



# Student Disciplinary Statute

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## 1. STATUTE PURPOSE AND PRINCIPLES

### 1.1. Purpose

This statute is made under authority delegated by Unitec Council pursuant to the powers granted to it under Section 194 of the Education Act 1989. The purpose of this statute is to outline how Unitec will respond to incidents or allegations of Prohibited Conduct (as defined in Appendix 1) by Students. This statute comes into force on the date that it is approved by Academic Board.

### 1.2. Principles

Matters relating to Student discipline will be managed with regard to the following principles of Te Noho Kotahitanga:

- 1) Rangatiratanga – Authority and Responsibility: Student discipline is governed and managed through appropriate delegation of authority and responsibility.
- 2) Whakaritenga – Legitimacy: Student disciplinary decision-making processes legitimise the contributions of all parties and ensure that ethics and integrity inform subsequent actions.
- 3) Kaitiakitanga – Guardianship: Academic Board delegates responsibility of guardianship over student disciplinary matters and maintenance of this statute to the Staff of Unitec
- 4) Mahi Kotahitanga - Co-operation: Student disciplinary actions and processes are developed in co-operation with appropriate partners with the understanding that all such partners share accountability for executing these in a way that supports natural justice
- 5) Ngākau Māhaki – Respect: These operating principles are conducive to a high-trust environment, based on respect, transparency in decision-making and the safeguarding of Students' and Staff Members' individual freedoms and rights.

## 2. APPLICATION AND SCOPE

### 2.1. Application

- 1) This statute applies when there is an allegation of Prohibited Conduct (as defined in Appendix 1 of this statute) in respect of a Student's actions or behaviour.
- 2) Unitec expects Students to behave in ways that do not impact negatively on the work or day-to-day experiences at Unitec of any other Members of the Unitec Community, and that this statute will be used only in exceptional circumstances.

### 2.2. Scope

- 3) This statute applies to any person who is a Student at Unitec, being a person who either:
  - a) is currently enrolled as a Student at Unitec for one or more courses; or
  - b) was previously enrolled as a Student at Unitec after the date which is 3 years before a complaint or allegation against that person has been received by Unitec.

In each case only in respect of any action (or failure to act) while that person was enrolled as a Student at Unitec ("Student").

- 4) This statute applies to Student conduct:
  - a) within Unitec Premises; or
  - b) in the context of any Unitec activity or service, including any Field Trip/Placement as part of a Unitec course of study; or
  - c) that is directly and demonstrably related to his or her status as a Student of Unitec.

### **3. DEFINITIONS**

In this statute, unless otherwise stated or unless the context otherwise requires, words with initial capitals carry the meaning given to each of the terms set out in Appendix 2.

In particular, the term “Prohibited Conduct” may be categorised as either “Inappropriate Conduct”, “Misconduct” or “Serious Misconduct” as each of those terms are defined in Appendix 2.

In this statute, the words “including”, “includes”, and other similar words do not imply any limitation.

### **4. OPERATIVE PROVISIONS AND PROCEDURES**

#### **4.1. Unitec Staff Action**

- 1) Where a Staff Member identifies an incident or behaviour which they consider may amount to Prohibited Conduct under this statute they must:
  - a) consider whether urgent action needs to be taken to ensure the safety of members of the Unitec community and/or the good order of Unitec, and take that action in accordance with section 4.2; and
  - b) consider whether the incident actually amounts to Prohibited Conduct and if so submit a report with the allegation of Prohibited Conduct against the Student/s in accordance with section 4.6
- 2) In considering whether the incident amounts to Prohibited Conduct the staff member should take all relevant circumstance of the alleged incident into account e.g. the nature, intent, impact, context and seriousness of the conduct

#### **4.2. Urgent Interim Action**

- 1) Urgent interim action may be taken by a Staff Member if, in his or her opinion, it is required to ensure the safety of Members of the Unitec Community and/or the good order of Unitec.
- 2) Any urgent interim action taken under this Section 4.2 must be reported in writing to the Executive Dean responsible for Academic Development, including the context and reasons for the action, as soon as practicable so that the alleged Prohibited Conduct can be fully investigated.

#### **4.3. Urgent actions available to Staff Members in charge of a Class**

- 1) A Student may be excluded from the duration or remainder of a Class if:
  - a) a Unitec Staff Member responsible for that Class has reasonable grounds for believing that Student has (or may have) committed Prohibited Conduct; and
  - b) the Student fails to comply with a request or direction from the Staff Member to stop behaving in the manner which the Staff Member reasonably considers may be Prohibited Conduct; and
  - c) the Staff Member has reasonable grounds for believing that immediate action is required to protect the safety and well-being of persons in that Class and/or to ensure that the activities within the Class can continue.
- 2) A Staff Member who excludes a Student from a Class under this Section 4.3 must refer the matter in writing to the relevant Head of Practice Pathway Group (HoPP) or relevant manager to consider whether further immediate action is required and to initiate a full investigation in accordance with Section 4.6.

#### **4.4. Urgent actions available to Staff Members in charge of Unitec Facilities**

- 1) If a Staff Member in charge of a Unitec Facility has reasonable grounds for believing that a Student has (or may have) committed Prohibited Conduct and that immediate action is required to ensure that the activities within the Facility can continue, or to protect the safety and well-being of Members of the Unitec Community, that Staff Member may exclude that Student from the Facility for a period not exceeding 24 hours.
- 2) Exclusion under this Section takes effect as soon as the Student has been advised.
- 3) A Staff Member who excludes a Student from a Unitec Facility under this Section 4.5 must refer the matter in writing to the relevant HoPP or other relevant manager to consider whether further immediate action is required and to initiate a full investigation in accordance with Section 4.6.

