

**LA TROBE UNIVERSITY**

**EXPLANATORY MEMORANDUM FOR THE ACADEMIC MISCONDUCT  
STATUTE 2009**

Council is invited to make the attached **Academic Misconduct Statute 2009** (the new Statute).

The new Statute (along with the new **General Misconduct Statute 2009**) is intended to replace Statute 16 – Student Discipline and Misconduct and all of the regulations made under that Statute (there are currently 4 different regulations made under Statute 16).

The new Statute targets cheating, plagiarism, other conduct engaged in with a view toward obtaining an unfair or unjustifiable advantage (whether the advantage is realised or not) and conduct constituting a breach of any legislation, policy or rule of the University relating to assessment, examinations or academic progress (section 4).

As with the **Academic Progress Statute 2009**, a distinction is drawn between coursework and research, and different procedures are set out for reporting and determining allegations of academic misconduct.

In relation to coursework, academic misconduct can arise in an examination or in the preparation of an assessable piece of work, such as an assignment. In both cases, reports of suspect misconduct are given to the head of the relevant School or Division (called an “academic division”), who is then required to determine whether the misconduct is serious or minor (sections 11 and 12). If it is minor, the head can then deal with it under section 13. If it is serious, the head must refer it to an “academic misconduct (coursework) officer” for determination (section 16). In both cases, appeals lie to the University Appeals Committee (UAC) (sections 15 and 17).

In relation to research, the Higher Degrees Committee (Research) is required to refer suspected cases of misconduct to an “academic misconduct (research) officer” for determination (section 21). An appeal lies from there to the UAC (section 23).



**LA TROBE UNIVERSITY**  
**ACADEMIC MISCONDUCT STATUTE 2009**

The Council of La Trobe University makes this Statute under section 30 of the *La Trobe University Act 1964*.

**PART 1—PRELIMINARY**

**1. Name and commencement**

- (1) This Statute is the **Academic Misconduct Statute 2009**.
- (2) This Statute comes into full force and effect on 1 July 2009.

**2. Purpose**

The main purpose of this Statute is to protect the integrity of the academic programs conducted by the University by—

- (a) defining and prohibiting academic misconduct by students;
- (b) providing for the reporting of incidents of suspected or alleged academic misconduct by students; and
- (c) providing for the hearing and determination of cases involving allegations of academic misconduct.

**3. Interpretation**

- (1) In this Statute—

*academic misconduct* has the meaning given in section 4;

*academic misconduct (coursework) officer* means an academic misconduct (coursework) officer appointed under section 19;

*academic misconduct (research) officer* means an academic misconduct (research) officer appointed under section 25;

*assessment* has the meaning given in section 5;

*commencement day* means the day on which this Statute comes into full force and effect;

*examination* has the meaning given in section 6;

**head**, of an academic division, includes a person who is the acting head of an academic division;

**Note:**

See also subsection (2).

**higher degree** means a Masters Degree or a Doctoral Degree, whether by coursework or research or a combination of coursework and research;

**Old Statute** means Statute 16 – Student Discipline and Misconduct, and any regulations made under that Statute, as in force immediately before the commencement day;

**senior officer of the University** means a senior member of the academic or general staff;

**student** includes a person who was an enrolled student at a time when he or she is alleged to have engaged in academic misconduct;

**supervisor**, in Division 1 of Part 2, means an employee or appointee of the University who is conducting or supervising an examination;

**supervisor's report**, in Division 1 of Part 2, means a report of a supervisor referred to in section 9(1)(c).

- (2) To facilitate the application of this Statute to the La Trobe University International College, a reference in this Statute to—
- (a) a Faculty shall be taken to include a reference to the La Trobe University International College;
  - (b) a Dean of a Faculty shall be taken to include a reference to the head, or the acting head, however described, of the La Trobe University International College;
  - (c) a Faculty Board shall be taken to include a reference to—
    - (i) the equivalent body in the La Trobe University International College; or
    - (ii) if there is no equivalent body, the head, or the acting head, however described, of the La Trobe University International College;
  - (d) the head of an academic division shall be taken to include a reference to the head, or the acting head, however described, of the La Trobe University International College; and
  - (e) the Examinations Unit of a Faculty shall be taken to include a

reference to the Examinations Unit, or its equivalent, however described and be it a body or an individual, of the La Trobe University International College.

