

Academic Misconduct

POLICY

Division
Professional Advancement

Policy number

Updated

Implemented
1 April 2019

Review date
June 2023

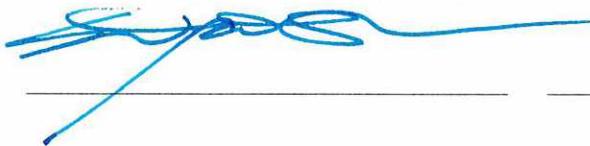
Reviewed by
QLS Council

Approved by
Elizabeth Shearer
President, on behalf of Council

Date 1.9.21

Signed

Print name



Elizabeth Shearer

1. Purpose

- 1.1. The purpose of this policy is to ensure that Candidates understand the requirement to maintain appropriate academic integrity and are aware of the consequences of any failure to do so.
- 1.2. QLS is committed to maintaining high standards in all Course offerings. When undertaking assessment, Candidates are required to conduct themselves honestly and in a manner consistent with the fundamental ethical obligations and standards of conduct required of a solicitor. In particular:
 - 1.2.1 This policy directs all Candidates to the fundamental duties set out in Rules 3-4 of the *Australian Solicitors Conduct Rules 2012* (Qld).
 - 1.2.2 Solicitors' academic misconduct associated with the carrying out and completion of a Course may constitute *Unsatisfactory professional conduct* or *Professional misconduct* within the meaning of sections 418 and 419 of the *Legal Profession Act 2007* (Qld) (LPA) and having regard to the suitability matters set out at s 9 of the LPA in determining whether a solicitor is a fit and proper person for practice. Following action by QLS, academic misconduct may be referred to the Legal Services Commission for investigation.

2. Application

- 2.1. This policy applies to all:
 - 2.1.2. Candidates enrolled in a Course, regardless of whether the person holds a current practising certificate; and
 - 2.1.3. Assessment Items submitted by a Candidate as part of participating in a Course.

3. Declaration of academic integrity

- 3.1. Where required by QLS, Candidates must provide the declaration of academic integrity set out in Annexure 1 when submitting an Assessment Item.

4. Identification, investigation, review, appeals

4.1. Identifying work of concern

- 4.1.1 QLS staff or external providers who observe or suspect a potential breach of this policy must report their concerns to their manager, general manager or the relevant Course Coordinator, who will obtain appropriate information and promptly refer the matter to the Moderation Panel.
- 4.1.2 After considering the referral, the Moderation Panel may determine that:
 - a. there is no issue of concern and take no further action; or
 - b. further explanation is warranted or more information is required.

4.2 The Moderation Panel

- 4.2.1 If the Moderation Panel determines that further explanation is warranted or more information is required in accordance with clause

4.1.2 b., it will instruct the Course Coordinator to give the Candidate an Initial Request for Information.

4.2.2 The Moderation Panel will consider the Candidate's response to the Initial Request for Information. It may (by majority if no consensus is reached):

- a. determine that there is no issue of concern and resolve to take no further action, and to so advise the Candidate; or
- b. issue a warning; or
- c. direct that the work be awarded a 'fail' grade; or
- d. direct the Candidate to revise the work; or
- e. direct the Candidate to submit new work; or
- f. determine to make a report to the Committee.

4.2.3 The Candidate will be informed in writing of the Moderation Panel's reasons and decision.

4.3 Report to a Committee

4.3.1 If a matter is reported to a Committee, the Committee will review the work, the Candidate's response to the Initial Request for Information and any other material the Committee considers relevant, and determine:

- a. that there is no issue of concern and take no further action, and to so advise the Candidate; or
- b. to formally warn or otherwise reprimand the Candidate; or
- c. that further explanation is warranted.

4.3.2 If the Committee determines that further explanation is warranted it will instruct the Course Coordinator to issue a Further Request for Information to the Candidate, inviting the Candidate to respond by making any submissions the Candidate considers relevant, within 14 days, or such longer period as the Committee decides.

4.3.3 The Further Request for Information must specify, where applicable:

- a. that the Candidate may have contravened this policy, and if so, whether such default (if proven) is alleged to constitute major academic misconduct or minor academic misconduct;
- b. particulars of the alleged breach and a copy of this policy and any relevant Course documents; and
- c. the date (within 14 days from the notice or such longer time as the Committee requires) by which the Candidate may respond or make submissions.