#### **4.5. Urgent actions available to a HoPP or relevant manager**

- 1) If a HoPP or other relevant manager has reasonable grounds for believing that a Student has (or may have) committed Prohibited Conduct and believes that immediate action is required to ensure to ensure the safety of Members of the Unitec Community and/or the good order of Unitec, he or she may:
  - a) instruct the Student to stop the alleged Prohibited Conduct and/or leave the area where the Prohibited Conduct has occurred; and/or
  - b) suspend the Student from attendance at Unitec, or from particular Classes, until a formal investigation into the alleged Prohibited Conduct has been carried out in accordance with this statute; and/or
  - c) temporarily exclude the Student from any designated part of Unitec until a formal investigation into the alleged Prohibited Conduct has been carried out in accordance with this statute; and/or
  - d) require the Student to not to have any contact with any particular other Student(s) or Staff Member(s) until a formal investigation into the alleged Prohibited Conduct has been carried out in accordance with this statute.
- 2) In cases of alleged Prohibited Conduct in Unitec owned or leased accommodation, the relevant Manager may suspend or exclude the Student from the Unitec accommodation only.
- 3) Before suspending or temporarily excluding a Student, the HoPP or other relevant manager must:
  - a) provide the Student with a reasonable opportunity to comment on the allegations made against the Student and the proposed temporary suspension or exclusion; and
  - b) ensure that the effect on the Student's course of study is minimised.
- 4) A Student may be suspended or temporarily excluded under this Section 4.6 for no longer than two weeks.
- 5) An instruction to suspend or temporarily exclude a Student given orally must also be communicated to them in writing (which includes by email) as soon as possible after the oral instruction.
- 6) Any Student suspended or temporarily excluded must be informed by the relevant HoPP or other relevant manager of the support services available to them through the Student Advocate/s.
- 7) Immediately following any urgent actions taken under this Section 4.5, a full investigation must be conducted in accordance with Section 4.6.

## 4.6. Investigating Allegations of Prohibited Conduct

### 4.6.1. Reporting Allegations of Prohibited Conduct

- 1) If a Member of the Unitec Community believes a Student has acted in a manner which is in breach of this statute they must report the alleged Prohibited Conduct in writing to the relevant HoPP or other relevant manager.
- 2) The HoPP or other relevant manager must:
  - a) decide whether recourse to this statute is relevant or appropriate given the circumstances of the alleged Prohibited Conduct, and
  - b) if the allegation is of behaviour which may constitute “Inappropriate Conduct” the HoPP or other relevant manager may (but is not required to) decide that an investigation will be held;
  - c) if he/she considers the alleged Prohibited Conduct may amount to Misconduct or Serious Misconduct, he/she should refer the report to the Executive Dean responsible for Academic Development for his/her advice

### 4.6.2. Determining who will conduct the Investigation

- 1) If the allegation concerns behaviour which may constitute “Inappropriate Conduct” and the HoPP or other relevant manager has decided under section 4.6.2 b) that an investigation will be held, that HoPP or other relevant manager shall delegate responsibility for the investigation to an Academic Leader or other relevant manager.
- 2) If the allegation concerns conduct which is (or may) constitute “Misconduct” or “Serious Misconduct”, the Executive Dean responsible for Academic Development will decide (or confirm) the person delegated to conduct the investigation.
- 3) As a general rule, the person conducting an investigation under section 4.6.2(2) will be the relevant HoPP or other relevant manager. However, the Executive Dean responsible for Academic Development may determine that another Staff Member should conduct the investigation in certain circumstances, including where:
  - a) the relevant HoPP or other relevant manager is in any way conflicted, implicated or otherwise involved in the complaint; or
  - b) the nature and circumstances of the complaint are such that another Staff Member should conduct the investigation; or
  - c) on the face of the complaint, the investigation might result in disciplinary action that the relevant HoPP or other relevant manager is not authorised to take (see Section 4.9).

### 4.6.3. Conducting an Investigation

The Investigator shall:

- 1) collect all information and materials relating to the allegation;
- 2) decide whether there is a case for further investigation, and advise the Respondent and the Complainant of their decision
- 3) confirm/review the appropriateness of their role as the investigator (see Section 4.9) considering if the allegation is proven the likely disciplinary action,
- 4) advise the Respondent in writing of:
  - a) the substance of the complaint, with copies of written material relevant to the complaint, without compromising privacy rights and responsibilities; and
  - b) the relevant Section/s of this statute that have allegedly been breached; and

- c) the support services available to them through the Student Advocates and other support services (e.g. Counselling); and
  - d) the relevant procedural details which will apply to the resolution of the complaint including whether the response will be sought in writing or through a Hearing; and
  - e) their entitlement to have a Hearing and if Hearing is held to have representation during such a Hearing.
- 5) provide the Respondent with a reasonable opportunity to respond to the allegation/s in writing and/or at a Hearing;
  - 6) ensure that any meeting with the Respondent in relation to the complaint is treated as a Hearing;
  - 7) inform the Respondent of their right to invite a representative and/or support person/people to be present and have permission to speak on their behalf at any meeting or Hearing;
  - 8) where a Hearing is held, include at least one and up to two other Staff Members, who have no involvement with the alleged Prohibited Behaviour, to be part of a Hearing Panel;
  - 9) advise the Director Student Success of any allegation of “Serious Misconduct” and any Hearing date in order to ensure any relevant matters related to Student wellbeing can be considered and attended to;
  - 10) advise the International Office in the case of an International Student;
  - 11) give due consideration to all the information presented and any explanations/comments from the Respondent before any decision is made;
  - 12) where a decision is made that the allegation(s) has/have been proven, ensure that any disciplinary actions are consistent with the range of disciplinary actions available and are within the powers of the Investigator (see Section 4.9);
  - 13) advise the Respondent in writing of their decision (where a Hearing is held this should be done within five (5) working days of the Hearing if practical) and the Respondent’s right to appeal the decision in accordance with Section 4.10;
  - 14) inform the Complainant of their decision; and
  - 15) record details of the investigation, including any disciplinary action taken as an outcome of the investigation, in accordance with Section 4.11.

