

1991—No. 31

**UNIVERSITY OF TECHNOLOGY, SYDNEY, ACT 1989—
BY-LAW**

(Relating to staff and student discipline and to the making of rules)

NEW SOUTH WALES



[Published in Gazette No. 18 of 25 January 1991]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the University of Technology, Sydney, Act 1989, has been pleased to approve the By-law made by the Council of the University of Technology, Sydney, and set forth hereunder.

VIRGINIA CHADWICK
Minister for School Education and Youth Affairs.

Amendment of the University of Technology, Sydney, By-law 1990 in relation to staff and student discipline and to the making of rules

1. The University of Technology, Sydney, By-law 1990 is amended:

(a) by inserting at the end of clause 6 the following matter:

CHAPTER 8—DISCIPLINE

CHAPTER 9—RULES

CHAPTER 10—MISCELLANEOUS

(b) by inserting after Chapter 7 the following Chapters:

CHAPTER 8—DISCIPLINE

Division 7—Staff

Application of Division

72. This Division applies to and in respect of all members of staff of the University other than:

(a) members of staff who are designated by the rules as being casual staff or temporary staff; and

- (b) members of staff whose conditions of employment are governed by an industrial award or industrial agreement.

Breach of discipline defined

73. A member of staff is to be regarded as having committed a breach of discipline if he or she:

- (a) contravenes any provision of the Act, this By-law or a rule; or
- (b) wilfully disobeys or disregards any order or direction lawfully made or given under the Act, this By-law or a rule; or
- (c) is convicted by a court of an offence that is of a kind that may reasonably be regarded as constituting a serious impediment to the discharge by the member of staff of his or her functions or to the discharge by other members of staff of their functions; or
- (d) is guilty of disgraceful or improper conduct; or
- (e) is grossly or persistently inefficient, negligent or careless; or
- (f) is incompetent in the discharge of his or her functions.

Inquiries into alleged breaches of discipline

74. The Vice-Chancellor may (whether as a consequence of the making of a complaint or otherwise) cause inquiries to be made in relation to any breach of discipline that is alleged to have been committed by a member of staff.

Suspension pending completion of inquiries etc.

75. (1) The Vice-Chancellor may suspend from office any member of staff in respect of whom inquiries are being made in relation to a breach of discipline that is alleged to have been committed by the member of staff.

(2) A member of staff may be suspended from office either with pay or without pay.

(3) If a member of staff is suspended from office without pay, the period of suspension is not to exceed:

- (a) except as provided by paragraph (b)—7 days; or
- (b) if the Chancellor so approves—30 days.

(4) Whether the member of staff is suspended with pay or without pay, the suspension ceases to have effect (unless

sooner revoked) when the matter is dismissed or determined under this Division.

(5) A member of staff is entitled to receive any pay withheld pursuant to this clause if the Vice-Chancellor dismisses the matter or otherwise determines that it would be inappropriate, having regard to the circumstances of the case, that the member of staff be denied that pay.

Vice-Chancellor to issue show cause notice

76. If, after completion of any inquiries, the Vice-Chancellor believes that a member of staff may have committed a breach of discipline, the Vice-Chancellor:

- (a) must cause notice of that fact to be served on the member of staff; and
- (b) must give the member of staff a reasonable opportunity (being a period of not less than 7 days) within which to make written representations to the Vice-Chancellor in relation to the alleged breach of discipline; and
- (c) must take into account any written representations made by the member of staff during that period.

Penalties

77. If, after having taken into account any written representations made by the member of staff, the Vice-Chancellor is satisfied that the member of staff has committed a breach of discipline, the Vice-Chancellor may direct that the member of staff:

- (a) be dismissed; or
- (b) be demoted in office; or
- (c) be suspended from office without pay for a period not exceeding 30 days; or
- (d) be denied any incremental progression of salary to which he or she might otherwise be entitled or eligible; or
- (e) be fined an amount not exceeding one month's salary; or
- (f) be cautioned or reprimanded; or
- (g) be excluded from specified facilities of the University either indefinitely or for a specified period; or

- (b) be subjected to any 2 or more of the penalties referred to in paragraphs (b)–(g).

Vice-Chancellor to dismiss certain matters

78. If the Vice-Chancellor is satisfied that the member of staff has not committed a breach of discipline or (after having completed inquiries into the matter and having heard the member of staff's representations in respect of the matter) is not satisfied that the member of staff has committed a breach of discipline, the Vice-Chancellor must dismiss the matter and inform the member of staff accordingly.

Vice-Chancellor to give notice of decision

79. The Vice-Chancellor must cause notice of any decision under clause 77, and of his or her reasons for the decision, to be given:

- (a) to the member of staff concerned; and
- (b) if the decision involves the making of a direction under clause 77 (a), (b) or (c)—to the Council,

within 7 days after the decision is made.

Right of appeal to the Council

80. (1) A member of staff may appeal to the Council against a decision of the Vice-Chancellor under clause 77.