**4. What is academic misconduct?**

- (1) In this Statute, *academic misconduct* includes—
  - (a) cheating, plagiarism or any other conduct engaged in by a student with a view to gaining for himself, herself or another person an unfair or unjustified advantage in an examination or assessment whether such advantage occurs or not; and
  - (b) conduct which constitutes a breach of a Statute, regulation, policy or rule of the University relating to examinations, assessment or academic progress.
- (2) In subsection (1)(a), *cheating* means cheating in relation to an examination or assessment and includes disobeying a rule or instruction relating to the conduct of the examination or assessment.

**5. What is an assessment?**

- (1) In this Statute, an **assessment** is a task to be completed by a student the results of which are used for the purposes of determining—
  - (a) whether the student has passed or failed;
  - (b) whether the student's work otherwise satisfies the examiners; or
  - (c) what grade the student is to be awarded for that work.
- (2) An *assessment* may take the form of one of, or a combination of one or more of, the following tasks—
  - (d) a written test, essay, sub-thesis or thesis;
  - (e) practical work, including laboratory, field or clinical work;
  - (f) an oral or aural examination or test.
- (3) An *assessment* does not include an examination within the meaning of section 6.

**6. What is an examination?**

In this Statute, unless the context otherwise requires, an *examination* is a written examination conducted by an administrative office, area, branch, department or other similar division of the University for or on

behalf of a Faculty.

**7. General procedural requirements for decision-makers**

- (1) In exercising a power or function under this Statute, a decision-maker—
  - (a) is bound by the rules of natural justice;
  - (b) is not bound by the rules of evidence or practices or procedures applicable to courts of record;
  - (c) may inform him or herself on any matter as he or she sees fit;
  - (d) must act with as little formality and technicality, and determine each matter with as much speed, as the requirements of this Statute, the regulations and a proper consideration of the matter permits; and
  - (e) subject to this Statute and the regulations, may determine his or her own procedure.
  
- (3) In this section, a *decision-maker* means—
  - (a) the head of an academic division acting under Division 2 or Division 3 of Part 2;
  - (b) an academic misconduct (coursework) officer acting under Division 4 of Part 2; or
  - (c) an academic misconduct (research) officer acting under Division 3 of Part 3.

**PART 2—ACADEMIC MISCONDUCT RELATING TO COURSEWORK**

**Division 1—Application**

**8. Application of Part**

This Part applies in respect of academic misconduct by a student in the course of—

- (a) studying for or towards a higher degree by coursework, a degree, diploma or other award that is not a higher degree;
- (b) carrying out any work required for the coursework component of a higher degree that is examined by a combination of coursework and research; or
- (c) carrying out any work required for a course of study undertaken at the La Trobe University International College, whether or not the course of study leads to the conferral of an award.

**Division 2—Allegations of academic misconduct**

**9. Academic misconduct in examinations**

- (1) If a supervisor suspects that a student has engaged in academic misconduct while undertaking an examination, the supervisor must—
  - (a) confiscate any article or thing from the student which the supervisor reasonably believes will afford evidence of academic misconduct;
  - (b) advise the student that the matter will be reported to the Examinations Unit of the relevant Faculty; and
  - (c) make a written report of the conduct which the supervisor believes constitutes academic misconduct.
- (2) If a supervisor requires a student to surrender an article or thing in the circumstances referred to in subsection (1)(a), the student must surrender the article or thing.
- (3) For the avoidance of doubt, a student who contravenes subsection (2) is guilty of academic misconduct.
- (4) The supervisor must give his or her report to the Examinations Unit of the relevant Faculty and in doing so include anything confiscated by the supervisor under subsection (1)(a).
- (5) If the Examinations Unit of a Faculty receives a report from a

supervisor under subsection (2), the Examinations Unit must then give the report, along with any confiscated article or thing, to the head of the academic division in respect of which the examination was conducted or supervised.

**10. Academic misconduct in assessments**

A chief examiner or member of the academic staff who suspects that a student may have engaged in academic misconduct in the course of undertaking an assessment must, as soon as reasonably practicable—

- (a) make a written report to the relevant head of academic division of the conduct which the chief examiner or member of the academic staff believes constitutes academic misconduct; and
- (b) notify the student that the matter is being reported to the relevant head of academic division.

**11. Head of academic division to determine whether report discloses evidence of academic misconduct**

- (1) If the head of an academic division receives a supervisor's report or a report under section 10, the head of the academic division must, within 10 business days of receiving the report—
  - (a) examine the report and determine whether it discloses evidence of academic misconduct; and
  - (b) give written notice to the student concerned advising him or her of that determination.
- (2) If the head of the academic division has determined that the report discloses evidence of academic misconduct, the head of the academic division must, in giving notice under subsection (1)(b)—
  - (a) enclose a copy of the report;
  - (b) invite the student to—
    - (i) attend an interview with the head of academic division on a specified date; or
    - (ii) make a written submission in response to the report within 10 business days of the date of the notice; and
  - (c) include a statement informing the student that the head of the academic division must determine the matter or refer it to an academic misconduct (coursework) officer for determination even if the student does not attend an interview or make a written submission within 10 business days of the date of the

notice.