#### **4.6.4. Conducting Investigations using Tikanga Māori Protocol**

- 1) Unitec’s commitment to the Treaty of Waitangi is reflected in Te Noho Kotahitanga (“TNK”). In the spirit of TNK, tikanga Māori can be used to seek resolutions to disputes and complaints through houhourongo – a facilitated process where an open exchange of views seeks consensus and acceptance from all parties as to the resolution.
- 2) A respondent may request that a complaint is addressed by applying tikanga Māori. This can be processed if the Complainant(s), Respondent(s), Investigator (in consultation with the Executive Dean responsible for Academic Development), and the Pae Arahi all agree to such a process, including who will participate in that process and the procedure to be followed. The Pae Arahi will have the responsibility of ensuring that all the other parties are sufficiently aware of tikanga before agreeing to the process.
- 3) For the purposes of this statute, tikanga comprises at least the following elements:
  - a) resolution of the dispute will take place within Puukenga or the Wharenui - Ngākau Māhaki;
  - b) within Puukenga or the Wharenui - Ngākau Māhaki te reo Māori may be used and statements will also be repeated in English or an interpreter will be provided if this is necessary to ensure that all the parties have a clear understanding of what is being communicated;

- c) the process will be facilitated by the Pae Arahi (or his or her delegate), unless the Pae Arahi is involved as a party to the dispute, in which case another facilitator will be selected by the Executive Dean responsible for Academic Development, in consultation with the parties to the dispute, as appropriate;
- d) all parties will have the right at their discretion to be supported by whanau;
- e) where possible, decisions in respect to a complaint will be negotiated by the parties. Where consensus is unable to be reached, the decision must be made by the Pae Arahi (or his or her delegate). The decision may include any of the disciplinary actions provided for in Section 4.9;
- f) the decision from this process will be final and binding and will complete Unitec's investigation; and
- g) the Pae Arahi (or his or her delegate) must record details of the investigation, including any disciplinary action taken as an outcome of the investigation, in accordance with Section 4.11.

#### **4.7. Communications under this statute**

Communication will be by letter given directly to the Respondent and Complainant or sent to the last known physical and/or email address of the Respondent and Complainant as notified by the Respondent and Complainant to Unitec.

#### **4.8. Support for Respondents and for Investigators**

- 1) The Respondent must be informed of their right to have support and advice and representation at any meeting or hearing convened in relation to any allegation of Prohibited Conduct
- 2) Support and advice for any Respondent in relation to any allegation of Prohibited Conduct is available from the Student Advocates.
- 3) Throughout the investigation, including where a Respondent is suspended or temporarily excluded, the Respondent may access Unitec Student Services e.g. Counselling, Health Centre, International Office, Student Advocates, Maia Māori, and Pacific Centre. This should be arranged by appointment so that appropriate services are made aware of attendance at any venue on campus for this purpose.
- 4) The Unitec Legal and Contracts Director is available to advise staff on the legal implications of actions taken under this Statute.
- 5) Where an incident involves actions which could be deemed to be harassment, bullying or discrimination as defined by the Countering Harassment Policy, the Unitec Equity and Diversity Manager should be contacted to advise the HoPP or other manager investigating the incident.
- 6) Where general advice is required, the HoPP or other relevant manager may seek this through the Executive Dean responsible for Academic Development or his/her delegate.
- 7) The Unitec Conciliator is available to support Students and Staff to resolve and restore professional relationships on a confidential, neutral and independent basis.

#### **4.9. Disciplinary Actions**

- 1) The type of disciplinary action that may be taken against a Respondent is outlined in this Section under the categories of "Inappropriate Conduct"; "Misconduct" and "Serious Misconduct". Any disciplinary actions taken against a Respondent must specify the length of time that this will be recorded on the Respondent's personal file (up to a maximum of five years).
- 2) Disciplinary actions may be one or a combination of the actions specified below.
- 3) If the complaint is investigated using tikanga Māori protocol, the Pae Arahi may take any of the disciplinary actions specified below against the Respondent.

The Manager Campus Living may take disciplinary action against the Respondent as specified in any Unitec accommodation agreement.



<p><b>4) Disciplinary Action for “Inappropriate conduct”</b></p>	<p>Investigation must be authorised by HoPP or relevant manager at comparable level of seniority.</p> <p>Disciplinary Action can be taken by:</p> <ul style="list-style-type: none"> <li>• Academic Leader; or</li> <li>• HoPP, or relevant manager at comparable level of seniority; or</li> <li>• Member of the Executive Leadership Team; or</li> <li>• Staff member authorised by the Chief Executive.</li> </ul> <p>And will remain on the Student’s file for up to two years</p>
<p>a) A formal oral or written warning or reprimand to the Respondent;</p>	<p><b>5) Disciplinary Action for “Misconduct</b></p>
<p>b) A direction to the Respondent to do or refrain from doing something, including requiring an undertaking as to future behaviour or an apology;</p>	<p>Investigation must be authorised by Executive Dean responsible for Academic Development.</p> <p>Disciplinary Action can be taken by:</p>
<p>c) A reduction in the mark or grade awarded to the Respondent for an item of assessment in respect of which the inappropriate conduct occurred</p>	<ul style="list-style-type: none"> <li>• HoPP, or relevant manager at comparable level of seniority; or</li> <li>• Member of Executive Leadership Team; or</li> <li>• Staff member authorised by the Chief Executive.</li> </ul>
<p>d) The award of a fail or non-passing grade, the award of nil mark and/or the cancellation of credit for the item of assessment in respect of which the inappropriate conduct occurred or the course to which it relates</p>	<p>And will remain on the Student’s file for at least 2 years and up to 5 years</p>
<p>e) A direction to submit an alternative item of assessment</p>	<p>f) The withdrawal of some or all library services from the Respondent for a period not exceeding the balance of the current semester;</p>
<p><b>5) Disciplinary Action for “Misconduct</b></p>	<p>g) The withdrawal of some or all information technology services from the Respondent for a period not exceeding the balance of the current semester</p>
<p>a) Direction to the Respondent to undergo an educational or supervision programme;</p>	
<p>b) Direction to the Respondent to pay compensation for any loss or damage caused by or arising from the Respondent’s Misconduct (restorative damages);</p>	
<p>c) Direction to the Respondent to implement a change to a specified document(s);</p>	
<p>d) Direction to the Respondent to take action to relieve distress caused to the Complainant and/or repair any damage cause by the Respondent, and/or correct the Respondent’s conduct;</p>	
<p>e) Suspension of the Respondent from some or all Classes for a period not exceeding the balance of the current semester;</p>	
<p>f) The withdrawal of some or all library services from the Respondent for a period not exceeding the balance of the current semester;</p>	
<p>g) The withdrawal of some or all information technology services from the Respondent for a period not exceeding the balance of the current semester</p>	

