

University of Southern Queensland Act 1998

**UNIVERSITY OF SOUTHERN QUEENSLAND STATUTE NO. 3
(STUDENT DISCIPLINE) 1999**

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Short Title

1. This statute may be cited as the *University of Southern Queensland Statute No. 3 (Student Discipline) 1999*.

Commencement

2. This statute commences on the commencement of section 56 of the *University of Southern Queensland Act 1998*.

Jurisdiction

3. Jurisdiction of the University

This Statute and Rules pursuant to this Statute apply to the disciplining of students.

Definitions

- 4.** (1) The term “**Appeals Board**” is the Board whose membership is as set out in section 10 below.
- (2) The term “cheating” includes, but is not limited to:-
- (a) the use of any unauthorised assistance in taking oral or written tests, or examinations;
 - (b) the acquisition, without permission, of tests or other academic material belonging to the University or a member of its staff;
 - (c) providing or receiving information which is prejudicial to the fair conduct of the examination during the conduct of the examination;
 - (d) tampering or attempting to tamper with any item used in the assessment of students;
 - (e) failing to abide by directions from the examiner regarding the permitted level of collaboration between students on items submitted for assessment;
 - (f) acquiring or attempting to acquire, possessing or distributing material not specifically authorised for use in the assessment process by the unit examiner in the unit specification or on the front cover of the examination paper. Unauthorised material includes current examination question papers or part thereof in advance of the official distribution by the **University** to all examination candidates;
 - (g) impersonating or attempting to impersonate another student in assessment activities.

For the purposes of this sub-section, “unauthorised assistance” includes those methods of assistance not listed or not identified on the examination paper, or not otherwise specifically approved by the examiner.

- (3) The term “**Discipline Committee**” is the Committee whose membership is as set out in section 6 below.

- (4) The term “**exclusion**” means the student is not permitted to pursue any or specified programmes of study at the **University** for a specified period of time, not exceeding three years. On the completion of the specified period of **exclusion**, the student’s enrolment may resume.
- (5) The term “**loss of privileges**” means denial of specified privileges for a designated period as set out in the attached Schedule.
- (6) The term “**member or members of the University community**” includes any person who is a student, member of the **staff**, member of the Council of **USQ**, or any other person employed by the **University**.
- (7) The term “**misconduct**” includes, but is not limited to, those matters listed and defined at section 5(1)(a) to (s).
- (8) The term “**plagiarism**” includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgement.
- (9) The term “**policy**” includes the provisions of the Statutes, written regulations of the **University** as found in, but not limited to, the Handbook and the **University** Calendar, and other **policy** documents issued with the authority of the Council from time to time.
- (10) The term “**probation**” means the student is reprimanded in writing for the **misconduct** of which the student has been found guilty and is advised that, if the student is found guilty of further acts of **misconduct** during a specified period (the period of **probation**) not exceeding three (3) years, further more severe disciplinary penalties may be imposed.
- (11) The term “**Registrar**” is the person appointed by the Council to hold the position of **Registrar** at the time.
- (12) The term “**Residential College expulsion**” means permanent **expulsion** of the student from the Residential Colleges.
- (13) The term “**Residential College suspension**” means the student is prohibited from entering any Residential College for a specified period not exceeding twelve months, as set out in the attached Schedule. On the completion of the specified period of **suspension**, the student is eligible to return to the Residential College.
- (14) The term “**staff**” means staff of the **USQ**.

- (15) The term “**University**” or “**USQ**” means the University of Southern Queensland.
- (16) The term “**University expulsion**” means the permanent separation of the student from the **University**.
- (17) The term “**University premises**” includes all land, buildings, facilities, and other property (including adjacent streets, footpaths and bicycle paths) in the possession of or owned, used or controlled by the **University**.
- (18) The term “**University suspension**” means the student is prohibited from entering any or specified **University premises** for a specified period of time not exceeding three years after which the student is eligible to return to the **University**.
- (19) The term “**warning**” means the student is notified in writing that he or she has been found guilty of **misconduct**.