- (3) An interview under subsection (2)(b)(i) is to be conducted so as to allow for an informal discussion between the head of academic division and the student regarding the allegation of academic misconduct. For the avoidance of doubt, a student is free to decline to attend an interview.
- (4) In an interview under subsection (2)(b)(i)—
  - (a) a student may be accompanied by a support person, other than a legal practitioner or person with a law degree; and
  - (b) if the head of academic division deems it necessary, a member of the academic staff may be invited to attend.
- (5) A support person accompanying a student under subsection (4)(a) is not entitled to make submissions or present arguments to the head of the academic division on behalf of the student, or act in any other way as an advocate for the student.
- (6) If the head of the academic division determines that a supervisor's report or a report under section 10 does not disclose evidence of academic misconduct, the head of the academic division must—
  - (a) direct that the work submitted be assessed or that the student be permitted to re-sit the test, as the case requires; and
  - (b) advise the student in the written notice of the determination that his or her work will be assessed or that he or she will be allowed to re-sit the test at a time to be advised.
- (7) Before making a decision under this section, a head of academic division must ensure that the academic results in the units undertaken by the student for that academic period which are relevant to the case are withheld pending the decision using the appropriate results code.

**Division 3—Action where academic misconduct is minor**

**12. Head of academic division to determine whether academic misconduct occurred and whether it is minor or serious**

- (1) Regardless of whether a student attends an interview or makes a written submission in time in response to an invitation under section 11(2)(b), the head of the academic division must, within 10 business days after the time period specified in that section, determine whether the academic misconduct alleged in the report occurred and whether it is minor or serious.
- (2) If the head of the academic division determines that the academic

misconduct is minor, he or she must deal with the matter in accordance with section 13 and give notice in accordance with section 14.

- (3) If the head of the academic division determines that the academic misconduct is serious, he or she must refer the report (including anything confiscated from the student by the supervisor under section 9(1)(a)) and the written response received from the student under section 11(2)(b) (if any) to an academic misconduct (coursework) officer for determination under section 16.

### **13. Dealing with minor academic misconduct**

In dealing with minor academic misconduct, the head of an academic division may—

- (a) even though the student engaged in academic misconduct—
  - (i) direct that the work the subject of the examination be submitted for assessment; or
  - (ii) if the student was sitting a test at the time he or she engaged in the academic misconduct, direct that the student be permitted to re-sit the test; or
- (b) make a direction in accordance with paragraph (a) but subject to a requirement that the work submitted or the test taken be marked-down in accordance with a specified percentage; or
- (c) direct that the work submitted or the test taken not be assessed and that a mark of zero be awarded for the work or for the unit in respect of which the work was submitted.

### **14. Notice of decision under sections 12 and 13**

- (1) A head of an academic division must give written notice of decisions under sections 12 and 13 to the student concerned as soon as practicable.
- (2) A written notice under this section must—
  - (a) give reasons for the decisions; and
  - (b) if the decision involves a direction under section 13(c), advise the student that he or she may, within 20 business days of the date of the notice, lodge an appeal with the University Appeals Committee challenging the decision;
  - (c) describe the prescribed requirements for an appeal to the University Appeals Committee (see section 15(3)); and

- (d) provide contact details and such other information as may be necessary to enable the student to lodge the appeal.

**15. Application for review of decisions under sections 12 and 13(c)**

- (1) A student to whom decisions of the head of an academic division under sections 12 and 13(c) relate may, within 20 business days of receiving notice of the decisions, apply to the University Appeals Committee for a review of either or both of those decisions.
- (2) An application for review of a decision under section 13(c) can include an application for review on the basis that the direction under that section is too severe.
- (3) An application under this section for review must—
  - (a) be in writing and in the English language; and
  - (b) specify the grounds on which the review is sought and provide particulars in support of those grounds.
- (4) If a student lodges an application for review under this section, the decisions in respect of which the review is sought are suspended pending the outcome of the review and no action may be taken to implement them.

