

## DISCIPLINE STATUTE

- A Under the provisions of the *Education Act 1989*, the Council of the Auckland University of Technology governs the University (Clause 165, 1 (a)).
- B Under Clause 194, 1(a), the Council has made the following Statute:

### 1 Discipline Statute

- 1.1 This statute may be cited as the Discipline Statute.
- 1.2 This statute shall come into force on 1 December 2001.
- 1.3 This statute does not govern:
- (a) Research misconduct by students. All matters relating to research misconduct will be dealt with under the General Academic Statute except where there is a breach of Ethics Committee conditions attached to research which will be dealt with by this Statute.
  - (b) Academic matters such as plagiarism or cheating in academic work or examinations which will be dealt with under the General Academic Statute.

### 2 Definitions

- 2.1 In this Statute, unless the context otherwise requires:
- “*Academic Board*” means the Academic Board set up by the Council of Auckland University of Technology.
- “*The Act*” means the Education Act 1989 as amended from time to time.
- “*AUTSA*” means the Auckland University of Technology Students’ Association.
- “*Class*” means any lecture, tutorial, seminar, laboratory, or other occasion where one or more students are receiving tuition including supervision (whether or not it is on University grounds) and any lecture or address within the University at which students are present.
- “*Complainant*” means any person, being a student, academic or allied staff member, either acting on their own behalf or on behalf of the faculty or department, or a member of the AUTSA Executive who brings a complaint of breach of discipline against a student.
- “*Council*” means the Council of the Auckland University of Technology.
- “*Harassment*” has the meaning assigned it by the Council Policy on harassment.
- “*Misconduct*” means any breach of sections 6 and 7 of the Statute.
- “*Staff member*” means any employee of the University including academic and non academic staff.
- “*Student*” means a duly enrolled or registered student of the University and includes a person applying to enrol or register, any extramural student and any person attending any examination conducted by the University.

“*The University*” means Auckland University of Technology, including any institution under the control of the Council or the Vice-Chancellor, including all departments, units, agencies and operations, which provide services to students.

“*University grounds*” includes land and buildings owned, occupied or controlled by the University.

“*Vice-Chancellor*” means the Chief Executive of the Auckland University of Technology.

“*Working day*” means Monday to Friday (inclusive) and does not include public holidays or the period 23 December through to 15 January.

### 3 Student Acknowledgement

- 3.1 Every student on enrolling at, or registering with the University shall sign an acknowledgement in the following form:

*“I promise that I will make myself familiar with the requirements in regard to student behaviour as set out in Sections 6 and 7 of the Discipline Statute. I will obey the statutes, rules and regulations of the University. I acknowledge that if I breach the statutes, rules and regulations of the University I will be subject to the discipline procedures and penalties imposed under the University Discipline Statute and General Academic Statute.”*

### 4 Powers of the Vice-Chancellor

- 4.1 The Vice-Chancellor has the power to refuse to permit or cancel the enrolment of a person as a student at the University, or in a particular course of study or training at the University on the grounds that the person is not of good character or has been guilty of misconduct or a breach of discipline. Provided that where a complaint has been made as set out in Section 9, it will be dealt with in accordance with the following provisions.
- 4.2 The Vice-Chancellor has the power to deal with any complaint or appeal in the manner set out in the following provisions.
- 4.3 Where the Vice-Chancellor considers a complaint to be serious he or she has the power to suspend a student against whom that complaint has been made from attendance at the University until the complaint is dealt with under sections 9–15.

### 5 Delegation of powers by the Vice-Chancellor

- 5.1 The Vice-Chancellor may delegate the authority to grant the permission required under section 7 to:
- (a) Deans and Directors and Deputy Vice-Chancellors or their nominees for departmental and faculty functions; and
  - (b) The President of AUTSA for functions held within the facilities under the control of AUTSA where less than 40 people are present.
- 5.2 The Vice-Chancellor may delegate some or all of the powers set out in Sections 4 and 9–15 to another person or a specified person provided that such a delegation is in writing.