<b>6) Disciplinary Action for “Serious Misconduct”</b>	
a) Disqualification of the Respondent from sitting for any assessments for any period considered appropriate	<p>Investigation must be authorised by Executive Dean responsible for Academic Development</p> <p>Disciplinary Action can be taken by</p> <ul style="list-style-type: none"> <li>• Member of the Executive Leadership Team; or</li> <li>• Staff member authorised by the Chief Executive.</li> </ul> <p>And will remain on the Student’s file for 5 years</p>
b) If the Investigator considers that the Respondent may pose a risk to the safety and wellbeing of themselves or Member/s of the Unitec community, or that the Respondent is likely to disrupt or impede the activities of Unitec direct the Respondent to undergo, at Unitec’s expense, an assessment/consultation by a registered medical practitioner, psychiatrist or counsellor (as approved by the Executive Dean responsible for Academic Development or his/her nominee in consultation with an appropriately licensed healthcare practitioner)	
c) Suspension of the Respondent from any course(s) and/or exclusion of the Respondent from any programme(s) for any period considered appropriate	
d) Expulsion of the Respondent and exclusion from enrolment at Unitec or in particular any programme(s) at Unitec for any period considered appropriate	
e) Suspension or restriction of the Respondent’s access to all or any part of Unitec Facilities for any period considered appropriate	
f) The withdrawal of some or all information technology services from the Respondent for any period considered appropriate	

## 4.10 APPEALS

### 4.10.1 Lodging an application for appeal

- 1) With the exception of those investigations that have been addressed using the tikanga Māori process, a Respondent has one right of appeal to the Disciplinary Appeals Committee against any disciplinary action taken against them by the Investigator.
- 2) An application for appeal must:
  - a) be made in writing to the HoPP or relevant manager where the appeal relates to “Inappropriate Conduct” or to the Executive Dean responsible for Academic Development where the appeal relates to “Misconduct” or “Serious Misconduct”;
  - b) indicate which of the four grounds of appeal are being relied upon and provide sufficient detail to justify these grounds; and
  - c) be received by the office of the HoPP, relevant manager or Executive Dean responsible for Academic Development within 15 working days after the mailing of a letter notifying the Respondent of the decision made, and the disciplinary action taken, following the investigation of the allegation of Prohibited Conduct. In exceptional circumstances the HoPP, relevant manager or Executive Dean responsible for Academic Development may extend the time for receipt of the application for appeal.

#### **4.10.2 Grounds for appeal**

There are four possible grounds for appeal:

- 1) That the procedure used for investigating or resolving the Prohibited Conduct was unfair or biased;
- 2) That the decision of the Investigator could not reasonably be sustained on the evidence;
- 3) That significant new evidence which was not previously available has become available since the investigation which could have a material effect on the decision made or the penalty imposed; and/or
- 4) That the disciplinary action/s taken were out of proportion to the nature of the Prohibited Conduct and the full circumstances of the case.

#### **4.10.3 Action on the receipt of appeal application**

- 1) The HoPP, relevant manager or Executive Dean responsible for Academic Development or his or her delegate (the Convener) should inform the Investigator of the appeal in writing, including a copy of the Respondent's written appeal.
- 2) The Convener must request from the Investigator:
  - a) a written response to the Respondent's application to determine whether or not there are grounds for appeal; and
  - b) a copy of all relevant documents and evidential materials relating to the original decision.
- 3) The Convener may also seek further clarity from the Respondent in relation to the circumstances of the appeal.
- 4) Within five (5) working days of receiving the application for appeal the Convener must write to the Respondent with one of the following responses:
  - a) Granting the Respondent leave to appeal. This letter must include a copy of the relevant Section(s) of this statute, and a brief outline of the appeal process as set out in this statute
  - b) Denying the Respondent leave to appeal. This letter must include an explanation for this decision
  - c) Advising that a decision on granting leave to appeal is pending and will be provided within a further five (5) working days

#### **4.10.4 Disciplinary Appeals Committee**

- 1) If the application for appeal has been accepted, a Disciplinary Appeals Committee will be convened to hear the appeal. The Disciplinary Appeals Committee is convened by HoPP or relevant manager for appeals related to "Inappropriate Conduct" or by the Executive Dean responsible for Academic Development for appeals related to "Misconduct" or "Serious Misconduct" or his or her delegate (the Convener), except where this role may result in a conflict of interest. Where the latter is the case, the Chief Executive will appoint another relevant manager as Convener.
- 2) The Committee comprises:
  - a) The Convener;
  - b) A Student Representative nominated by the Unitec Student Council;
  - c) And one or two members selected by the Convener as appropriate in the circumstances of the appeal, from among the following:
    - i. Members of the Executive Leadership Team
    - ii. Deans of Innovation and Development
    - iii. Heads of Practice Pathway Groups

- iv. General Managers or Directors
  - v. other senior staff and managers;
  - vi. an external expert.
- 3) No members of the Disciplinary Appeals Committee may be appointed if they have any conflict of interest (whether actual or potential).