**Division 4—Action where academic misconduct is serious**

**16. Determination of allegation of serious academic misconduct**

- (1) An academic misconduct (coursework) officer must hear and determine all allegations of serious academic misconduct referred to him or her under section 12(3).
- (2) In a hearing under subsection (1), a student may be accompanied by a support person, other than a legal practitioner or person with a law degree.
- (3) A support person accompanying a student under subsection (2) is not entitled to make submissions or present arguments to the academic misconduct (coursework) officer on behalf of the student, or act in any other way as an advocate for the student.
- (4) If, after conducting a hearing, an academic misconduct (coursework) officer finds that an allegation of academic misconduct is substantiated, the academic misconduct (coursework) officer may impose one of the following penalties—
  - (a) a direction that the work submitted or the test taken by the student be examined and marked-down in accordance with a

- specified percentage;
  - (b) a direction that the work submitted or the test taken by the student not be assessed and that a mark of zero be awarded for that work or test;
  - (c) a direction that the work submitted or the test taken by the student not be assessed and that a grade of zero be awarded for the unit in respect of which the work was submitted or the test taken.
- (5) An academic misconduct (coursework) officer must give written notice of a determination under this section that—
- (a) sets out the reasons for the determination;
  - (b) informs the student that he or she may apply to the University Appeals Committee for a review of the determination; and
  - (c) describes the requirements set out in section 17 for making such an application.
- (6) An academic misconduct (coursework) officer must ensure that the notice referred to in subsection (5) is given to the student concerned as soon as practicable after the determination is made.

**17. Application for review of determination of academic misconduct (coursework) officer**

- (1) A student to whom a determination of an academic misconduct (coursework) officer under section 16 relates may, within 20 business days of receiving notice of the determination, apply to the University Appeals Committee for a review of the determination, including any penalty set as part of the determination, on any one or more of the following grounds—
- (a) the finding that the alleged serious academic misconduct took place is flawed;
  - (b) the academic misconduct (coursework) officer did not act in accordance with the requirements of this Statute or the regulations when hearing and determining the allegation of serious academic misconduct;
  - (c) the direction under section 16(4) is too severe.
- (2) An application under this section for review must—
- (a) be in writing and in the English language; and

- (b) specify the grounds on which the review is sought and provide particulars in support of those grounds.

**Division 5—Reviews by the University Appeals Committee**

**18. Power to conduct review**

The University Appeals Committee must hear and determine any application for review lodged in accordance with the requirements of section 15 or section 17 and any regulations made under those sections.

**Division 6—Academic misconduct (coursework) officers**

**19. Appointment of academic misconduct (coursework) officers**

- (1) In each Faculty, the Dean must appoint at least 1 member of the senior academic staff working in each academic division of the Faculty as an academic misconduct (coursework) officer for that Faculty.
- (2) In subsection (1), *Faculty* does not include the La Trobe University International College.
- (3) In relation to the La Trobe University International College, the head, or acting head, however described, of the La Trobe University International College must appoint the prescribed number of senior members of the academic staff working at the La Trobe University International College as academic misconduct (coursework) officer for the La Trobe University International College.

**PART 3—ACADEMIC MISCONDUCT RELATING TO RESEARCH**

**Division 1—Application**

**20. Application of Part**

This Part applies in respect of academic misconduct by a student in the course of—

- (a) studying for or towards a higher degree by research; or
- (b) carrying out any work required for the research component of a higher degree that is examined by a combination of coursework and research.

**Division 2—Reporting suspected academic misconduct**

**21. Reporting by Higher Degrees Committee (Research) of suspected academic misconduct**

- (1) If the Higher Degrees Committee (Research) forms a view that academic misconduct may have occurred in relation to a piece of work submitted for examination for a higher degree by research or a higher degree by coursework and research, the Higher Degrees Committee (Research) must, as soon as practicable, report the matter to an academic misconduct (research) officer.
- (2) A report under subsection (1) must—
  - (a) be in writing; and
  - (b) include as much information regarding the suspected academic misconduct as the Higher Degrees Committee (Research) has in its possession.
- (3) The Higher Degrees Committee (Research) must notify the relevant student in writing that it suspects that academic misconduct may have occurred and that it has reported the matter to an academic misconduct (research) officer for consideration.
- (4) A notice under subsection (3) must be given to the relevant student at the same time the matter is reported to an academic misconduct (research) officer or as soon as practicable thereafter.

