation of any other decision being appealed against except for any penalty imposed for general misconduct (such penalties may only be suspended by the Vice Chancellor at his or her absolute discretion)

This Regulation 43 will not limit the power of the University under Regulation 3.

Miscellaneous

44. Where these Regulations require the provision of written notice, such notice may be provided by way of electronic mail, facsimile or other form of
45. The student may request any Arbiter’s or appeal hearing to be by teleconference if the student does not ordinarily reside within a radius of 100km from the University’s South Street campus, or if a disability prevents the student’s attendance, at the University’s expense. Any student who comes to the University for a hearing is responsible for her or his own transport and accommodation costs.

46. The University must keep written records of any complaint or appeal, and may include records of proceedings, decisions or penalties on a student’s files (including record of attendance at any workshops).

47. These Regulations do not prevent allegations against a student from being dealt with according to a procedure described in any other University statute, regulation, policy or by-law, provided that such other procedures shall not in any material respect, replicate the procedure or penalties imposed under these Regulations in respect of those allegations.

48. Any investigation by an Investigator, or hearing by an Arbiter, or Student Appeals Committee, may be deferred by the decision of the Investigator, Arbiter or majority vote of the Student Appeals Committee if the matter is before the courts. This will not limit the University’s powers under Regulation 3.

49. Any minutes required to be kept under these Regulations do not need to be a verbatim transcript, but must be a full and true record and include any written submissions. Minutes do not need to include any discussions between the members of a decision-making body prior to making a decision, or a recording of the vote.

50. Any minutes are confidential documents and must be a true representation. The University may withhold a student’s results until any proceedings relating to a misconduct allegation have been finalised.

51. Proceedings for misconduct against a student, and any appeal process, may continue notwithstanding that a student ceases to be enrolled.
SCHEDULE A

PART 1: MEANING OF GENERAL MISCONDUCT

1. General Misconduct shall include any conduct on the part of a student that:
   a. impairs the reasonable freedom of University staff or students to pursue and participate in academic, community or other lawful University activities, or in the life of the University;
   b. amounts to the improper use of University facilities or improper use of University property; or
   c. is otherwise described in items A to Q below.

2. Murdoch supports the right of peaceful protest or dissent, and orderly demonstration (including picketing). These are permitted provided the time and location has been approved by the relevant Murdoch officer, and unless and until they cause any of the effects listed below (for example Harassment or Intimidation, Violence or Interference with any University Activity).

A. Interference with any University Activity:

   (i) This includes, for example, preventing an audience from listening to a class or other university function; interfering with a person’s ability to use a University facility; or participating in any effort to prevent or disrupt a class or other university function. For the avoidance of doubt, this is not intended to cover actions which may arise from or be the result of a student’s disability or medical condition.

B. Misuse of the University’s Facilities (including Computing, communication or Library Facilities)

   (i) This encompasses engaging in abusive, threatening or abusive communications on, from or to University premises using University mail, e-mail or computing facilities and other breaches of University information technology policies.
   (ii) This also encompasses all library offences (e.g. hiding, mutilating or stealing library materials, and wilful and repeated failure to respond to recall notices).

C. Falsification

   (i) This encompasses deliberately using incomplete, false or misleading information for purposes connected with academic progression or enrolment, whether that occurs before or after the person is enrolled as a student; furnishing of false information to University staff, and using the University’s name, logo or Official Seal without authority.

D. Harassment or Intimidation

   (i) This encompasses any act of harassment, intimidation or coercion. It includes, but is not limited to, any harassment, intimidation or coercion based on race, sex, ethnic origin or sexual orientation. It also includes any sexual harassment.

E. Violence
(i) Without limiting the effect of item D “Harassment or Intimidation”, this covers any act of violence (including, but not limited to, assault) against another person.

F. Theft or Misuse of Property

(i) Any theft, misuse, damage or wrongful dealing with any of the property that is owned by, under the control of or situated at the premises of the University, or on a location where the student is present as part of a University activity.