#### **4.10.5 Setting up the Appeal Hearing**

The Convener will chair the Disciplinary Appeals Committee by:

- 1) establishing a date for the Appeal Hearing at a time convenient to all parties, including the Respondent
- 2) informing the Respondent of his/her right to appear at the Appeal Hearing, to be accompanied by whanau or a support person, to appoint an advocate to speak on his/her behalf, and to request an interpreter
- 3) informing the Investigator of their rights, including the right to attend the Appeal Hearing, and to be accompanied by up to two members of the investigation Hearing Panel
- 4) providing the Disciplinary Appeals Committee with the Respondent's application to appeal, as well as the Investigator's written response; and
- 5) ensuring that the Respondent is provided with the same documentation and evidential material as is provided to the Disciplinary Appeals Committee.

#### **4.10.6 Conducting the Appeal Hearing**

- 1) The Appeal Hearing is an open and consultative event with both parties to the appeal attending. If agreement is reached by the parties at any stage, the Appeal Hearing may be abandoned.
- 2) At the Appeal Hearing:
  - a) all comments and questions are addressed or asked through the Chair (Convener);
  - b) the Respondent and/or advocate is invited to present his/her case, followed by an opportunity for members of the Disciplinary Appeals Committee to ask any relevant questions;
  - c) the Investigator is invited to explain and clarify the decision made and to speak to matters raised in the appeal, followed by an opportunity for members of the Disciplinary Appeals Committee to ask any relevant questions;
  - d) either party may ask questions and the Convener may also invite either party to present any additional information relevant to the Appeal Hearing;
  - e) all parties apart from the Disciplinary Appeals Committee are then requested to leave the meeting;
  - f) the Disciplinary Appeals Committee considers all the evidence presented and makes its decision;
  - g) the parties may be invited back to the Appeal Hearing to be informed of the decision with no further recourse to discussion or questions.
- 3) The Disciplinary Appeals Committee may request additional information from the parties or make further inquiries after the Appeal Hearing and before a decision is made.

#### **4.10.7 The official outcome of the Appeal Hearing**

- 1) The Convenor informs both parties, in writing, of the decision of the Disciplinary Appeals Committee within seven (7) working days of the Appeal Hearing.
- 2) Details of the outcome are to be recorded as specified in Section 4.11.

#### 4.11 RECORDING DETAILS OF PROHIBITED CONDUCT INVESTIGATIONS

- 1) As soon as an investigation has commenced the Investigator must ensure relevant details are entered into the Unitec Student Disciplinary Statute Register (The Register) by emailing [studentdiscipline@unitec.ac.nz](mailto:studentdiscipline@unitec.ac.nz). The Register must be updated (by emailing [studentdiscipline@unitec.ac.nz](mailto:studentdiscipline@unitec.ac.nz)) once the outcome of the investigation is known, including the decision of any appeal made. The Student Disciplinary Investigation Record (see Reference Documents section) should be used for this report, and updated if there is a successful appeal.
- 2) Where allegations of Prohibited Conduct have been upheld, the Investigator will ensure that the penalties imposed are recorded on the Respondent's file in the relevant Student record system, as appropriate.
- 3) Where an appeal is made that overturns the decision of the Investigator and/or any penalties imposed, relevant details are recorded on the Respondent file in the relevant Student record system or, in the case of an appeal that overturns the decision of an allegation being proven, all details recorded on the Respondent file in the relevant Student record system are removed.
- 4) [studentdiscipline@unitec.ac.nz](mailto:studentdiscipline@unitec.ac.nz) must be provided with a copy of the Student Disciplinary Investigation Record where an allegations of Prohibited Conduct is upheld, any appeal application, and the outcome of any related Appeal Hearing (updated on the Student Disciplinary Investigation Record).

### 5. RESPONSIBILITIES

- 1) The Executive Dean responsible for Academic Development is responsible for the implementation of this statute and ensuring that there is a Unitec Student Disciplinary Statute Register maintained by each department. He/she must be advised of all actions undertaken under this statute. He/she may request a copy of the Unitec Student Disciplinary Statute Register from any department at any time for the purposes of review or audit. He/she may delegate specific tasks related to this responsibility.
- 2) Members of the Executive Leadership Team (ELT) will be responsible for ensuring that all staff in their departments are familiar with the statute and their responsibilities under it. They are responsible for ensuring that any allegations of Prohibited Conduct are reported according to the statute, that investigations are carried out according to the statute, and that any disciplinary actions taken are recorded in the Unitec Student Disciplinary Statute Register held by the relevant Department and on the Respondent's file as appropriate.
- 3) HoPPs and other relevant managers will be responsible for ensuring that all staff members in their department are familiar with the statute and their responsibilities under it. They are responsible for ensuring that any allegations of Prohibited Conduct are reported to their ELT member and the Executive Dean responsible for Academic Development prior to confirming an investigation, that investigations are carried out according to the statute, and that any disciplinary actions taken are recorded in the Unitec Student Disciplinary Statute Register held by the relevant department and on the Respondent's file as appropriate.
- 4) Academic leaders will be responsible for ensuring that any allegations of Prohibited Conduct raised with them are reported to their manager prior to confirming an investigation, that investigations are carried out according to the statute, and that any disciplinary actions taken are recorded in the Unitec Student Disciplinary Statute Register held by the relevant department and on the Respondent's file as appropriate.
- 5) Any Staff Member directly involved with a situation where a Student is allegedly engaged in Prohibited Behaviour is responsible for ensuring the safety of Staff Members and Students and the good order of Unitec which may include taking urgent action as above in Section 4.2. Where there is an incident they consider amounts to Prohibited Conduct, they must notify their manager of the allegation so that appropriate action can be taken under this statute.

- 6) Any Student who is concerned about the behaviour of another Student including behaviour which they consider may amount to Prohibited Conduct, may refer the matter to a staff member if they consider urgent action is required and/or may make a complaint about that behaviour using the Student Complaints Resolution process. This complaint will be considered by the HoPP of the Respondent's programme of study, and if he/she considers appropriate may also be investigated under this statute.
- 7) All Students of Unitec have the responsibility to manage their own conduct so that it does not impact negatively on the work or day to day experiences at Unitec of any other members of the Unitec community.
- 8) All Staff Members and Students are responsible for maintaining confidentiality and respecting the privacy of all parties with regard to any processes related to the implementation of this statute.