## 6 Student Behaviour

### 6.1 No student shall:

- (a) act in a manner which is contrary to the good government of the University or is prejudicial to its functioning or brings discredit or ill-repute to the University;
- (b) provide false or misleading information to the University;
- (c) fail to identify himself or herself if required to do so by a staff member;
- (d) fail to comply with any lawful and reasonable direction given by any staff member in order to maintain good order and discipline;
- (e) damage or deface any property within the University grounds;
- (f) impede or disturb the activities of the University, whether in teaching, research, administration or otherwise;
- (g) be in a part of the University in which the student is not entitled to be at that time;
- (h) fail to comply with the directions on any notice erected with the authority of the Vice-Chancellor and governing entry, speed and exit of vehicles and the location and use of parking spaces;
- (i) harass any person in the University grounds or in class with offensive or unwanted behaviour in a way that affects that person's ability to study or to enjoy the University amenities or to carry out their work;
- (j) commit any crime defined in the Crimes Act 1961 or Summary Offences Act 1981 against any student or staff member or University property in the University Grounds or in class;
- (k) commit any crime defined in the Crimes 1961 Act or Summary Offences Act 1981 against any student or staff member or University property outside the University grounds where such action has an impact on the good management and discipline of the University;
- (l) discriminate against or harass any person or group of people either by conduct, or research or study, in breach of the Human Rights Act or the Discrimination policy of the University; and
- (m) act in a disruptive manner as a result of being under the influence of a drug or substance on University Grounds or in class unless it is prescribed by a qualified medical practitioner;
- (n) act in breach of any published University regulation or policy.
- (o) act in breach of any agreement regarding confidentiality that the student has entered into with the University.
- (p) bring animals (other than those registered and being used as Royal New Zealand Foundation for the Blind Guide Dogs) onto AUT premises without the permission of the University Security Manager.
- (q) Any student who in anyway assists, counsels, procures or encourages another to commit a breach shall be guilty of the same breach and subject to the same disciplinary measures.

## 7 Alcohol Consumption

- 7.1 No student shall consume alcohol within the non-licensed precincts of the University without permission.
- 7.2 The Vice-Chancellor's permission is required for consumption of alcohol at official functions and the Vice-Chancellor's permission for alcohol to be consumed at other functions will be subject to the following conditions:
  - (a) where the function is held in a lecture theatre, reading room, seminar room, staff study or staff common room or other place within the University precincts, one senior member of the staff shall be present throughout the function.
  - (b) where the function is held within the facilities under the control of AUTSA, a senior member of the staff or a member of the Student Executive or a member of the AUTSA Committee shall be present throughout the function.

## 8 Misconduct in class

- 8.1 Where there is misconduct by a student in class, the staff member in charge of the class may require the student to leave the class and (depending on the circumstances) exclude him or her from up to two further successive classes.
- 8.2 Where a staff member excludes a student for more than one class, the staff member shall promptly report the situation to the University Security Manager and a complaint shall be made as set out in Section 9.
- 8.3 Any complaint will be dealt with in accordance with Sections 9–15.

## 9 Complaints about breach of student discipline

- 9.1 Where a person, who is either a student or staff member of the University or a member of the AUTSA Executive, considers that there has been a breach of this Statute by a student, he or she shall have the power to report or make a complaint against that student to the Vice-Chancellor through the Administrative Secretary.
- 9.2 The Administrative Secretary shall be a person nominated from time to time by the Vice-Chancellor to manage the complaint process and provide administrative services to the Discipline Committee.
- 9.3 The Vice-Chancellor shall investigate the complaint. Such investigation shall be conducted having regard to the principles of natural justice and shall be commenced within 3 working days of the receipt of the complaint. It shall be a full and fair investigation without any predetermination as to the outcome.
- 9.4 If after the investigation, the complaint is found to have substance, then the Vice-Chancellor shall consider whether mediation is appropriate and may in the first instance ask the Complainant and the Student if they are willing to attend a mediation to attempt to resolve the complaint.
- 9.5 If the parties are willing to attend mediation then the complaint shall be referred to a mediator in accordance with Section 10 below.

- 9.6 If the mediation is unsuccessful or the parties do not agree to attend mediation then the Vice-Chancellor shall, after considering the findings of the investigation, decide whether the alleged breach of discipline is serious or not.
- 9.7 If the Vice-Chancellor considers that the alleged breach of discipline has occurred and is not serious, he or she may deal with the matter immediately and may, after giving the student a reasonable opportunity to be heard on the issue of penalty, impose any of the following penalties:
- (a) a reprimand;
  - (b) a direction that the student apologise;
  - (c) a fine not exceeding \$150.00;
  - (d) a requirement that the student make restitution in respect of any damaged lost or stolen property or any other costs or loss suffered;
  - (e) a requirement that the student undertake unpaid University community service not exceeding 15 hours in duration.
  - (f) impose conditions on the student to prevent any future breach or disturbance.
- 9.8 Any student disciplined by the Vice-Chancellor under Section 9.7 may appeal under the appeal provisions set out at Section 15. If the student does not appeal, but does not satisfy the requirements of the penalty imposed by the Vice-Chancellor, then the matter shall be referred back to the Vice-Chancellor who may enforce the penalty in accordance with Section 14.1(c).
- 9.9 If, the Vice-Chancellor considers that the alleged breach is serious, the Vice-Chancellor shall refer the matter to the Discipline Committee which shall deal with it in accordance with Sections 11–14.