(ii) This could encompass, for example, misuse of fire alarms, destruction of property, littering, misuse of student accommodation or gaining unauthorised access to any University property.

G. Distributing notes or recordings of classes, or any course materials, for commercial return

H. Failing to comply with any lawful direction given under University legislation or policy

(i) This includes a failure to abide by any penalty imposed.

I. Failure to comply with an Officer’s reasonable request

(i) Failure to comply with a reasonable request or direction by a Senior Officer, retail store staff member or security officer to ensure safety of person or property or maintenance of good order.

J. Obstruction

(i) Obstruction or interference with a university staff member in the performance of his or her duties.

K. Compromising of University security

(i) For example, unauthorised propping-open of a door.

L. Trespassing

(i) This includes: (a) when a student continues to occupy a university building despite a request from a Senior Officer that the student leave; and (b) the presence at any University site where such presence is prohibited (e.g. a construction site, or a room for which permission is required to enter and permission has not been obtained).

M. Weapons

(i) Possession or use of any weapon, explosive or incendiary material on campus at any University activity, except as part of an approved, academic exercise.

N. Alcohol or Drugs

(i) Unlawful possession, use or distribution of alcohol or drugs on University property or as part of a University activity.
O. *Lewd, obscene or disorderly behaviour*

(i) Note that “disorderly behaviour” encompasses causing or participating in any disturbance that impairs the orderly functioning of the University or any University activities.

P. *Inciting another person to commit general misconduct*

Q. *Repeated lodgement of vexatious or frivolous complaints or appeals*

**PART 2: SENIOR OFFICERS**

The Senior Officers are officers with responsibility and authority for carrying out investigations in relation circumstances of general misconduct.

These officers shall comprise:

- One person within each Faculty as nominated by the Faculty Dean.

- Two persons within the Office of Student Life & Learning (or its equivalent) as nominated by the Director of that Office.

- One person within the Division of Research & Development as nominated by the Director of Research Operations (or equivalent).
STATUTE NO 4 – DEGREES, DIPLOMAS AND CERTIFICATES

1. PROPOSED AMENDMENT - (addition in bold, deletions struck through)

1. The titles of degrees and other academic distinctions of the university to be awarded after examination shall be prescribed by regulation. The titles of degrees and other academic distinctions of the university to be awarded after examination shall be prescribed by regulation.

2. The conditions under which a degree, or diploma or certificate may be awarded to any person after examination shall be as prescribed by regulation.

3. Regulations may be made under this Statute providing for the surrender or revocation of a degree or a diploma as a condition of the award of a further degree or a diploma.

43. Where a person has complied with all the conditions for the award of a degree, diploma or certificate but had died before the award has been conferred, the degree, or diploma or certificate may be conferred posthumously.

54. Any degree which may be awarded after examination, and the degrees of Doctor of the University (DUniv), Doctor of Laws (LLD) and Doctor of Letters (DLitt), may be awarded to any person honoris causa.

65. All degrees, diplomas and certificates awarded before this Statute provided for them shall be deemed to have been duly constituted and are hereby confirmed.

76. (1) The University may revoke any degree, diploma or certificate, and may amend any grade in a unit of study, awarded to a person who has been found guilty of Academic Misconduct.

(2) For the purpose of this Statute, 'Academic Misconduct' means any form of academic dishonesty whether in an undergraduate, postgraduate or honours course or in the course of research, and includes but is not limited to: assessment, including plagiarism, unauthorised collusion or falsification of research results:

(a) cheating in relation to assessment;
(b) plagiarism;
(c) submission of the same, or substantially the same, completed assessment in more than one unit;
(d) failure to comply with rules for a particular
assessment;
(e) unauthorised collusion; and
(f) fabricating, falsifying or misstating results as part of an assessment.