## **6. REFERENCE DOCUMENTS**

- 1) [Copyright Act 1994](#)
- 2) [Crimes Act 1961](#)
- 3) [Education Act 1989](#)
- 4) [Human Rights Act 1993](#)
- 5) [Privacy Act 1993](#)
- 6) [Student Disciplinary Investigation Record](#)

## APPENDIX 1 – PROHIBITED CONDUCT DEFINED

Without limitation to any other provision of this statute, the following conduct is prohibited by this statute.

**NOTE:** When determining whether the alleged incident falls within the following prohibited conduct, all relevant circumstances of the alleged incident must be taken into account (e.g., its nature, intent, impact, seriousness).

- 1) **Conduct in breach of any provision of any New Zealand statute or regulation**, including but not limited to:
  - a) discrimination that is unlawful in terms of the Human Rights Act 1993;
  - b) sexual harassment as described in Section 62 of the Human Rights Act 1993;
  - c) racial harassment as described in Section 63 of the Human Rights Act 1993;
  - d) causing racial disharmony as described in Section 61 of the Human Rights Act 1993, and
  - e) any act or omission in breach of the Health and Safety Act 1992.
- 2) **Conduct in breach of any Unitec statute, policy, rule or procedure** applying in a particular Class, rule of conduct within Unitec accommodation, or professional code approved by Unitec, including but not limited to Unitec's:
  - a) Academic Statute;
  - b) Academic Management Policy
  - c) Vehicle Use and Parking Statute;
  - d) Health and Safety Policy and Procedures;
  - e) Copyright Policy;
  - f) Privacy of Information Policy and Procedures;
  - g) Social Media Best Practice Guidelines
  - h) Policies and procedures relating to information and communication technology systems and use;
  - i) Admission, Enrolment and Fees Policy;
  - j) Countering Harassment Policy; and
  - k) Library Policy
- 3) **Academic Misconduct**, which means:
  - a) The fabrication of data, including claiming results where different results or no results have been obtained. This may include, but is not limited to:
    - i) presenting falsified data from practice-based assessments, laboratory work, clinical placements, field trips or other work;
    - ii) presenting any data obtained improperly, including data collected without prior approval by the Unitec Ethics Committee;
    - iii) misrepresenting any academic achievements or records;
    - iv) assisting another Student to be dishonest with any assessment;
    - v) falsely claiming or owning contribution to group work.
  - b) The falsification of data, including fraudulent changing of records or results.
  - c) Plagiarism, which means using others' ideas or work and presenting these as one's own without acknowledgement of the source. This may include but is not limited to:
    - i) copying or using any sentences, paragraphs, computer files or codes, multimedia, research data, creative products or website data that are the work of others without appropriate acknowledgement;
    - ii) closely paraphrasing sentences, paragraphs or themes of others without appropriate acknowledgement;

- iii) using, summarising or extracting another person's concepts, experimental results, or conclusions without appropriate acknowledgement;
  - iv) submitting material obtained from internet-based essay depositories or similar sources;
  - v) use of others, paid or not, to research, write or present any material submitted for assessment;
  - vi) submitting one's own previously assessed or published work for assessment or publication elsewhere, without appropriate acknowledgement and/or approval (self-plagiarism).
- d) Ascribing in a misleading manner, such as listing authors without their permission or attributing work to others who have not in fact contributed to the work, or failing to ascribe authorship by failing to list as authors those who have contributed to the work;
  - e) Intentional infringements of the guidelines issued by Unitec's Research Ethics Committee, or of other relevant professional practices and codes of ethics;
  - f) Cheating, which means acting dishonestly in any examination, test or other practical assessment. This may include, but is not limited to:
    - i) use of study notes or other crib cards;
    - ii) use of any non-permitted electronic mobile device.
  - g) The submission for summative assessment of work which has been jointly prepared for presentation or which has been previously submitted elsewhere, without the prior approval of the relevant lecturer;
  - h) The presentation of fraudulent material as evidence of achievement in an educational or employment context in order to gain entry to a programme or to gain credit within a programme;
  - i) A breach of any rule relating to summative assessment; or
  - j) Such other academic or research practices which bring or are likely to bring Unitec into disrepute.

For the avoidance of doubt, **Academic Misconduct** does not include honest errors or honest differences in the interpretation of data or conclusions drawn.

4) **Misuse of information**, which includes:

- a) Perusing personal information files or any other information, whether on a Unitec database or other information collection, without authorisation;
- b) Using the personal identification card or any personal identification number (PIN) number or login of another Member of the Unitec community, or permitting the use of his or her personal identification card or PIN number or login by any other person otherwise than in accordance with Unitec policies and procedures;
- c) Wilfully misappropriating or misusing any intellectual property or confidential information belonging to Unitec, any Member of the Unitec community, or any other person or body;
- d) Intentionally introducing erroneous or misleading material into, falsifying, or deleting without authorisation information from, any Unitec database or information collection; and
- e) Any act or omission in breach of the Privacy Act 1993 or the Official Information Act 1982.

5) **Misuse of Unitec information technology systems**, which includes using Unitec's computers and/or information technology systems to:

- a) Access, store, view, publish, distribute or otherwise using in any manner whatsoever, pornographic material;
- b) Publish or distribute any material that is defamatory or offensive, or in any way constitutes harassment or excessive mail to other users (for example, hoax letters);
- c) Copying, loading or downloading any software or other material (including games, movies and music) in breach of copyright law or any applicable licence conditions; and