Misconduct

5. (1) Subject to the *University of Southern Queensland Act 1998*, any student who commits an act of **misconduct** as defined in this sub-section is subject to disciplinary penalties contained in section 7 and/or payment of restitution contained in section 8.

Misconduct includes the following:-

- (a) **Cheating, plagiarism** or other forms of academic **misconduct** included in the University of Southern Queensland Academic Regulations¹;
- (b) Furnishing information known to be false to any member of the **University staff** or Council;
- (c) Forgery, alteration, or misuse of any **University** document, record, or instrument of identification;
- (d) Tampering with the election process of any **University**-recognised student organisation;
- (e) Conduct prejudicial to the good order and government of the **University**;
- (f) Physical abuse, verbal abuse, threats, intimidation, harassment, coercion or other conduct which threatens or endangers the health, freedom or safety of any person;

¹ The University of Southern Queensland Academic Regulations may be found at the Web site of the USQ or in the USQ Handbook or in the USQ Calendar.

- (g) Attempted or actual theft of or damage to property of the **University** or property of a member of the **University** community or other personal or public property;
- (h) Any act which, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or **organisation**, endangers the mental or physical health or safety of a student, or which destroys or removes public or private property;
- (i) Failure to comply with reasonable directions of **staff** or police officers acting in performance of their duties or failure to identify oneself to these persons when requested to do so;
- (j) Unauthorised possession, duplication or use of keys to any **University premises** or unauthorised entry to or use of **University premises**;
- (k) Failure to comply with **University** rules or **policies**;
- (l) Failure to comply with State or Commonwealth law on **University premises** or at **University**-sponsored or supervised activities;
- (m) Unlawful use, possession, cultivation or distribution of narcotic or other dangerous drug as defined under the laws of Queensland or the Commonwealth of Australia;
- (n) Use, possession or distribution of alcoholic beverages except as expressly permitted by the law and **University** regulations;
- (o) Illegal or unauthorised possession of firearms, explosives, other weapons, or dangerous chemicals on **University premises**;
- (p) Conduct which is disorderly, lewd, or indecent; breach of peace; or aiding, abetting or procuring another person to breach the peace on **University premises** or at functions sponsored by, or participated in by, the **University**;
- (q) Theft or other abuse of computer time, including but not limited to:-
 - (i) unauthorised entry into a file, to use, read, or change the contents, or for any other purpose;
 - (ii) unauthorised transfer of a file;
 - (iii) unauthorised use of another individual's identification and password;

- (iv) use of computing facilities to interfere with the work of another student, or **member of the University community**;
 - (v) use of computing facilities to send obscene or abusive messages;
 - (vi) use of computing facilities to interfere with normal operation of the **University** computing system;
 - (r) Disregard of discipline procedures, including but not limited to:-
 - (i) failure to obey the notice of hearing of a **Discipline Committee**;
 - (ii) falsification, distortion, or misrepresentation of information before a **Discipline Committee**;
 - (iii) disruption or interference with the orderly conduct of a discipline proceeding;
 - (iv) filing or lodging a complaint under this Statute knowingly without cause;
 - (v) attempting to discourage an individual's proper participation in, or use of, the discipline provisions;
 - (vi) attempting to influence the impartiality of a member of a **Discipline Committee** prior to, or during the course of, the discipline hearing;
 - (vii) harassment (verbal or physical) or intimidation of a member of a **Discipline Committee** prior, to, during, or after a discipline hearing;
 - (viii) failure to comply with penalties imposed under this Statute;
 - (s) Influencing or attempting to influence another person to commit an act of **misconduct**.
- (2) Where the Matter is Running in Another Jurisdiction

Any action taken under this Statute may proceed, irrespective of any action involving the student, in any other court, commission or tribunal, and irrespective of any other external investigation of the matters giving rise to the allegations against the student.