(3) Where it is alleged that a person awarded a degree, diploma or certificate by the University committed misconduct whilst a student of the University, the General Counsel may charge the student with Academic Misconduct and refer the charge to a committee of Academic Council established to investigate and determine the matter. The Board of Discipline. Any such reference to the Board must be made within 12 months of the date of the award of the qualification, except that there shall be no time limit where the alleged misconduct occurred.

(4) Any such reference to the Committee in accordance with section 6(3) must be made within 6 years of the date of the award of the qualification
a: whilst the person was enrolled for a doctoral or research masters degree, or-
b: as part of a thesis submitted for a bachelor honours degree or a coursework masters degree.

(45) The constitution, powers and proceedings of the Board of Discipline—a committee established for the purposes of section 6(3) are as may be approved by Academic Council from time to time, shall be in accordance with sections 6 and 7 of Statute No. 23—(Student Discipline), as if those provisions were included in this Statute. S.6.1 and 6.3 shall not apply. Any reference in that Statute to "the student" shall be read as a reference to the person alleged to have committed the misconduct.

(5) The burden of proving an allegation of misconduct rests with the University. The standard of proof is the balance of probabilities.

(6) If the Board of Discipline considers that the allegation of misconduct is trivial, it may decline to hear and determine it. The allegation is then dismissed.

(7) If the Board finds the misconduct proved under this Statute, the Board may either:
a: fail the person in the unit(s) to which the misconduct relates and revoke the degree, diploma or certificate awarded to that person; or-
b: if the Board is of the opinion that the act of misconduct is trivial, or otherwise in exceptional circumstances, it may decline to record a finding of misconduct and/or to impose a penalty.
STATUTE NO 24 – RESEARCH & DEVELOPMENT BOARD

1. PROPOSED AMENDMENT - (addition in **bold**, deletions struckthrough)

To repeal the entire attached statute.

◊◊◊
Statute No. 24 – Research & Development Board

1. There shall be a Research and Development Board.

2. For the purposes of this Statute:
   “development” means the systematic use of knowledge gained from research for the production of new or improved materials, products, devices, systems or methods;
   “postgraduate research degree” means a degree of Doctor, or a degree of Master comprising predominantly research;
   “postgraduate student” means a student enrolled for a postgraduate research degree.

Role of the Board
3. The Board shall be responsible for:
   (a) making recommendations to Academic Council on University research and development policies and strategy;
   (b) administering candidature for postgraduate research degrees and the allocation of postgraduate scholarships;
   (c) the allocation of research and development funds assigned to it by the Vice Chancellor, subject to any conditions the Vice Chancellor may specify.

4. The Board may delegate any of its powers under this Statute to a committee or member of the Board. Every such delegation shall be revocable by the Board, and no delegation shall prevent the Board carrying out the responsibilities imposed by this Statute.

Membership of the Board
5. The Board shall consist of:
   (a) the Pro Vice Chancellor (Research), who shall be Chair;
   (b) five members of academic staff appointed by Academic Council, from a list of nominees provided by the Pro Vice Chancellor (Research) in consultation with the Executive Deans;
   (c) two postgraduate students (who are not members of the staff of the University with a contract 50% or more full-time) elected by the postgraduate students;
   (d) the Director of the Division of Research and Development;
   (e) the Chair of any Board standing committee (ex officio);
   (f) up to three members co-opted by the Board.

6. (1) The appointed staff members shall hold office for terms of up to three years. The student members shall hold office for a calendar year. Any person co-opted to the Board shall hold office for a term of up to three years, as determined by the Board.
   (2) An appointed member of the Board shall not serve for more than six consecutive years.
   (3) The position of any member who has been absent from all meetings of the Board for six consecutive months, without leave of the Board, shall become vacant.