## 10 Mediation

### 10.1 Mediator Selection

- (a) All parties involved in the complaint will be asked to agree on a mediator. If the parties cannot agree, the Vice-Chancellor will nominate an appropriate Mediator.
- (b) Parties will be informed if the Vice-Chancellor decides that an external mediator be engaged to mediate a complaint, and the reasons for that decision. As soon as an external mediator is appointed, parties will be informed of that person's name and background.

### 10.2 Setting Up Mediation

- (a) Once a mediator has been appointed, he or she will contact the parties to introduce him or herself, explain his or her role and arrange the mediation date, time and venue.
- (b) Initially, the mediator will talk separately with all parties to find out their individual view of the complaint and discuss their commitment to the mediation process. This will enable the mediator to assess whether pre-mediation meetings are required with the parties separately or whether a mediation session can be arranged straight away.

- (c) On occasion, the mediator may decide that shuttle mediation will take place. Shuttle mediation is where the parties talk to each other through the mediator but do not meet face-to-face. The mediator will decide whether shuttle or “round-table” mediation is the most appropriate form of mediation for the particular conflict.
- (d) The mediator will arrange a date, time and venue for pre-mediation interviews and/or the mediation session.
- (e) The Vice-Chancellor and the University and the mediator will provide all the assistance they can so that the mediation session can be arranged promptly and efficiently.
- (f) All parties to the mediation will be expected to Co-operate fully with the mediator so that a mediation session can be arranged as soon as possible
- (g) All parties to the mediation must keep confidential any statement, admission, information or documentation (“information”) disclosed in the course of the mediation and they shall not use such information for any other purposes including any future Discipline Committee hearing.

### 10.3 Parties’ Conduct in Mediation

In order to successfully participate in a mediation session parties should approach the mediation with an open mind, being prepared to listen to what the other party/parties has to say. Parties must be willing to accept the role of the mediator as director of proceedings.

### 10.4 Mediation Report

- (a) At the conclusion of a mediation the mediator will complete a mediation report.
- (b) A mediation report will include the following information:
  - (i) The names of the parties
  - (ii) The date the mediation took place
  - (iii) The name of the mediator
  - (iv) The mediation venue
  - (v) In broad terms, the nature of the complaint and the issues in dispute
  - (vi) Details of any agreement reached between the parties
  - (vii) Details of any issues remaining unresolved at the conclusion of the mediation
- (c) All parties and the mediator must sign the mediation report.

- 10.5 A copy of the report shall be given to the parties and the Vice-Chancellor. A copy of the report is given to the Vice-Chancellor so that he or she can monitor the effectiveness of mediations generally, organise any support required for parties to make an agreement work, monitor that agreements are successful, and organise for assistance to be provided, where appropriate, to resolve any outstanding issues.

- 10.6 Where the parties agree, other related persons involved will be given a copy of the mediation report by the Vice-Chancellor. The purpose of the Vice-Chancellor providing a copy of the report to the other person/s is so that these people can provide practical support to parties to help them implement their settlement agreement or resolve outstanding issues.
- 10.7 All these persons must keep the contents of this report confidential, unless the parties agree otherwise. Any agreement to provide a copy of the report to other persons is to be recorded by the mediator.

## 11 Discipline Committee – the people

- 11.1 A Discipline Committee shall be composed of three persons as follows:
  - (a) a nominee of AUTSA;
  - (b) a legal advisor nominated by the Vice-Chancellor;
  - (c) a nominee of the Academic Board
- 11.2 The Vice-Chancellor shall appoint the Chair of the Committee from amongst its members.
- 11.3 The Administrative Secretary may receive and formulate any complaints referred to the Discipline Committee by the Vice-Chancellor.
- 11.4 The Vice-Chancellor shall provide the details of the complaint to the Administrative Secretary. Such details shall include outcome/s of any investigation, documents referred to and all other relevant material.
- 11.5 The role of the Discipline Committee is to assist in maintaining the good order and discipline of the University through hearing and determining all complaints and imposing appropriate penalties where there has been a breach of discipline.

