

**STUDENT COURSEWORK  
ACADEMIC MISCONDUCT AND  
PLAGIARISM RULES**

**PLAGIARISM INVESTIGATION AND  
PENALTY GUIDELINES**

## **NATURAL JUSTICE AND PROCEDURAL FAIRNESS**

Procedural fairness and natural justice refer to the actions of a decision maker rather than the outcome of the proceedings. Procedural fairness is now the term more commonly used in the administrative law context.

There are four fundamental planks to natural justice and procedural fairness. These are:

1. a hearing appropriate to the circumstances,
2. lack of bias,
3. evidence to support a decision, and
4. clear reasoned decision making.

### **An appropriate hearing**

The alleged offender should receive all the relevant information and must have an opportunity to address the adverse information relating to their case. The decision maker should identify all the relevant issues arising from the inquiry and the alleged offender must be given sufficient opportunity to address those issues and to give evidence and present arguments relating to them.

### **Lack of bias**

The decision maker should not have an interest in the matter being decided and should not appear to bring a biased or prejudiced mind to the inquiry and decision. The decision maker must show an open mind to the case. The perception of bias as well as actual bias must be avoided. The test is whether a fair-minded person might reasonably apprehend that the decision maker might not bring an impartial mind to the proceedings.

### **Evidence to support a decision**

The decision maker should make reasonable inquiries or investigations about the case and check the facts and identify the major issues. The decision maker should make clear findings on matters of fact that are material to the decision, and take into account all the relevant factors and only the relevant factors.

### **Decision making**

The decision should address the claims made by the alleged offender and reflect genuine consideration of them. The decision should identify the evidence or material on which the findings of fact are made and the reasons of the decision maker for accepting or rejecting a piece of evidence. The decision should reflect all the steps of reasoning linking the findings of fact to the decision.

## CONDUCT OF INVESTIGATIONS [Rules 49-55, 65-81]

The Unit Coordinator will normally be the first investigator. Your investigations may be prompted by:

- your own concerns deriving from your expert disciplinary knowledge;
- your own concerns deriving from your previous academic interactions with the student;
- a direct complaint made to you;
- a report from text-matching software such as Turnitin; and/or
- a direction from your Head of School.

### Initial Investigation

1. Start record-keeping immediately.
  - a. Any verbal allegations must be transmitted to you formally in writing/email. If any initial verbal or telephone statements are accepted, you should make contemporaneous notes and date them.
2. Gather the evidence
  - a. Have the Assessment Task analysed for plagiarism (including paraphrasing) by one or more of the following:
    - (1) create your own report detailing the section(s) of the Assessment Task and its comparison with the sources from which copying is suspected;
    - (2) obtain a text-match report using Turnitin or other appropriate software; and
    - (3) run a web search with an appropriate search engine and check the results against the Assessment Task.
3. If you suspect that the assessment task was not written by the student, you may request your Head of School to arrange a viva voce examination for that student on the relevant topic (Rule 66).
4. Contact either your Head of School/School Plagiarism Manager to have the student's record checked in the Central Plagiarism/Academic Misconduct File.
  - a. A record indicating that the student has, on two or more occasions, been advised of a finding of Inadvertent Plagiarism requires that the case be handled as Intentional Plagiarism [Rule 40]. What may appear as an isolated instance may be part of a serial pattern. Unless records are checked such a pattern will be invisible.
5. Have the student's record checked for:
  - a. new student status (in first year of candidature?) or
  - b. international student.

### Evaluate the case

6. Decide if the case:
  - a. has no merit; or
  - b. is probably a case of Inadvertent Plagiarism; or
  - c. is probably a case of Intentional Plagiarism.

*Remember that a record of two or more previously recorded instances of Plagiarism requires the case to be dealt with as one of Intentional Plagiarism*

### Make your decision

7. No merit – no further action required:

- a. if the student has not been alerted to an allegation it may not be necessary to contact the student and advice should be sought before doing so.
  - b. if you were directed then a report should be given to your Head of School.
8. Merit – Contact the Records Management Office so that a Central Plagiarism/Academic Misconduct file can be created on TRIM and either:
  - a. accept the case for investigation as Inadvertent Plagiarism; or
  - b. escalate it to the Head of School as Intentional Plagiarism.