- d) Hacking or attempting to hack into Unitec's information and communication technology systems, or using Unitec's information and communication technology systems in any way to hack or attempt to hack into any other information and communication technology systems to alter or obtain secure, confidential, or personal information.
- 6) **Other Prohibited Conduct**, which includes:
- a) Being in any part of Unitec Premises, when he or she knows or ought to know that he or she is not entitled to be there at that time;
  - b) Wilfully impeding the activities of Unitec, whether in teaching, research or otherwise;
  - c) Behaving in a manner that is disorderly, reckless, offensive or obscene;
  - d) Knowingly failing to comply with any reasonable direction given to him or her by the person in charge of a Class;
  - e) Knowingly failing to comply with any reasonable direction given to him or her by a Staff Member of Unitec;
  - f) Wilfully or recklessly damaging or defacing, or wilfully moving without authority, any property of Unitec, any other property within Unitec Premises, or any property of a Member of the Unitec community;
  - g) Wilfully creating or contributing to any nuisance, annoyance or disturbance in or on Unitec Premises or to occupants of premises in the immediate neighbourhood of Unitec Premises;
  - h) Using or being in the possession of or under the influence of illegal drugs on Unitec Premises or in the context of any official Unitec activity or service, including any Field Trip/Placement as part of a Unitec course of study;
  - i) Being in the possession of or under the influence of alcohol in a Class or on Unitec Premises or in the context of any official Unitec activity or service, including any Field Trip/Placement as part of a Unitec course of study, other than on licensed premises or any other premises where permission has been given to consume alcohol (and then only in accordance with any conditions imposed);
  - j) Smoking in any place on Unitec Premises after being requested by a Staff member to adhere to the Unitec Smokefree/Auahi Kore policy;
  - k) Wilfully obstructing any Member of the Unitec community in the due performance of his or her functions or duties;
  - l) Wilfully failing to comply with directions notified from time to time regarding the entry, speed and exit of vehicles, and the places where they may be parked on Unitec's Premises;
  - m) Wilfully interfering with the pursuit of work, study, research or rightful enjoyment of Unitec Facilities by any Member of the Unitec community;
  - n) Wilfully failing to comply with a direction previously given to the Respondent under Section 4.2 of this statute;
  - o) Committing, attempting to commit, or aiding or abetting the commission or attempted commission of, any criminal offence on Unitec's Premises;
  - p) Committing any breach of any rule of conduct (oral or written) made by any authorised person provided that reasonable notice of that rule has been given to Students generally or to the Student charged with Prohibited Conduct before the Prohibited Conduct is alleged to have taken place.
  - q) Threatening or repeatedly or excessively insulting, any other person;
  - r) Engaging in any form of harassment by another Member of the Unitec community;
  - s) Refusing any reasonable request to identify himself or herself by a Staff Member who has reason to suspect that the Student is involved in a breach of this statute;

- t) Knowingly aiding, abetting or assisting another Member of Unitec community in the commission of, or counselling, procuring or encouraging another Member of Unitec community to commit, any Prohibited Conduct;
- u) Bribing or attempting to bribe staff by offering gifts or services in return for personal favour;
- v) Using or attempting to use a false identity, or falsifying or attempting to falsify any document, whether or not it is for the purpose of obtaining a benefit or advantage;
- w) Knowingly supplying false information or knowingly failing to supply relevant information in respect of any matter (including a financial matter) relating to the Student's study;
- x) Behaving in a manner, without reasonable cause, that is contrary to the good order of Unitec or that brings or is likely to bring Unitec into disrepute. (Note: This is not intended to apply to reasonable behaviour by Students in the exercise of academic freedom);
- y) Breaching any of the rules of conduct specified in any Residential handbook and accommodation agreement;

**NOTE:** Prohibited Conduct under this statute includes engaging in any of the conduct listed above in the context of any Field Trip/Placement as part of a Unitec course of study and/or the premises associated with that activity

**APPENDIX 2 – DEFINITIONS**

<b>Appeal Hearing</b>	a meeting arranged between the Convenor and other invited parties, where evidence is presented in relation to a Respondent's appeal against a decision made and/or actions taken by an Investigator following the investigation of alleged Prohibited Behaviour.
<b>Campus Living Manager</b>	the manager of Campus Living, contracted to provide accommodation services at Unitec.
<b>Class</b>	any lecture, address, tutorial, seminar, laboratory session, Field Trip/Placement, supervisory session and other contexts in which teaching, learning or assessment is occurring.
<b>Complainant</b>	a person who alleges Prohibited Behaviour by a Student or Village Resident.
<b>Conciliator</b>	the Staff Member at Unitec accorded this title, or his or her delegate.
<b>Convenor</b>	the Staff Member who convenes and chairs an Appeal Hearing.
<b>Director</b>	the Staff Member at Unitec accorded this title, or his or her delegate.
<b>Disciplinary Appeals Committee</b>	the Convenor and people selected by the Convenor who attend the Appeals Hearing to consider and make a decision on the evidence presented for the purpose of determining whether an appeal has been sustained and if so, what remedies and/or actions are to be taken.
<b>Executive Dean responsible for Academic Development</b>	the Staff Member at Unitec accorded this title, and includes such other person as may be delegated authority by the Chief Executive to carry out the functions assigned to the Executive Dean responsible for Academic Development by the Chief Executive.
<b>Field Trip/Placement</b>	any off-campus experience (including clinical, work-based and outdoor experiences of any duration) organised or facilitated by Unitec for the purpose of teaching and/or Student learning and/or assessment.
<b>General Manager</b>	the Staff Member at Unitec accorded this title, or his or her delegate.
<b>Head of Practice Pathway Group</b>	the Staff Member at Unitec accorded this title, or his or her delegate.
<b>Hearing</b>	a meeting arranged between the Respondent, Investigator and other invited parties, where evidence is presented in relation to the allegation of Prohibited Behaviour.
<b>Hearing Panel</b>	the Investigator and those Staff Members selected by the Investigator who attend the Hearing to consider and make a decision on the evidence presented for the purpose of determining whether the allegation of Prohibited Behaviour is proven.
<b>Inappropriate Conduct</b>	comprising minor breaches of this statute and/or Unitec's policies or processes (includes minor academic Misconduct)
<b>Investigator</b>	the relevant HoPP, Academic Leader or other manager so designated authorised to take disciplinary action in accordance with Section 4.5 of this statute.
<b>Member of Unitec Community</b>	includes all Students, all staff of the Unitec, Council Members, persons on contract to Unitec, visiting scholars, emeritus professors, Village residents, persons providing services to Unitec and, in relation to a Field Trip/Placement, any person associated with the Field Trip/Placement.