7. The Board shall elect a Deputy Chair from among its members. The term of office of the Deputy Chair shall be for up to three years, and is renewable.
8. A casual vacancy of more than six months will be filled as follows:
   - staff members: Academic Council will appoint a replacement member
   - elected student member: the Secretariat of the Guild of Students will appoint a replacement member from among those students eligible for election to the position

Meetings of the Board

9. The Board shall meet at least twice in each semester.

10. The Standing Orders for Academic Council and Subordinate Bodies shall apply to meetings of the Board.

Repeal

11. Statute No. 24—Board of Research is hereby repealed.
STATUTE NO 5 – ACADEMIC COUNCIL.

1. PROPOSED AMENDMENT - (addition in bold, deletions struckthrough)


1. The Academic Council shall be a committee constituted by this Statute for the purposes of section 18(1) of the Act and is the principal academic body of the University. Subject to the authority of the Senate, the functions of the Academic Council are:
   (a) to determine the policies of the University on academic aspects of the University, including teaching and learning, admission of students, credit for prior learning, assessment and academic progress of students, and research, and to make Rules on such matters where it deems this appropriate;
   (b) to determine the courses and majors to be offered by the University, subject to the authority of the Vice Chancellor as academic principal and chief executive officer of the University;
   (c) to recommend to the Senate on the making, amending or repealing of Regulations concerning the requirements for the award of degrees, diplomas and certificates (other than honorary awards), the Division Faculty Regulations and the Library Regulation's; Senate shall make or amend Regulations in these areas only after considering the advice of the Council;
   (d) to conduct periodic reviews of the quality of teaching and research within Schools;
   (e) to award degrees, diplomas and certificates on behalf of the Senate;
   (f) to award University Medals;
   (g) to perform such other functions conferred on Council by Statute, Regulations or resolution of the Senate;
   (h) to advise the Senate and the Vice Chancellor on the University's strategic plan, on any matters either of them refer to it, and on any broad issues of importance to the academic life of the University community;
   (i) to consider reports and recommendations from the Divisions or the Guild of Students the University Community on any matters relevant to the functions of Council.

2. The members of the Academic Council shall be prescribed in the Regulations made under this Statute,--
   (a) A President elected by the members of the Academic Council from among the full-time academic staff of the University of the rank of Associate Professor or above;
   (b) The persons holding the following offices, ex officio--
       Vice-Chancellor;
       Faculty Deans;
       President of the Guild of Students;
       Deputy Vice-Chancellor (Academic);
       Deputy Vice-Chancellor (Corporate);
       Deputy Vice-Chancellor (Research);
       Deputy Vice-Chancellor (Faculty, Enterprise & International);
       Education Vice-President of the Guild of Students
       Guild General Secretary
   (c) Twelve persons elected by and from among the permanent and temporary academic staff of the University with contracts 50% or more full-time.
   (d) One academic staff member from the regional campuses. This person shall be elected from among the permanent and temporary academic staff of the University with contracts 50% or more full-time: (i) whose contract specifies that they are based at a campus other than the Murdoch Campus, or (ii) whose primary office is located at a campus other than the Murdoch Campus, or (iii) who are employees of Murdoch University clinics or research centres that are based in the City of Rockingham, the Town of Kwinana or the Peel region (as defined in the W.A. Regional Development Commissions Act). In addition to these people, all coordinators of units taught at a campus other than the Murdoch Campus in the year of the election are entitled to vote for this position.
(e) Three elected students; one elected by and from among the postgraduate students; one elected by and from among the undergraduate students; and one elected by and from the students whose course is based at one of the regional campuses. A person who is a member of the staff of the University with a contract 50% or more full-time is not eligible for election as a student member.

(f) Two persons elected by and from among the permanent and temporary general staff of the University with contracts 50% or more full-time.

(g) Any person or persons co-opted under section 21(2)(d) of the Act.

3. (1) Elections for the President and members of the Academic Council shall be conducted in the manner prescribed by the Election Regulations.

(2) The President and elected staff members of Council shall hold office for three years, commencing and ending at the start of second semester in the relevant year. The elected student members shall hold office for one calendar year.