4.3.4 The Further Request for Information must be in a different form than the Initial Request for Information.

4.4 Committee decision

4.4.1 After considering the Candidate's response to the Further Request for Information, and other relevant information, the Committee will issue a Committee Notice, advising the Candidate that:

- a. There is no ground for concern and that no further action will be taken; or
- b. The conduct amounts to minor misconduct, and advising what

- consequences flow from that decision, including information about the appeal process; or
- c. The conduct amounts to major misconduct, and advising what consequences flow from that decision, including information about the appeal process.
- 4.4.2 If the Committee makes a finding under clauses 4.4.1 b) or 4.4.1 c), it should consider referring the matter to the General Manager, Regulation or the Legal Services Commission. Conduct the subject of such findings might be suitability issues under ss9(1)(a) and (n) of the *Legal Profession Act 2007* and so may be matters to take into account when considering if a person is a fit and proper person to hold or to continue to hold a practising certificate.

4.5 Appeals

- 4.5.1 The Candidate has 28 days from the date the Committee Notice is received to appeal to the Council of Queensland Law Society.
- 4.5.2 The appeal right under this sub-clause operates independently of any other appeal rights a Candidate may have in relation to any other matter whilst participating in a Course.

5. Reviews

- 5.1. This policy is to be reviewed biennially.

6. Endorsement

- 6.1. QLS is committed to this policy and its equitable implementation. For further information, please contact Professional Advancement.

7. Definitions

- 5.1 “**Academic misconduct**” means any action, default or practice by a Candidate which is intended to defeat the purpose of an Assessment Item or obtain an unfair advantage may be regarded as academic misconduct, whether or not such practice is expressly prohibited.

NOTES

- 5.1.1 Academic misconduct may include, but is not limited to:
- (a) Candidates assisting each other by:
 - (i) drafting answers to any written items of assessment for another; or
 - (ii) working together to prepare a piece of assessment, when it is to be submitted by each of them separately as their individual work;
 - (b) Candidates copying, or attempting to copy, the answers of another Candidate (eg plagiarism); or
 - (c) Candidates using prohibited resources.
- 5.1.2 Academic misconduct does not include:

- (a) use of firm precedents, pleadings and material prepared by the Candidate for clients with citation and attribution as required by Course guidelines; or
 - (b) using citations as required to be in accordance with the Australian Guide to Legal Citation 4, as amended from time to time. All material used to assist, prepare or formulate work for assessment will need attribution. A Candidate must, on request, provide a copy of cited material to a member of the Moderation Panel for perusal. Such material should be redacted/anonymised to preserve client legal privilege where it is applicable.
- 5.2 **“Assessment Item”** means a body of work submitted by a candidate as part of a course for the purposes of being assessed.
- 5.3 **“Candidate”** means a candidate for or participant in a Course.
- 5.4 **“CEO”** means the Chief Executive Officer (CEO) of the Queensland Law Society from time to time, including a person appointed in an acting capacity.
- 5.5 **“Committee”** means the QLS committee responsible for the conduct of the Course undertaken by a Candidate e.g. PMC committee or the Specialist Accreditation Board, the Professional Conduct Committee or applicable specialist accreditation advisory committees.
- 5.6 **“Committee Notice”** means a written notice sent by the Committee to a Candidate, advising the Candidate of the Committee’s decision, and, if the decision includes further action against the Candidate, providing details of the appeal process.
- 5.7 **“Course”** means a course provided by QLS and includes:
 - 5.7.1 The Practice Management Course;
 - 5.7.2 Learning and Professional Development courses;
 - 5.7.3 Specialist Accreditation Scheme;
 - 5.7.4 The QLS Legal Ethics Course (Ethics Course);
 - 5.7.5 The Trust Accounting Remedial Course (Trust Accounting Course);
 - 5.7.6 Any other QLS course as designated and rolled out from time to time.
- 5.8 **“Course Coordinator”** means the QLS staff member responsible for the day-to-day coordination of a Course, regardless of their title within QLS.
- 5.9 **“General Manager, Regulation”** means the person appointed to this position from time to time including a person appointed in an acting capacity.
- 5.10 **“Further Request for Information”** means a notice sent by a Committee to a Candidate, seeking further information about a piece of assessment drawn to the Committee’s attention by the Moderation Panel.
- 5.11 **“Initial Request for Information”** means a notice sent by the Moderation Panel to a Candidate, seeking further information about a piece of assessment drawn to the Moderation Panel’s attention by the Course Coordinator. It will identify the work, set out the Moderation Panel’s questions, and give the Candidate a minimum of 14 days to respond.
- 5.12 **“Legal Services Commission”** means the office established under Part 7.1 of

the *Legal Profession Act 2007* (QLD);