(2) Such an appeal must be made in writing and lodged with the University Secretary within 30 days after notice of the decision is given to the member of staff.

(3) The Vice-Chancellor may, on the application of the member of staff concerned or otherwise, direct that any action to be taken as a consequence of a direction under clause 77 be stayed:

- (a) until the time for making an appeal against the direction, or the decision to which it relates, has expired; or
- (b) if an appeal against the direction or decision is made within that time—until the appeal has been finally determined.

Division 2—Students

Application of Division

81. This Division applies to and in respect of all students of the University.

Persons admitted to the University must agree to abide by the University rules

82. No person may be admitted as a student of the University unless the person agrees (by means of a signed undertaking) to comply with the Act, this By-law and the rules.

Breach of discipline defined

83. A student is to be regarded as having committed a breach of discipline if the student:

- (a) contravenes any provision of the Act, this By-law or a rule; or
- (b) wilfully disobeys or disregards any order or direction lawfully made or given under the Act, this By-law or a rule; or
- (c) is guilty of any disgraceful or improper conduct.

Summary exclusion from classes etc.

84. (1) The member of staff by whom a class is being conducted may exclude from the class any student whom he or she suspects of having committed a breach of discipline during, or in relation to, the conduct of the class.

(2) The Librarian, or any member of the library staff authorised by the Librarian, may exclude from the library any student whom he or she suspects of having committed a breach of discipline in, or in relation to, the library.

(3) Any member of staff having responsibility for the operation or maintenance of any facility of the University may exclude from the facility, or from the use of the facility, any student whom he or she suspects of having committed a breach of discipline in, or in relation to, the facility.

(4) Unless sooner revoked, an exclusion under this clause ceases to have effect:

- (a) in the case of the exclusion of a student from a class—at the end of the session of the class during which the student was excluded; and
- (b) in any other case—at the expiration of 7 days from the day on which the alleged breach of discipline occurred.

(5) A person by whom a student is excluded from a class, from the library or from any other facility of the University must cause notice of that fact to be given to the

Vice-Chancellor within 7 days after the exclusion takes place.

Inquiries into alleged breaches of discipline

85. The Vice-Chancellor may (whether as a consequence of the making of a complaint or otherwise) cause inquiries to be made in relation to any breach of discipline that is alleged to have been Committed by a student.

Vice-Chancellor to issue show cause notice

86. If, after completion of any inquiries, the Vice-Chancellor believes that a student may have committed a breach of discipline, the Vice-Chancellor:

- (a) must cause notice of that fact to be served on the student; and
- (b) must give the student a reasonable opportunity (being a period of not less than 7 days) within which to make written representations to the Vice-Chancellor in relation to the alleged breach of discipline; and
- (c) must take into account any written representations made by the student during that period.

Penalties

87. If, after having taken into account any written representations made by the student, the Vice-Chancellor is satisfied that the student has committed a breach of discipline, the Vice-Chancellor may direct that the student:

- (a) be expelled; or
- (b) be suspended for a period not exceeding 12 months; or
- (c) be denied accreditation for the results of any tests or other forms of assessment for any specified period of assessment not exceeding 12 months; or
- (d) be excluded from specified classes for a specified period not exceeding 12 months; or
- (e) be excluded from specified facilities of the University for a specified period not exceeding 12 months; or
- (f) if the breach of discipline involves loss or damage to property of the University—be required to repay to the University a specified amount not exceeding the amount of the loss or damage; or

- (g) be permitted to attend classes, or to use specified facilities of the University, only in accordance with specified conditions; or
- (h) be cautioned or reprimanded; or
- (i) be subjected to any 2 or more of the penalties referred to in paragraphs (b)–(h).

Vice-Chancellor to dismiss certain matters

88. If the Vice-Chancellor is satisfied that the student has not committed a breach of discipline or (after having completed inquiries into the matter and having heard the student's representations in respect of the matter) is not satisfied that the student has committed a breach of discipline, the Vice-Chancellor must dismiss the matter and inform the student accordingly.

Vice-Chancellor to give notice of decision

89. The Vice-Chancellor must cause notice of any decision under clause 87, and of his or her reasons for the decision, to be given:

- (a) to the student concerned; and
- (b) if the decision involves the making of a direction under clause 87 (a)—to the Council,

within 7 days after the decision is made.

Right of appeal to the Council

90. (1) A student may appeal to the Council against a decision of the Vice-Chancellor under clause 87.

(2) Such an appeal must be made in writing and lodged with the University Secretary within 30 days after notice of the decision is given to the student.

(3) The Vice-Chancellor may, on the application of the student concerned or otherwise, direct that any action to be taken as a consequence of a direction under clause 87 be stayed:

- (a) until the time for making an appeal against the direction, or the decision to which it relates, has expired; or
- (b) if an appeal against the direction or decision is made within that time—until the appeal has been finally determined.

Division 3—Appeals**Appeal Committee**

91. (1) The Council is to establish an Appeal Committee for the purpose of hearing appeals under this Chapter.