*Some Schools may have delegated someone to deal specifically with cases of plagiarism. If so, you should send a report and recommendations to that person for action. Otherwise, continue as below.*

## CASE HAS MERIT: INADVERTENT PLAGIARISM [Rules 29-33, 65-81]

### Contact the student

1. Invite the student by email to respond to your concerns **STANDARD LETTER A1** [STANDARD LETTER A1 includes references to UNE Rules and Sources of Student Advice and Support. You are not required to provide these in your email.]
  - a. Avoid making any statements that tend to pre-judge the outcome (eg: ‘serious complaint’, ‘grave matter’). Keep the tone neutral but the student must be alerted that serious consequences can result from proven plagiarism cases.
  - b. Include a copy of your analysis.
  - c. The student to be granted at least ten working days for a response. *You may specify a longer period if circumstances warrant but not a shorter period.*
2. You may receive requests to defer the deadline for the student’s defence to the allegation
  - Where good grounds exist, a short delay may be appropriate but do not allow momentum to be lost in the process by overly long or repetitive delays.
  - It is the student’s responsibility to find time to respond, not for you to give way.
  - Demands for extra time while legal opinion is sought or the student has ‘referred the matter to his/her advocate’ are unacceptable. By all means use a ‘chase-up’ email if there is no response close to your deadline.
  - Any referrals to the student's solicitors, Ombudsman or any other statutory authority should be answered that referral is within the student’s right but this will not halt the process. *A student who absents him or herself from the University process will be assumed not to want to defend the allegation [Rule 78].*
  - Any contact with a person assisting the student is entirely at your discretion but you must have received written authorisation from the student before discussing the matter. A student may give consent for a parent or friend to contact you but you are not required to debate the case. You may consent to discuss the procedure but you should not discuss the specific case with any parent, friend, or other party who does not have the student’s explicit written consent for that person to talk to you.
  - Solicitors’ letters, letters from parliamentary representatives etc, should be discussed with the Academic Secretary. If necessary, support will be given to you to respond to these letters to allow you to proceed with your investigation uninterrupted.

### Evaluate the student’s response

- Has the student conceded to an error?
- Has the student provided any mitigating circumstances?
- Has the student any previous history of similar cases?

- Has the student previously sought support and advice?
- Has the student suggested seeking support and advice?
- Is there any evidence of error or lack of advice in the Unit's guidance material (such as the Unit Guide/Handbook or the Referencing Guide)?
- If you decide there is no case to answer then the student is provided with [STANDARD LETTER B2](#).

### Setting the penalty [Rule 29-33, 40-48]

- The Penalty is at the Unit Coordinator's discretion.
- The aim of the Rules is to be supportive and advisory in the first instance so new students and those of non-English-speaking backgrounds may merit warnings and referrals rather than punishment.
- The aim of the entire process is that the student should learn from the error and not gain any undue advantage. Accordingly, cases involving repeat offenders and/or experienced students deserve more stringent sanctions.

### Informing the student of the penalty

3. Provide the student with the Penalty Notice [STANDARD LETTER B1](#) by email.
4. Quote the deadline of ten working days to submit an appeal (*or longer if circumstances warrant, but not shorter*) to submit an appeal [Rule 9.3.2] and state to whom it is to be sent (Head of School).
5. Do not engage in further debate. All subsequent correspondence should be treated as part of an appeal and forwarded to the Head of School (or nominee).
6. Inform the Head of School of the outcome.
7. Forward all records directly to the Records Management Office for updating of the Central Plagiarism/Academic Misconduct File.

### CASE HAS MERIT: INTENTIONAL PLAGIARISM [Rules 65-81]

1. The Head of School receives the preliminary investigation and recommendation from the Unit Coordinator..
2. The Head of School consults with the Unit Coordinator and a record is kept.
3. The Head of School may decide to:
  - a. accept the case for investigation as Intentional Plagiarism;
  - b. refer the case back to the Unit Coordinator for handling as Inadvertent Plagiarism; or (*in exceptional cases where the Unit Coordinator's investigation is severely flawed*)
  - c. decide that the case has no merit.