Discipline Procedures

6. (1) Complaints and Hearings

- (a) Any **member of the University community** may file or lodge a complaint against any student for **misconduct**. A complaint is to be in writing and is to be directed to the **Registrar**. Any complaint should be submitted as soon as possible and normally no later than fourteen (14) days after the **misconduct** is alleged to have occurred or has been detected. Any request for an extension of time must be in writing to the **Registrar** together with any cogent reasons why such extension should be granted.
- (b) The **Registrar** may conduct an investigation to determine whether a complaint has merit and, in consultation with the parties involved, whether it can be disposed of by mutual consent. Such disposition is final and there are to be no subsequent proceedings. If the complaint cannot be disposed of by mutual consent, the complaint is referred to a **Discipline Committee**.
- (c) When a complaint of **misconduct** is sent to the **Discipline Committee** by the **Registrar**, the **Discipline Committee** will convene not less than seven (7) nor more than twenty-eight (28) days after the student has been notified of the complaint. Time limits for scheduling of hearings may be extended at the discretion of the **Registrar**.
- (d) The notice of hearing will be in writing and signed by the **Registrar** and will:
 - (i) describe the nature of the allegation;
 - (ii) state the time, date and place for the hearing;
 - (iii) state that the student may be accompanied by a representative;
 - (iv) state that the student may call witnesses;
 - (v) state that the student can provide a written submission instead of attending the interview. Such a submission is due on the date, time and at the location as specified in (ii);
 - (vi) state that the **University** will, if requested by the student at least three (3) days before the hearing, provide an interpreter; and
 - (vii) enclose a copy of this Statute for the student's information.
- (e) The notice of hearing will be delivered to the student, or posted to the student's last known place of address according to the record of the **University**. Where the notification is posted, the student will be deemed to have received the notification on the date on which it would have been delivered in the ordinary course of the post.

- (f) The **Discipline Committee** comprises a Chair who must be the Chair of the Legislation Committee of the Council, or nominee; two persons who are students at the time of appointment, appointed by the Vice-Chancellor after consultation with the President of the Student Guild, for a specified term not exceeding three years; one member of the **staff** appointed by the Vice-Chancellor for a specified term not exceeding three years.
- (g) The **Registrar**, or the **Registrar's** nominee, is Secretary to the **Discipline Committee**. The Secretary shall keep a reasonable record of proceedings, but shall have no voting rights.
- (h) Membership of the **Discipline Committee** will not include the Vice-Chancellor, the Deputy Vice-Chancellor (Academic), the Chair of the Academic Board, the **Registrar**, or the person who made the initial complaint.
- (i) A quorum of the **Discipline Committee** will be three (3) members, one of whom must be the Chair.
- (j) The Chair has a deliberative vote and a casting vote.
- (k) If, in a particular case, a member of the **Discipline Committee** is absent or declines to sit, or the Vice-Chancellor considers it appropriate that the member not sit, the Vice-Chancellor may nominate a person to sit in the member's place for the purposes of dealing with that case.
- (l) If a member leaves the **Discipline Committee** during his or her term, the Vice-Chancellor may appoint a person qualified under the relevant paragraph of sub-section (f) to fill the casual vacancy for the remainder of the term.
- (m) Hearings are conducted by a **Discipline Committee** according to the following guidelines:-
 - (i) in all hearings, the **Discipline Committee** will have regard to the rights of the student and the need for the proper protection of the **University**;
 - (ii) the **Discipline Committee** is not bound by the rules of evidence or other technicalities or legal forms, but the standard of proof will be the balance of probabilities;
 - (iii) hearings normally are conducted in camera;