<b>Misconduct</b>	comprises a breach of this statute which significantly compromises the wellbeing of members of the Unitec community and/or academic integrity, and/or is likely to bring the Student or Unitec into disrepute (includes academic Misconduct)
<b>Prohibited Conduct</b>	(See Appendix 1) Prohibited Conduct comprises three levels of seriousness: Inappropriate Conduct; Misconduct and Serious Misconduct.
<b>Pae Arahi</b>	the staff member at Unitec accorded this title who is responsible for supporting Māori Students, working to elevate the status and profile of Unitec among Māori communities, promoting bicultural awareness on campus, and representing Unitec on ceremonial occasions and advising on matters of protocol.
<b>Academic Leader</b>	a Staff Member at Unitec accorded this title, or his or her delegate.
<b>Respondent</b>	a Student against whom an allegation of Prohibited Conduct is brought under this statute.
<b>Security Personnel</b>	any person contracted or employed by Unitec to provide security services
<b>Serious Misconduct</b>	a major breach of this statute and posing a serious threat to the wellbeing of members of the Unitec community and/or academic integrity, and which results in a serious incompatibility between the Student and Unitec (includes serious Academic Misconduct)comprises a serious threat to the wellbeing of members of the Unitec community and/or academic integrity, and which results in a serious incompatibility between the Student and Unitec (includes major Academic Misconduct)
<b>Staff Member</b>	any person employed or contracted for services by Unitec. In this statute, the phrase “Staff Member at Unitec accorded this title” includes a Staff Member holding an acting appointment to the position.
<b>Staff member in charge of facility</b>	includes staff members or their delegates but is not limited to, the Director Facilities Management, the Security Manager, Security personnel, supervisors of Student Laboratories, the Director Library
<b>Student</b>	any person enrolled for one or more courses at Unitec, or within the description set out in Section2.2 (3).
<b>Student Advocate</b>	a Student Advocate employed through a contract of services with a Service Provider (eg. EdCollective) to provide advice to Students on issues related to Unitec policies and processes – they are not Unitec Staff Members
<b>Student Representative</b>	a Student elected to a position as a class or programme representative or to the Student Council or Student Presidency
<b>Unitec</b>	Unitec Institute of Technology
<b>Unitec Accommodation</b>	any Student accommodation managed by Campus Living for Unitec.
<b>Unitec Facilities</b>	Unitec Premises and all systems, amenities and services provided by Unitec for the use of Members of the Unitec community.
<b>Unitec Premises</b>	all premises, grounds and buildings owned by, in the possession of, or administered by Unitec, including accommodation owned/leased by Unitec

## DOCUMENT DETAILS

<b>Version:</b>	9	<b>Issue date this version:</b>	September 2018
<b>This version approved by:</b>	Academic Board	<b>Date of approval:</b>	25 September 2018
<b>Document owner:</b>	Executive Director Student Experience	<b>Document sponsor:</b>	Academic Board
<b>Date of next review:</b>	May 2019		
<b>Date first version issued:</b>	18 December 2008	<b>Original approval body:</b>	Academic Board

## AMENDMENT HISTORY

Version	Issue Date	Created/Changed by	Reason for Revision
1	18/12/2008	Registrar	First edition – supersedes the General Disciplinary Statute first approved in April 2000
1.1	9/03/2009	Registrar	Council approved addition of Section 8.1(t)
1.2	27/03/2009	Manager, Information & Policy	Grammatical errors corrected on pgs 10 & 14
2	12/05/2009	Executive Officer (Glenda Jacobs)	Decision flowchart documents created and hyperlink to these added to 'Reference' Section
3	23/06/2009	Executive Officer (Glenda Jacobs)	Disciplinary Summary Form created and hyperlink to this added to 'Reference' Section
4	13/07/2009	Executive Officer (Glenda Jacobs)	Amended version approved by Council
5 (07)	23/02/2011	Executive Officer (Dave Hodges)	Formal review – revised document approved by Academic Board & Council. Appeals process expanded to incorporate all aspects of the appeals procedures; relevant amendments made to minimise incorrect use of statute; inclusion of a student's right to a 'hearing'; the inclusion of a clause to enable Executive Deans/Directors to delegate the investigative process to another Staff Member.
6	22/10/2013	No information	No information
7	07/09/15	Director Pou Aroha Student Support (Alison Dow)	Formal Review – revised document to be approved by Academic Board and Council: <ul style="list-style-type: none"> <li>incorporation of Te Noho Kotahitanga to frame the statute</li> <li>introduction of three "levels" of prohibited behaviour: inappropriate conduct,</li> </ul>

			<p>misconduct, serious misconduct and links to appropriate disciplinary actions</p> <ul style="list-style-type: none"> <li>• further development of the process of Hohourongo- investigations e conducted using Tikanga Māori</li> <li>• clarification of support available for students and for staff related to actions arising from the statute</li> <li>• clarification of the rights of students in the application of the statute</li> <li>• specific content about roles and responsibilities related to the statute</li> <li>• introduction of a Student Disciplinary Investigation Record template to support consistency of processes and to assist record keeping – to be retained within each department.</li> </ul>
8	May 2016	Executive Dean responsible for Academic Development	To reflect changes in organisational structure
9	25 September 2018	Director Student Success	<p>Amended section 4.11 to require information about student disciplinary actions be sent to a central email address, to enable Unitec to maintain a central register of student disciplinary actions</p> <p>Replaced all mentions of the 'Director of Pou Aroha' with the 'Director of Student Success'.</p> <p>Replaced the mention of the 'Doc Owner: Chief Operating Officer' in the footer of the document with the Executive Director Student Experience</p> <p>Replaced the 'Document owner: Executive Dean responsible for Academic Development' under the 'document details' section with the 'Executive Director Student Experience</p>