### Contacting the Student

1. Invite the student by email to respond to your concerns attach [STANDARD LETTER A1](#)
  - a. Avoid making any statements that tend to pre-judge the outcome. Keep the tone neutral but the student must be alerted that serious consequences can result from proven plagiarism cases.
  - b. Include a copy of your analysis.
2. The student is to be granted at least ten working days for a response {Rule 76}. The student may choose to attend an interview as part of the response. *You may specify a longer period if circumstances warrant but not a shorter period.* You may receive requests to defer the deadline for the student's defence to the allegation.

- Where good grounds exist, a short delay may be appropriate but do not allow momentum to be lost in the process by overly long or repetitive delays.
- It is the student's responsibility to find time to respond, not for you to give way.
- Demands for extra time while legal opinion is sought or the student has 'referred the matter to his/her advocate' are unacceptable. By all means use a 'chase-up' email if there is no response close to your deadline.
- Any referrals to the student's solicitors, Ombudsman or any other statutory authority should be answered that referral is within the student's right but this will not halt the process. *A student who absents him or herself from the University process will be assumed not to want to defend the allegation [Rule 78].*
- Any contact with a person assisting the student is entirely at your discretion but you must have received written authorisation from the student before discussing the matter. A student may give consent for a parent or friend to contact you but you are not required to debate the case. You may consent to discuss the procedure but you should not discuss the specific case with any parent, friend, or other party who does not have the student's explicit written consent for that person to talk to you.
- Solicitors' letters, letters from parliamentary representatives etc, should be discussed with the Academic Secretary. If necessary, support will be given to you to respond to these letters to allow you to proceed with your investigation uninterrupted.

## Interviews

*These are part of the investigative process when information is being collected.*

1. Choose a location which is:
  - quiet
  - non-threatening
  - discreet
2. Notes must be kept throughout an interview and made available to the student concerned. They should also be added to the central file.
3. Any attempt to abuse or intimidate should be recorded in your notes [this may constitute an offence under Behavioural Misconduct Rule]. If the situation deteriorates, attempt to calm the student and if necessary warn the student that you will have to terminate the interview until later when he/she is ready to be constructive in providing information/defending him/herself. A short break may be all that is required.
4. A suggested sequence (which may be varied according to circumstance) is:
  - a. introduce yourself;
  - b. explain the investigative process, your role in it, and the purpose of the interview;
  - c. listen to the individual's story (be sympathetic but neutral);
  - d. ask clarifying questions as required;
  - e. summarise the outline of events/key details and ask the interviewee to confirm you have described them correctly;
  - f. thank the interviewee for attendance and explain what will happen next.

## Evaluate the Student's Response

- Has the student conceded to an error?
- Has the student provided any mitigating circumstances?

- Has the student any previous history of similar cases?
- Has the student previously sought support and advice?
- Has the student suggested seeking support and advice?
- What is the extent of the plagiarised material (how extensive was the intention to deceive)?
- Was there any evidence of error or lack of advice in the Unit's guidance material (such as the Unit Guide/Handbook or the Referencing Guide)?

If you decide there is no case to answer then the student is provided with [STANDARD LETTER C2](#).

### Setting the Penalty [Rule 34-48]

4. The setting of the Penalty is at the Head of School's discretion based upon his/her evaluation of the student's response and the student's circumstances.
5. The penalty of (reduction in the unit assessment mark) (reduction in unit grade), or (award of WFN) is to be reported to the Unit Coordinator for action. If the unit result has previously been recorded a Unit Result Amendment form must be sent to Examinations. .
6. A recommendation that the penalty in (Recommendation for Exclusion from a Course or Unit), (Recommendation for Exclusion from the University) and (Revocation of Award) be applied is to be notified to the student and the PVCA to action is the student does not appeal the penalty.
7. Once the Appeal has been heard or the period for receiving an Appeal has expired, a recommendation that the penalty of (Revocation of Award) is to be sent to the Vice-Chancellor for referral to the Academic Board.

### Informing the student of the Penalty

8. Provide the student with the Penalty Notice [STANDARD LETTER C1](#) by email (*once ratified in cases of Revocation of Award*).
9. Do not engage in further debate. All subsequent correspondence should be treated as an Appeal.
10. Inform the Unit Coordinator of the outcome and of any actions to be taken [keep a record of this with the file].