- (iv) in hearings involving more than one accused student, the Chair of the **Discipline Committee**, at his or her discretion, may require the hearings concerning each student to be conducted separately;
- (v) the complainant and the student may be accompanied by another student, **staff** member, an officer of the Student Guild or another person, as an adviser and advocate;
- (vi) the complainant, the student and the **Discipline Committee** must have the opportunity of presenting witnesses and evidence, subject to the right of questioning by the **Discipline Committee**. Neither the student nor the complainant has the right of cross-examination. However the student may make submissions to the **Discipline Committee**.
- (vii) admission of any other person to the hearing is at the discretion of the Chair of the **Discipline Committee**. The **Discipline Committee** has access to professional legal advice;
- (viii) pertinent records, exhibits and written statements may be accepted as information for consideration by the **Discipline Committee** at the discretion of the Chair. Both the complainant and the student will be given access to all information being considered by the **Discipline Committee**;
- (ix) all procedural questions are subject to the final decision of the Chair of the **Discipline Committee**;
- (x) after the hearing, the **Discipline Committee** determines whether the student has been found guilty of **misconduct**.
- (n) There must be a written record of all hearings before a **Discipline Committee**. The record and any additional materials used are the property of the **University**.
- (o) The **Discipline Committee** can proceed to determine the matter if the student fails to appear before it. In all cases, evidence relating to the charges must be presented and considered.
- (p) All proceedings of the **Discipline Committee** must be reported to the Vice-Chancellor.

Penalties

7. (1) The **Discipline Committee** may recommend the imposition of the penalties in this clause and as defined in section 4 upon any student found to have committed **misconduct**, as follows: -
- (a) **Warning;**
 - (b) **Probation;**
 - (c) **Loss of Privileges;**
 - (d) Fine. Any fine not to exceed ten (10) penalty units;
 - (e) **Residential College Suspension;**
 - (f) **Residential College Expulsion;**
 - (g) **Exclusion;**
 - (h) **University Suspension;**
 - (i) **University Expulsion.**
- (2) One or more of the penalties listed above may be imposed for any single act of **misconduct**. In deciding on the appropriate penalty, the **Discipline Committee** must have regard to what is just in all the circumstances. However, if a fine is imposed, no other penalty will be imposed.
- (3) Where a fine is imposed or the payment of restitution under section 8, the student may enter into a payment arrangement satisfactory to the **Registrar**.
- (4) Other than **University expulsion**, disciplinary penalties must not be part of the student's permanent academic record, but are part of the student's confidential record. Upon application by the student to the **Registrar** after graduation, the student's confidential record is expunged of disciplinary actions other than **Residential College expulsion, University suspension or University expulsion**.
- (5) In each case in which a **Discipline Committee** determines that a student is guilty of **misconduct**, the penalties and restitution are recommended to the Vice-Chancellor. The Vice-Chancellor determines penalties and restitution to be imposed upon the student and authorises the **Registrar** to notify the student in accordance with this clause.

Restitution

8. (1) The **Discipline Committee** may recommend the payment of restitution by any student found to have committed **misconduct**.

- (2) Compensation for loss, damage or injury to the **University** may take the form of appropriate monetary or material replacement, which is limited to the cost of restoring the item to the **University**.

Interim Suspension

9. (1) Where there is a complaint of **misconduct**, the Vice-Chancellor may impose an interim **University suspension** until the complaint is heard and determined. Should the student be found not guilty, the **University** must take all reasonable steps to ensure the student is not academically disadvantaged.
- (2) Where possible, where a term of interim **University suspension** is being imposed, the **Registrar** must, at the earliest opportunity, allow the student a reasonable opportunity to make representations, either orally or in writing, concerning such imposition of suspension.
- (3) Interim **University suspension** may be imposed only:-
 - (a) where the physical or emotional safety and well-being of **members of the University community**, or preservation of **University** property, is under threat;
 - (b) where the student's own physical or emotional safety and well-being is under threat; or
 - (c) if the student poses a definite threat of disruption of or interference with the normal operations of the **University**.
- (4) During the interim **University suspension**, the Vice-Chancellor may determine that the student is denied access to any or all of:-
 - (a) the Residential Colleges;
 - (b) the **University premises** (including classes);
 - (c) other **University** activities or privileges for which the student might otherwise be eligible, as appropriate.