## 12 The Discipline Committee – the initial process

- 12.1 Where the Vice-Chancellor has referred a complaint to the Discipline Committee the process set out in Sections 12–14 below shall apply.
- 12.2 The Administrative Secretary shall:
  - (a) ascertain the identity of the nominees, i.e. the identity of the AUTSA, Vice-Chancellor and Academic Board’s nominees.
  - (b) set a date for the committee hearing – such date to be within 7 working days of the receipt of the complaint by the Discipline Committee.
  - (c) prepare a notice to the student, the complainant and the committee members containing the following:
    - (i) a statement of the complaint against the student, setting out the nature of the complaint, the facts upon which the complaint is based, reference to the particular provisions of the statute that have allegedly been breached, and the potential penalties that could be imposed;
    - (ii) date, time and place of the hearing;

- (iii) the people who will be present at the hearing;
  - (iv) the consequences of not appearing at the hearing;
  - (v) any documents or evidence relevant to the complaint including statements from witnesses and documents referred to or relied on unless it would compromise the safety of the Complainant or be against the public interest;
  - (vi) an explanation of the process that will be followed;
  - (vii) the right to representation for both parties;
  - (viii) a request that any documentary or other information to be submitted by the student be given to the Administrative Secretary at least two (2) days prior to the hearing so that it can be distributed and considered.
  - (ix) The statement in (c) (i) above should specify the matters set out so as to fully, fairly and clearly inform the student and the committee of the nature and detail of the complaint, the grounds on which it is made and the potential penalties.
- (d) Send a copy of such notice to:
- (i) the student
  - (ii) the committee members
  - (iii) the complainant.
- (e) Any notice shall be deemed to have been received by the student where it has been sent to the student by registered post at their last address notified to the Academic Registry.
- (f) In the event that further documentation is put forward, ensure that all parties (refer (d) above) have a copy as soon as possible prior to the hearing.
- 12.3 Once the matter is referred to the Discipline Committee, if there is any member whose participation in the hearing would be inappropriate for various reasons including that of conflict of interest, that member should withdraw from participation in the hearing and a new person be appointed in their place.
- 12.4 The student shall be informed, in the event that the complainant withdraws his or her complaint, whether the Discipline Committee will proceed with the hearing or not.
- 12.5 The Discipline Committee may adjourn the hearing to an alternative date:
- (a) at the request of either the student or the complainant where such request is reasonable and to continue would result in an injustice to the student or the complainant;
  - (b) to consider further or new evidence or to await the collection of further or new evidence.
- 12.6 Where the hearing is adjourned, a new date must be set at the earliest opportunity.

### 13 Discipline Committee – the procedure of the hearing

- 13.1 The Discipline Committee shall have the right to regulate its own process, provided that it does not act in a manner contrary to the principles of natural justice, or in breach of or contrary to the provisions of this statute.
- 13.2 The Discipline Committee shall not be bound by the rules of evidence and may hear any evidence presented as is just and equitable in the circumstances. All evidence considered shall be given the appropriate weight and relevance.
- 13.3 A guideline to the appropriate procedure is set out in Schedule A (refer to page 664). This is a guide only and shall not be read so strictly or narrowly as to inhibit the ability of the Disciplinary Committee to regulate its own proceedings.
- 13.4 At the conclusion of the Hearing, the Committee shall reach a decision as to whether on the balance of probabilities there has been a breach of discipline.
- 13.5 If it is decided that a breach has not been proved then the complaint shall be dismissed.
- 13.6 If it is decided that a breach/s has been proved then the Committee shall make a decision as to:
  - (a) the nature of the breach;
  - (b) the penalty to be imposed.
- 13.7 In reaching a decision it is preferable that the Committee be unanimous. If, however, that is not possible then the decision of the majority will be the decision of the Committee.
- 13.8 A decision may be delivered initially orally (at the discretion of the Committee) but shall also be notified in writing.
- 13.9 The written decision of the Discipline Committee shall set out the details of the decision itself and the reason/s for that decision.
- 13.10 A copy of the written decision shall be provided to the student, the complainant, the Vice-Chancellor, and to any other person or persons that the committee considers appropriate. Further, the Discipline Committee may, if it considers it appropriate, resolve that all or part of its decision remain confidential to the student, the complainant and the Vice-Chancellor.
- 13.11 The student and the complainant shall have the right to appeal the decision reached by the Discipline Committee in accordance with the appeal provisions set out at Section 15. They shall be notified of such right at the time the decision is sent to them.