**Division 3—Determination of allegations of academic misconduct**

**22. Function and powers of academic misconduct (research) officers**

- (1) An academic misconduct (research) officer must hear and determine all allegations of academic misconduct that are referred to him or her under section 21.
- (2) In a hearing under subsection (1), a student may be accompanied by a support person, other than a legal practitioner or person with a law degree.
- (3) A support person accompanying a student under subsection (2) is not entitled to make submissions or present arguments to the academic misconduct (research) officer on behalf of the student, or act in any other way as an advocate for the student.
- (4) If, after conducting a hearing, an academic misconduct (research) officer finds that an allegation of academic misconduct is substantiated, the academic misconduct (research) officer may direct that—
  - (a) the work submitted by the student be disallowed and that a fail grade be recorded; or
  - (b) the student's higher degree candidature be suspended for a specified period.
- (5) An academic misconduct (research) officer must give written notice of a determination under this section that—
  - (a) sets out the reasons for the determination;
  - (b) informs the student that he or she may apply to the University Appeals Committee for a review of the determination; and
  - (c) describes the requirements set out in section 23 for making such an application.
- (6) An academic misconduct (research) officer must ensure that the notice referred to in subsection (5) is given to the student concerned as soon as practicable after the determination is made.

**23. Applications for review of determinations of academic misconduct (research) officers**

- (1) A student to whom a determination of an academic misconduct (research) officer under section 22 relates may, within 20 business days of receiving notice of the determination, apply to the University Appeals Committee for a review of the determination, including any

penalty set as part of the determination, on any one or more of the following grounds—

- (a) the finding that the alleged academic misconduct took place is flawed;
  - (b) the academic misconduct (research) officer did not act in accordance with the requirements of this Statute or the regulations when hearing and determining the allegation of serious misconduct;
  - (c) the direction under section 22(4) is too severe.
- (2) An application under this section for review must—
- (a) be in writing and in the English language; and
  - (b) specify the grounds on which the review is sought and provide particulars in support of those grounds.

#### **Division 4—Reviews by the University Appeals Committee**

##### **24. Power to conduct review**

The University Appeals Committee must hear and determine any application for review lodged in accordance with the requirements of section 23 and any regulations made under that section.

#### **Division 5—Academic misconduct (research) officers**

##### **25. Appointment of academic misconduct (research) officers**

- (1) In each Faculty, the Dean must appoint at least 1 member of the senior academic staff working in each academic division of the Faculty as an academic misconduct (research) officer for that Faculty.
- (2) In subsection (1), *Faculty* does not include the La Trobe University International College.

#### **Division 6—Reporting**

##### **26. Reporting of cases determined by the Committees**

- (1) By 31 May in each year, each person or body to which this section applies must provide a written report identifying each case heard by the person or body in the preceding 12 month period, and the outcome of each case, to the Director of Academic Services.
- (2) By 30 June in each year, the Director of Academic Services must provide a consolidated report of the matters referred to in subsection

(1) to the University Academic Committee.

- (3) This section applies to academic misconduct (coursework) officer and each academic misconduct (research) officer and the University Appeals Committee.
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**PART 4—GENERAL**

**27. Transitional**

(1) Despite the coming into full force and effect of this Statute, the Old Statute continues to apply to a proceeding under the Old Statute which, immediately before the commencement day, had been commenced but not completed.

(2) In subsection (1)—

*proceeding* means any of the following—

- (a) proceedings brought before the Faculty Academic Misconduct Committee or Higher Degrees Academic Misconduct Committee in respect of a student;
- (b) an application for review by the Academic Misconduct (Faculty) Review Committee or the Academic Misconduct (Higher Degrees) Review Committee.

**28. Regulations**

(1) The Academic Board may make regulations—

- (a) for or with respect to or providing for any matter or thing required to be regulated for the purposes of this Statute; and
- (b) amending or revoking any regulations made under this Statute.

(2) The Academic Board must ensure that regulations made under this Statute are promulgated by having the regulations displayed on an official notice board of the University for a period of at least 14 days.

(3) For the purposes of determining when regulations made under this Statute come into full force and effect within the meaning of section 30(4) of the Act, the regulations are taken to have been promulgated in accordance with sub-section (2) at the start of the first day on which they are displayed on an official notice board of the University.

**29. Revocation of earlier University legislation**

The following Statute and regulations are **revoked**—

- (a) Statute 16 – Student Discipline and Misconduct;
- (b) Regulation 16.1 – Student Discipline and Misconduct General Misconduct;

- (c) Regulation 16.2 – Student Discipline and Misconduct Academic Misconduct;
- (d) Regulation 16.3 – The Proctorial Board;
- (e) Regulation 16.4 – Student Discipline and Misconduct Collection of Fines and other Payments.



Approved by the Council—

Approved by the Minister—