Appeals

10. (1) A student found guilty of **misconduct** by a **Discipline Committee** may lodge an appeal against that decision and/or the decision of the Vice-Chancellor in relation to penalties/restitution, if any. Such an appeal lies to an **Appeals Board** where no member of the **Appeals Board** is a member of the **Discipline Committee** which heard the matter which has been appealed.
- (2) Appeals

- (a) A student found guilty of **misconduct** by a **Discipline Committee** may lodge an appeal against that decision and/or the decision of the Vice-Chancellor in relation to penalties/restitution, if any, within fourteen (14) days of notification of the decision. Such an appeal is to be in writing and is delivered to the **Registrar** who advises the Chair of the **Appeals Board** without delay.
- (b) The **Appeals Board** comprises a Chair who must be the Chair of the Student Affairs and Residential Colleges Committee of the Council, or nominee; the President of the Student Guild, or nominee; the Chair of the Academic Board, or nominee; and the Deputy Vice-Chancellor (Academic), or nominee. The Vice-Chancellor will appoint a Secretary to the **Appeals Board**.
- (c) An appeal is limited to a review of the record of the hearing and supporting documents for one or more of the following purposes:-
 - (i) to determine whether the original hearing was conducted fairly in light of the complaint and the evidence presented, and in conformity with this Statute;
 - (ii) to determine whether the decision reached regarding the student was based on evidence to establish that **misconduct** occurred;
 - (iii) to determine whether any penalty imposed was appropriate for the act of **misconduct** which the student was found to have committed.
- (d) The **Appeals Board** is not obliged to hear or accept further submissions from the student, but if it decides to do either or both, the student must be notified in writing and that notification must specify the time, date and place for the hearing or deadline for further submissions. Such time must be reasonable.
- (e) Appeals are conducted by an **Appeals Board** according to the following guidelines:-
 - (i) In all hearings, the **Appeals Board** will have regard to the rights of the appellant and the need for the proper protection of the University;
 - (ii) The **Appeals Board** is not bound by the rules of evidence or other technicalities or legal forms, but the standard of proof will be the balance of probabilities.
 - (iii) Appeals normally are conducted in camera.

- (iv) At the discretion of the Chair, appeals involving more than one student may be conducted separately.
- (v) Subject to section 10(2)(d) the appellant is entitled to be represented by Counsel or Solicitor or by another person being willing to act, whom the appellant appoints at their own expense.
- (vi) The appellant must be given a copy of, or an opportunity to inspect, all evidence.
- (vii) The **Appeals Board** has access to professional legal advice.
- (viii) All procedural questions are subject to the final decision of the Chair of the **Appeals Board**.
- (f) The **Appeals Board** reviews the findings of the original hearing, and the penalties and restitution imposed, if any. The **Appeals Board** may make one of the following decisions:
 - (i) Uphold the appeal; or
 - (ii) Reject the appeal; or
 - (iii) Substitute its own decision.
 The decision of the **Appeals Board** is final.
- (g) All proceedings of the **Appeals Board** are reported to Council.

Interpretation

- 11. (1)** Any unresolved question of interpretation regarding the Statute is referred to the **Registrar** for determination.

SCHEDULE PURSUANT TO SECTION 4

(c)	Loss of Privileges -Denial of specified privileges for a designated period as set out in the schedule.	1. Library - loss of borrowing rights for not more than 12 months. 2. Computer facilities - loss of user rights for not more than 12 months.
(f)	Residential College Suspension -Exclusion of the student from Residential Colleges for a specified period, as set out in the schedule, after which the student is eligible to return. Conditions for readmission may also be specified.	Residential College Breach - not more than 12 months exclusion. Other (eg. Breach on campus, not at Residential College) - not more than 6 months exclusion.

ENDNOTES

1. Made by the Council of the University of Southern Queensland on 21 June 1999.
2. Published in the Gazette on 16 July 1999
3. Laid before the Legislative Assembly on
4. The administering agency is the Department of Education.