## 14 Discipline Committee powers

14.1 The Discipline Committee shall have the power:

- (a) to impose on any student who does not observe the provisions of this Statute; or the conditions (if any) attached to his or her attendance at classes; or who otherwise commits any breach of University discipline; any one or more of the following penalties as it thinks fit:
  - (i) such sum by way of restitution as may be appropriate for any damage caused;
  - (ii) a fine not exceeding \$500.00;
  - (iii) a suspension from attendance at the University or any of its classes for such period as it thinks fit and/or until such conditions that it thinks fit have been met;
  - (iv) a suspension from attendance at any test or examination;
  - (v) a limitation or prohibition on his or her attendance at any class or classes at the University or his or her use or enjoyment of any the facilities of the University;
  - (vi) expulsion from the University;
  - (vii) any other remedy it sees fit including the requirement for an apology, performance of community service, attendance at counselling, or other non-monetary restitution.
- (b) Where the student fails to pay monies owing by way of fine or restitution or fails to satisfy the requirements of the penalty imposed on the student, the failure shall be referred to the Administrative Secretary who shall refer the matter to the Vice-Chancellor.
- (c) The Vice-Chancellor may direct that until all monies have been paid, or the requirements of the penalty have been satisfied:
  - (i) the student be prohibited from sitting examinations;
  - (ii) examination results may be withheld;
  - (iii) award of any certificate, diploma, degree that the student is entitled to be deferred;
  - (iv) he or she be suspended;
  - (v) he or she not be permitted to re-enrol at the University.
  - (vi) The student shall be notified in writing of such direction.

## 15 Appeals

- 15.1 Any party to a complaint (being either the student or the complainant) or a student who has not been permitted to enrol or had their enrolment cancelled at the University or in a particular course of training or study at the University pursuant to Section 4.1 may, within (14) days of the decision of the Discipline Committee or the Vice-Chancellor, appeal the decision by giving notice to the Vice-Chancellor in writing, provided that:
- (a) the complainant shall only be able to appeal the appropriateness or reasonableness of the penalty.
  - (b) the student shall only be able to appeal on the grounds that:
    - (i) that the penalty was inappropriate or unreasonable; or
    - (ii) that the Discipline Committee or Vice-Chancellor failed to meet the principles of natural justice; or
    - (iii) that fresh evidence has arisen that was not reasonably available at the time of the hearing and that if taken into account it is likely to alter the decision of the Committee or Vice-Chancellor.
- 15.2 The notice of appeal must set out:
- (a) The decision or particular part of the decision that is being appealed.
  - (b) The grounds of appeal, which shall be specified with such particularity as to give full advice to the Adjudicator and the other party of the issues involved.
- 15.3 An Appeal Panel shall be set up by the Vice-Chancellor of people who will be drawn upon to act as adjudicators who will hear and decide the appeals filed in accordance with the provisions of this Statute.
- 15.4 The Vice-Chancellor shall:
- (a) Appoint an adjudicator from the Appeal Panel to hear the Appeal.
  - (b) Give the notice of appeal together with the name of the adjudicator to the Administrative Secretary who shall:
    - (i) Notify the parties of the date, time and place of the hearing of the appeal, such date to be within 10 working days of the receipt of the notice of appeal;
    - (ii) Where there is a record of the Discipline Committee hearing, provide a copy of that record with the notice of appeal.
    - (iii) Notify the parties of:
      - (aa) The consequences of not appearing at the hearing;
      - (bb) Any documents or evidence relevant to the appeal including statements from witnesses and documents referred to or relied on unless it would compromise the safety of the Complainant or be against the public interest;
      - (cc) An explanation of the process that will be followed;
      - (dd) The right to representation for both parties;

- (ee) A request that any documentary or other information to be submitted by the Appellant or any other party be given to the Administrative Secretary at least two (2) days prior to the hearing so that it can be distributed and considered.
- 15.5 The adjudicator shall hear and determine the appeal in such manner as he or she thinks proper, having regard to the principles of natural justice. Provided that the Appeal hearing will not operate by way of a rehearing of the complaint.
- 15.6 The adjudicator shall have the power to:
- (a) Send the complaint or penalty back to the Discipline Committee to be reconsidered.
  - (b) Change, reduce, or increase the penalties imposed by the Discipline Committee.
  - (c) Dismiss the appeal and uphold the decision of the Discipline Committee.
- 15.7 The decision of the Adjudicator shall be in writing and shall set out the reason/s for the decision. It shall be sent to all relevant parties.

## 16 General provisions

- 16.1 All fines paid to the University under the Discipline Statute shall be used for such benevolent or charitable purposes which benefit the students and for which purpose the Discipline Committee, after consultation with Vice-Chancellor, may from time to time determine. Those purposes may include general hardship.

The University shall fully indemnify the Vice-Chancellor and his/her nominee, the Administrative Secretary, a mediator, members of the Discipline Committee and an Adjudicator against any personal liability arising out of the exercise of their functions under the Discipline Statute.