



Australian
National
University

Information for respondents

Discipline Rule

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Information for respondents

Being part of the ANU community means acting and behaving in a way that is consistent with a set of fundamental values. These being that:

- a) we are inclusive, open and respectful, reflecting the diversity of our nation;
- b) we are committed to integrity and ethical behaviour; and
- c) we value, enable, reward and celebrate collegiality.

These are the core values that we uphold as members of the ANU community and the principles underpinning the expectations for student conduct and behaviour.

The ANU [Discipline Rule](#) is a legislative instrument that governs the ANU's disciplinary process for reports of alleged misconduct by a student. The rule outlines behaviour that may be considered **misconduct**, this includes, but is not limited to, conduct:

- that is dishonest, unethical, or otherwise demonstrates a lack of integrity or respect for the safety or wellbeing of other members of the University community; or
- that unreasonably hinders other members of the University community in the pursuit of their studies or research in the University or in participation in the life of the University; or
- that is otherwise:
 - a breach of the values set by the Council for the University; or
 - a breach of the responsibilities (however described) set by the University for students or members of the University community; or
 - prejudicial to the good order and government of the University; or
 - reprehensible conduct for a member of the University community

Refer to the Rule for a more detailed descriptor of misconduct. Potential misconduct related to academic integrity is described and handled through the Academic Integrity Rule. Please note that there are other University policies and rules which may apply to student conduct (eg. Student Code of Conduct, Student Complaints Policy and Procedure, Sexual Misconduct Policy).

The Discipline Rule is based on procedural fairness. It follows a transparent, fair and timely process for addressing allegations of potential student misconduct.

Safety and Wellbeing

The safety and wellbeing of all persons involved in any incident or on-going situation is of the utmost importance. Before, during and after the Discipline Rule process, the University will endeavour to ensure that safekeeping measures are in place as appropriate and all persons have access to support as appropriate. Support can come in many ways – friends, family or professional caregivers. Should a respondent find preparing the report or any part of the process stressful, seeking additional or alternative support may help.

We encourage respondents to engage with the [Student Safety and Wellbeing](#) team regarding supports available to ANU students.

Should the respondent or any person feel an immediate threat, contact the police (000) in the first instance or one of the [local](#) or any other [ANU support services](#).

Receiving a Notice of Inquiry

Reports of potential misconduct are lodged with the University by a complainant. Reports may involve allegations of a wide range of behaviour that could potentially amount to misconduct. This conduct may range from the submission of fraudulent documents, harassing communications through to assault, amongst other things. The report generally comprises an account of an incident(s); it may contain evidence, additional statements and/or a description of the impact on affected person(s). For the respondent, receiving a formal 'Notice of Inquiry' letter and accompanying report is a key stage in the inquiry process. It is generally emailed to the respondent by the case officer, and will refer to the report, contain the substance of the report and the potential misconduct to which the allegations relate. The decision maker in the inquiry will be either a prescribed authority or a Vice Chancellor's nominee depending on the delegation of the staff member.

The letter may also contain a no-judgement interim denial of access or separation directive; the intent of both is to keep all parties safe. These directives are not a formal finding of misconduct and the inquiry process will continue pursuant to the Rule when such a decision has been made. Under the rule, the decision maker may, before holding an inquiry, deny the respondent access to all or any University facilities or premises (details of the denial of access are included in the letter if that decision has been made.) Alternatively or additionally, the respondent may be given a separation directive to avoid contact with the complainant.

If a denial of access decision is taken, an appeal or request to vary the terms is available to the respondent under the Rule. Details on how to appeal this decision or request a variation will be outlined in the notice of inquiry.

Receiving a notice of inquiry and report can be confronting and upsetting. We encourage respondents to seek support not only in responding to the report but also in support of their general wellbeing.

The Inquiry details

The notice of inquiry letter gives details (date, time, location) of the inquiry meeting. Under the rule, the respondent is provided with a minimum of 5 working days after the date of the notice to attend a meeting however this may be extended. The respondent is entitled to appear in person at the meeting, if they do not appear or submit a written response, the inquiry will proceed in their absence.

Responding to the report

Procedural fairness gives the respondent a right of reply to the allegations. The respondent is entitled to appear at the inquiry meeting and may, in addition to or instead of appearing at the inquiry, give the inquiry written statements about the conduct being inquired into (whether made by the respondent or another person). The statement need not be long but should include as much detail as the respondent feels comfortable sharing. The decision maker considers all relevant material and makes a decision based on the balance of probabilities. As such written statements, including any evidence, are recommended: Examples of relevant evidence may include, messages, communications or witness statements, however, this will depend on the nature of the allegations and what evidence may be available.

The statement should include reference to any other previous, current or ongoing processes/proceedings in relation to the conduct (ie. a criminal investigation, mediation).

The Inquiry meeting

The inquiry hearing is held in an informal way. Generally, in attendance is the respondent and their support person (if applicable), the decision maker, and a secretary (usually the case officer).

The purpose of an inquiry meeting, is for the decision maker to hear the student/respondents perspective to the report received. The respondent may attend with a support person however the support person cannot act as an advocate without express approval from the decision maker. Should the respondent wish to pause the inquiry meeting to confer with their support (if present) or need time to reflect on questions, the respondent can request a pause or a break.