(3) The election of staff members to Council shall be staggered that four of the academic staff elected under section 2(c) shall be elected each year, the regional academic staff member shall be elected every third year and the general staff members shall be elected in separate years.

(4) Any elected member shall cease to hold office when he or she ceases to be eligible for election to that position, or resigns. The following arrangements shall apply for filling casual vacancies:

President of Council: an election shall be held to fill the balance of the term.

Elected staff member: an election shall be held to fill the balance of the member's term, unless that balance is less than six months.

Elected student member: the Secretariat of the Guild of Students shall appoint a replacement member from among those students eligible for election to the position.

(5) An elected member who has served two successive terms is not eligible for re-election until twelve months after the second term expires.

4. The Council shall appoint a Deputy President from among its elected members, to hold office for a calendar year. In the absence of the President of the Academic Council the Deputy President shall act as Chair at any meeting. In the absence of the President and Deputy President the Council shall elect a Chair for the meeting.

5. (1) The quorum for meetings shall be one half or the next higher whole number of members of the Council for the time being, or ten members, whichever is the less.

(21) Each member shall have a deliberative vote at any meeting of the Academic Council and where there is an equality of votes, the Chair shall have the casting vote as well as a deliberative vote.

(32) A meeting of the Academic Council may be held at any time on the initiative of the Vice-Chancellor or Chair of the Academic Council. A meeting shall be held within fourteen days after lodgement with the Secretary of a request for a meeting signed by not less than three members of the Council.

(43) The position of any elected or co-opted member of the Academic Council who has been absent from three consecutive meetings of the Council, without leave of the Council, shall become vacant.

6. The Academic Council may delegate any of its powers and responsibilities to the President of the Academic Council, to its committees or to a member of staff of the University.

6 May 2009
1. New Academic Council Regulations to be made under Statute No 5 – 
   *Academic Council* - (addition in **bold**, deletions struck through)

1. The members of the Academic Council shall be-

   (a) A President elected by the members of the Academic
       Council from among the full-time academic staff of the
       University of the rank of Associate Professor or above;

   (b) The persons holding the following offices, **ex officio**-
       
       Vice-Chancellor;
       
       Faculty Deans;
       
       President of the Guild of Students;
       
       Deputy Vice-Chancellor (Academic);
       
       Deputy Vice-Chancellor (Corporate);
       
       Deputy Vice-Chancellor (Research);
       
       Deputy Vice-Chancellor (Faculty, Enterprise &
       International);
       
       Dean of Graduate Studies;

   (c) Twelve persons elected by and from among the permanent
       and temporary academic staff of the University with
       contracts 50% or more full-time.

   (d) One academic staff member from the regional campuses.
       This person shall be elected from among the permanent
       and temporary academic staff of the University with
       contracts 50% or more full-time:

       i. whose contract specifies that they are based at a
           campus other than the Murdoch Campus, or

       ii. whose primary office is located at a campus other
           than the Murdoch Campus, or

       iii. who are employees of Murdoch University clinics or
            research centres that are based in the City of
            Rockingham, the Town of Kwinana or the Peel region
            (as defined in the W.A. Regional Development
            Commissions Act).

   In addition to these people, all coordinators of units taught
   at a campus other than the Murdoch Campus in the year of
   the election are entitled to vote for this position.
(e) Three elected students: one elected by and from among the postgraduate students, one elected by and from among the undergraduate students, and one elected by and from the students whose course is based at one of the regional campuses. A person who is a member of the staff of the University with a contract 50% or more full-time is not eligible for election as a student member.

(f) Two persons elected by and from among the permanent and temporary general staff of the University with contracts 50% or more full-time.

(g) Any person or persons co-opted under section 21(2)(d) of the Act.

2. The quorum for meetings shall be one half or the next higher whole number of members of the Council for the time being, or ten members, whichever is the less.

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