(2) The constitution and procedure of the Appeal Committee are to be as prescribed by the rules.

Appeals to be referred to Appeal Committee for hearing

92. (1) The University Secretary is to refer any appeal made under this Chapter to the Appeal Committee for hearing.

(2) The Appeal Committee must hear any such appeal and prepare a recommendation for submission to the Council as to what action should be taken in respect of the appeal.

Determination of appeals

93. (1) The Council must determine an appeal having due regard to the recommendations of the Appeal Committee.

(2) The University Secretary must cause notice of the Council's decision on an appeal to be given to the appellant as soon as practicable after the decision is made.

CHAPTER 9—RULES**Rules made by the Council**

94. (1) The Council may make rules for regulating, or providing for the regulation of, any matter with respect to which by-laws may be made.

(2) Without limiting the generality of subclause (1), the Council may make rules for or with respect to:

- (a) the conduct of Council and other elections; and
- (b) the conduct of Council and other meetings; and
- (c) the appointment, promotion, resignation and termination of services of members of staff; and
- (d) the terms and conditions on which students may be enrolled in any course of study and permitted to continue undertaking any course of study; and
- (e) student discipline; and
- (f) the functions and procedures of Convocation; and
- (g) the examinations for, and the conferring of, degrees and other awards; and

- (h) the examinations for, and the awarding of, fellowships, scholarships, bursaries and prizes; and
- (i) the classes of students who are eligible to have degrees and other awards conferred on them or diplomas or other certificates awarded to them; and
- (j) the form of diplomas and other certificates awarded by the University; and
- (k) the conduct and attendance of students at classes, in the library and in other facilities of the University; and
- (l) the use of the library and other facilities of the University by members of staff, students and other persons; and
- (m) the manner in which a member of staff or student may be required to establish his or her identity; and
- (n) the times at which fees (including fees for tuition and examinations, fees for the awarding of diplomas and other certificates and fees relating to the use of the library and other facilities of the University) become due and payable; and
- (o) the collection, waiver and postponement of fees; and
- (p) the affiliation with the University of educational and research establishments and residential colleges; and
- (q) any other matter with respect to which the Council is permitted or required by this By-law to make rules.

Rules made by the Vice-Chancellor

95. (1) The Vice-Chancellor may make rules, not inconsistent with the rules made by the Council, for or with respect to the good conduct of the University.

(2) Without limiting the generality of subclause (1), the Vice-Chancellor may make rules for or with respect to:

- (a) any matter specified in clause 94 (2); and
- (b) any other matter with respect to which the Vice-chancellor is permitted or required by this By-law to make rules.

Promulgation etc. of rules

96. (1) A rule made by the Council or by the Vice-Chancellor must be promulgated by means of a notice displayed on each of the official notice boards of the University.

(2) A rule takes effect on the day following that on which it is promulgated in accordance with subclause (1) or on such later day as may be specified in the rule.

(3) The University Secretary must ensure that the rules are published in an official publication of the University.

(4) Failure to comply with subclause (3) does not invalidate any rule.

(5) In the event of an inconsistency between the rules made by the Council and the rules made by the Vice-Chancellor, the rules made by the Council prevail.

CHAPTER 10—MISCELLANEOUS

Exclusion from examinations etc. for unpaid fees

97. Except as otherwise provided by the rules, the Academic Registrar:

- (a) may exclude a student from any examination; or
- (b) may exclude a student from any class; or
- (c) may exclude a student from the library or any other facility of the University; or
- (d) may withhold from a student the results of any examination or other assessment; or
- (e) may do any combination of those things,

if any fee due and payable to the University by the student is unpaid.

Further amendment of the University of Technology, Sydney, By-law 1990 in relation to the repeal of other by-laws

2. The University of Technology, Sydney, By-law 1990 is further amended:

- (a) by omitting clauses 3 and 4;
- (b) by omitting clause 5 and by inserting instead the following clause:

Application

5. This By-law applies to and in respect of the University of Technology, Sydney, as constituted by the University of Technology, Sydney, Act 1989.

- (c) by omitting Schedule 1.

Repeal of other by-laws

3. The following by-laws are repealed:

- The New South Wales Institute of Technology By-law;
 - The Kuring-gai College of Advanced Education By-law.
-

EXPLANATORY NOTE

The objects of this By-law are:

- (a) to amend the University of Technology, Sydney, By-law 1990 so as to make provision for the discipline of staff and students of the University (proposed Chapter 8), for the making of rules for the purposes of the University (proposed Chapter 9) and for miscellaneous matters (proposed Chapter 10); and
 - (b) to further amend that By-law as a consequence of the proposed repeal of other by-laws relating to the University; and
 - (c) to repeal the by-laws (comprising the New South Wales Institute of Technology By-law and the Kuring-gai College of Advanced Education By-law) that currently govern the discipline of staff and students of the University and the making of rules for the purposes of the University.
-