The meeting is held in an informal manner and usually goes for about one hour. The inquiry begins with statements around ANU values and formalities of receipt of information regarding the rule and the report however, the majority of the hearing is a conversation between the decision maker and the respondent. The decision maker may ask questions seeking clarification on the materials but is not bound by the rules of evidence, rather is looking to make a decision on the balance of probabilities. In the majority of cases, the complainant is not informed of the content of the respondent's response. If any further information or clarification is sought following the inquiry meeting, the respondent will be given an opportunity to respond to that additional information.

The decision maker will make a decision outside of the inquiry meeting and may take some time to consider the material and outcome.

Outcomes and expectations

The decision maker will make a determination in relation to the allegations of misconduct based on the balance of probabilities. Should the decision maker consider that the respondent has, on the balance of probabilities, engaged in the alleged misconduct, there are a range of actions available to the decision maker, ranging from a reprimand, suspension, or exclusion from the University. In deciding what action is taken the decision maker considers all relevant matters including, but not limited to, the health and safety of staff and students, objectives of punishment and rehabilitation, and the nature and severity of the respondent's conduct.

Findings and outcomes are recorded on the respondent's internal student record, meaning that the outcome is not recorded on the student's official testamur or academic transcript.

It is important to note that the University can only make a determination whether there has been misconduct or not, on the balance of probabilities, in accordance with the Discipline Rule. The University cannot make any determinations in relation to civil or criminal liability.

Appeals Process

If the respondent is dissatisfied with the decision taken under Discipline Rule, it is reviewable under the ANU [Appeals Rule](#), appeal details will be outlined in the respondent's outcome letter.

Communications and confidentiality

Under the Rule, the complainant has a right to be informed of any action taken in response to the report. This includes informing the complainant about any findings or outcomes. The complainant has a responsibility to keep all University communications related to the rule confidential. The same is expected of the respondent and any other involved persons.

Maintaining privacy and the confidentiality of the process is important to protect all parties. Only the complainant, the respondent and involved staff, know the outcome and events of the inquiry. Any information that may end up in the wider community has the potential to negatively impact the wellbeing and University experience of all persons involved. It is the responsibility of all students to 'protect the confidentiality and privacy of personal records and University correspondence' (Student Code of Conduct (3.h)).

The University recognises the importance of having a support network and encourages respondents to engage with supports as they feel is necessary. It is important that any support

person involved in assisting with the process is similarly expected to keep all communications confidential and to not divulge any personal information.

The University is subject to the *Privacy Act 1988* and the collection, storage and release of personal information is governed by that Act. Please note the Australian National University may be required to release information in the following circumstances:

- if there is an exemption pursuant to the Privacy Act;
- if it is necessary to protect the respondent or someone else from danger;
- where a law requires their personal information to be disclosed;
- if they have a health condition which must be notified;
- in compliance with a court order; or
- where they are involved in legal proceedings against the University.

Advice and Support

The resources and information presented here are general in nature and do not contain case-specific legal or professional advice. Before a respondent responds to a report of potential misconduct, respondents should seek advice and support from an independent person knowledgeable about the process.

The Student Safety and Wellbeing team offers free and confidential support for students who are responding to reports of misconduct. The service's Case Managers have backgrounds in health, social work, counselling and human services. Case Managers work from a person-centred and trauma informed clinical framework and aim to provide coordinated support, information and referrals for students.

To connect with a Case Manager email student.wellbeing@anu.edu.au, phone 6125 2211 or visit the Health and Wellbeing Centre Level 3 Building 156 Joplin Lane, Kambri Monday to Friday 9am - 4pm and ask to speak to a Case Manager in the Student Safety and Wellbeing team.

Other University services available to respondents include the [Dean of Students](#), [ANU Thrive](#), [ANU Counselling](#), the [ANU Student Association \(ANUSA\)](#), and the [Postgraduate and Research Students Association \(PARSA\)](#).

Glossary

Balance of probabilities: The civil standard of proof, which requires that, on the balance of information, it is more probable than not that the allegation is substantiated.

Complainant: the person who makes a report under the Rule, or if the report is made on behalf of another student, the person who lodges the report. Under the Rule, the complainant has the right to be informed of any actions that have been taken under the Rule.

Decision maker: Under the Rule, the decision maker is usually the Registrar who has been nominated by the Vice Chancellor (Vice Chancellor's Nominee). The Vice Chancellor may also nominate a prescribed authority. The prescribed authority can be, for example, the Dean or Associate Dean of an academic college, the Registrar, or the Head of a hall of residence.

Inquiry: An inquiry is where a decision maker meets with the respondent and their support person (if applicable) to discuss the conduct being inquired into. The complainant does not attend the inquiry. At the inquiry, the respondent can provide an oral and/or written statements. A secretary will also be present to take minutes for record taking purposes. There are no visual and audio recordings taken at the inquiry. An inquiry usually goes for about one hour.

Procedural fairness: The guiding principle for ensuring a fair and just process that is free from bias for all involved.

Respondent: person or persons subject to a complaint or allegation.

Support person: A person who accompanies a party to an interview or meeting, and who may help a student, provide support or give advice on the inquiry. A support person may be a friend, student, staff member or acquaintance. A support person does not speak on behalf of the student and is not an advocate. A support person is expected to maintain all information and discussions confidentially.