### Records and Notifications

11. All records must be forwarded to the Records Management Office for updating of the Central Plagiarism/Academic Misconduct File.
12. In cases of Exclusion the following are to be notified:
  - a. the Director of Student Services and Administration for recording on the student's academic transcript;
  - b. and, the Director of International Services, for international students.

### Intentional plagiarism by graduates [Rule 39]

- The University has authority to revoke an award where evidence arises that indicates that the graduate plagiarised an item of assessment submitted to the University for the relevant Award. This authority is exercised in the most serious cases (similar to when Exclusion might be applied to a current student) and within a reasonable time period after graduation. 'Reasonable time period' is not defined but can be judged on the merits of the case and how far it is possible to conduct a fair investigation given the lapse of time.
- The same Conduct of Investigations and Appeal procedures for students applies to graduates although the timelines in Rule 76 should be extended considerably given that the graduate's location may not be immediately available (which is also a factor for 'reasonable time period').
- It is recommended that you contact the Pro Vice-Chancellor (Academic) before proceeding under Rule 78 (Failure to respond) given issues that can arise from revoking an award that is statutory and/or professionally registered.

### APPEALS [82-106]

1. The Appeal Officer/Chair of the Student Conduct Appeals Committee reviews the original papers and decides that:
    - a. the original decision had an aspect that would give rise to the need to hear the case in full;  
or
    - b. the original decision had no evident flaws and the process should be restricted to whether:
      - (1) the processes were fair and in accordance with the Rules,
      - (2) the evidence was appropriate to support the decision, and
      - (3) the penalty was appropriate for the seriousness of the offence.
  2. Where the case is to be reinvestigated, the Appeal Officer/Chair may proceed to conduct the review as a full hearing. Otherwise the Appeal Officer/Chair should proceed to a restricted review of the original case.
  3. Where an appeal is to be restricted to a review any attempt to turn it into a hearing should be rejected.
  4. The decision whether to accept new evidence is for the Appeal Officer/Chair of the Student Conduct Appeals Committee. New evidence should not be accepted unless it can be demonstrated that it was not available at the original investigation. If new evidence is allowed it is more likely that the Appeal Officer/Chair will proceed to hear the case in full.

*The earlier advice on third-party representations, solicitors' letters and requests for deferment also applies to appeals.*
  5. If the decision is to uphold the appeal or vary the penalty due to maladministration, the Appeal Officer/Chair must provide confidential reasons for that decision to the Pro Vice-Chancellor (Academic). *This is to ensure that any errors in the earlier investigation are reported and amendments made in the rules and/or guidance information to avoid further occurrences.*
  6. Appeals are recorded in the same TRIM file as the original investigation records.
- Once the appeal has been heard, [STANDARD LETTER E1](#) is sent to the student, with copies to the relevant Head of School and Unit Coordinator and the Manager, International Services and Compliance if the decision is to terminate an international students enrolment.



7. Decisions of the Student Conduct Appeals Committee are communicated by the Chair to the Records Management Office.

### **International Students**

If the decision is to terminate an international students enrolment they must be officially notified that “twenty (20) working days from receipt of this letter the penalty will be actioned and you will then be reported to the Department of Education, via the government database PRISMS. This action will also notify the Department of Immigration and Border Protection that you are no longer a current genuine student. As your Confirmation of Enrolment will be cancelled this may affect your student visa. I strongly recommend you contact DIBP to see what the impact of your exclusion from studies will have on your student visa, phone 131 881 or visit <http://www.immi.gov.au/>”

### **Ratification of Major Penalty of Revocation of Award**

- Revocation is a major penalty reserved for the recommendation of the Vice-Chancellor and the approval of the Council. Investigating Officers/Chair, Student Conduct Appeals Committee may, if he/she feels appropriate, recommend to the Vice-Chancellor Revocation of an Award in addition to any other major penalty. Alternatively, the Vice-Chancellor may decide to add to any penalty a recommendation of Revocation.
- If the Vice-Chancellor supports the revocation the recommendation will be referred to the Academic Board for its endorsement and report to Council.

### **Further correspondence after the Appeal**

Further correspondence after the Appeal, from whatever source, should be referred to the Pro Vice-Chancellor (Academic).