5.13 “Major academic misconduct” means:

5.13.1 An incident of misconduct that is more serious than minor academic misconduct, including but not limited to:

- 5.13.1.1 cheating in examinations. This involves any action or attempted action on the part of a candidate by which the candidate may gain an unfair advantage;
- 5.13.1.2 plagiarism;
- 5.13.1.3 contract cheating (engaging a third party to complete assessment);
- 5.13.1.4 collusion (with other persons in circumstances where original work is required);
- 5.13.1.5 falsification;
- 5.13.1.6 fabrication;
- 5.13.1.7 making false declarations regarding the originality or ownership of the work;
- 5.13.1.8 dishonesty.

5.13.2 If the Candidate is unable to establish that major academic misconduct arose through inadvertence or accident, in addition to consequences listed for minor academic misconduct QLS may:

- a) refer the Candidate to the General Manager of Regulation; or
- b) refer the Candidate to the Professional Conduct Committee; and/or
- c) disclose instances to the Legal Practitioners Admissions Board, if the person has yet to be admitted as a solicitor; and/or
- d) refer the Candidate to the Legal Services Commission for investigation.

5.14 “Minor academic misconduct” means:

5.14.1 An incident of academic misconduct that includes, but is not limited to

- a) incidental plagiarism (inadequate, incorrect or inconsistent citation and/or referencing of sources, paraphrasing too close to the original) including minor copying of material, such as copying up to a few sentences;
- b) unreferenced use of firm precedents;
- c) conduct identified as academic misconduct in this policy that arose from misunderstanding, carelessness or inadvertence. Where such mitigation is claimed by a Candidate, the onus rests on the Candidate to establish that the conduct was accidental rather than deliberate or reckless.

5.14.2 Consequences of a finding of minor misconduct may include:

- a) a warning;
- b) a grade of ‘fail’ for the work;
- c) a request for correction and resubmission of the work.

5.15 “Moderation Panel” means the Panel comprised of the Principal Ethics and Practice Counsel (Director) or the Director’s delegate, and two persons drawn from the following, selected at the discretion of the CEO:

- a) General Manager, Regulation or their delegate;

- b) Head of Education or their delegate;
- c) the Manager, Professional Advancement or their delegate;
- d) a delegate of the relevant Specialist Accreditation Advisory Committee;
- e) a delegate of the Practice Management Course Committee;
- f) the Manager of Trust Accounting Investigations, or their delegate;
- g) Specialist Accreditation Board;
- h) Professional Conduct Committee.

5.16 “QLS” means the Queensland Law Society Inc (QLS) as continued in existence pursuant to section 679 of the *Legal Profession Act 2007* (QLD).

5.17 “Principal Ethics and Practice Counsel (Director)” means the person appointed to this position from time to time including a person appointed in an acting capacity

5.18 “Request for Further Information” means a notice sent by a Committee to a Candidate, seeking additional information following a determination by the Moderation Panel to report a matter to the Committee.

5.19 “Work” means an item of assessment, or part of an item of assessment, drawn to the attention of the Moderation Panel.

Document History

Amended	Amended By	Division	Details
February 2019	Various	Professional Advancement, Ethics, Legal and Office of the Secretariat, Governance Committee	New document
June 2021	Various	Professional Advancement, Ethics, Legal and Office of the Secretariat, Executive Committee, Governance Committee	

Annexure 1 – Declaration of academic Integrity

I _____ declare that:
[print full name]

- a) This work is my own and is based on my understanding of the material being assessed;
- b) I have written this work using my own words, except:
 - (i) where I reference others' works in accordance with Course requirements;
 - (ii) where I have collaborated with other Candidates it has been either strictly under the authorisation of QLS and/or pursuant to Course requirements where applicable;
- c) This work has not been submitted for assessment for any other Course, at QLS or another institution;
- d) I acknowledge that material submitted by me or held by QLS in relation to me may be provided to the relevant disciplinary or admission body and irrevocably consent to such disclosure by submitting this assessment item;
- e) I have been advised of and have complied with all assessment requirements, have been made aware of my rights and responsibilities as a Course participant, and choose to be assessed at this time.

Candidate's Signature: _____

Date: _____

Witness's Name: _____

Witness's Signature: _____

Date: _____