

# Disciplinary procedure in cases of fraud and plagiarism

Circulaire

Version 3, 15.2.2023

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Access: <https://uniluxembourg.sharepoint.com/sites/tr/SitePages/VRA-Documents.aspx>

## Document information

Version	Date created	Author(s)	Validated by	Validated on	Status	Comments
1.0	9.3.2020	VRA	R	9.3. 2020	Approved	
1.0	9.3.2020	VRA	CU	13.05.2020	Favourable opinion	
2.0	31.8.2021	VRA	RT	7.9.2021	Approved	
3.0	1.2.2023	VRA	RT	7.2.2023	Approved	

### Authority and validity

This procedure is prepared under the responsibility of the Vice-Rector for Academic Affairs and subject to approval by the Rectorate. It is presented for information to the University Council, that can issue a recommendation.

It is issued, modified or withdrawn by the Vice-Rector for Academic Affairs.

This procedure has first come into effect on 9.3.2020

The last modification (3) has come into effect on 15.2.2023. It supersedes all previous versions of the procedure.

Responsibility for publication: VRA

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## What this procedure covers and to whom it applies

In line with the Law of 27 June 2018 (amended) on the organization of the University of Luxembourg (henceforward 'the Law'), and with reference to its article 45, disciplinary powers within the university are shared between two disciplinary authorities:

1. The **Rector**, who decides on all disciplinary matters;
2. The **Dispute Committee** (*Commission des litiges*), who decide on disciplinary matters in the second instance.

However, in line with a delegation of powers dated 1 October 2019, the **Vice-Rector for Academic Affairs is entrusted with disciplinary matters**, and is thereby also invested with disciplinary authority, exclusively in relation to academic misconduct as set out in article 42, item 10, of the Law, viz.: **fraud, attempted fraud and plagiarism**.

The instances of academic misconduct set out in this document are limited to fraud and plagiarism, and they refer to the remit of the Vice-Rector for Academic Affairs.

Disciplinary powers apply to users as defined by the Law as follows: any student who is currently enrolled at the University of Luxembourg (henceforward 'the University'), any user with the status of 'auditeur' or 'auditeur libre', and any student who has been enrolled at the University up to no more than six (6) months following their departure from the University.

This procedure describes the process for a disciplinary investigation in order to establish clearly the **misconduct** that has been committed and as a result, the **corresponding penalty** that may be imposed.

The principles to be respected in any disciplinary investigation are the following:

- the principle of presumed innocence,
- the adversarial principle,
- the principle of respect for the right to defend oneself against an accusation,
- the principle that a penalty must be clearly justified,
- the principle that a penalty must be in proportion to the nature of the offense committed.

# 1 Instances of misconduct according to the Law: fraud and plagiarism

Article 42 of the Law sets out a list of the kinds of misconduct committed by users for which disciplinary proceedings may be launched. This document refers only to item 10:

*10° la fraude, la tentative de fraude et le plagiat (fraud, attempted fraud, and plagiarism).*

# 2 Penalties set out by the Law in cases of fraud and plagiarism

Article 43 of the Law sets out a list of penalties that may be imposed on users who have been found guilty of misconduct. Items 6 and 7 specify the penalties that may be imposed in proven cases of fraud, attempted fraud and plagiarism:

*6° En cas de fraude, de tentative de fraude ou de plagiat : la nullité du groupe d'épreuves du module ou de la session d'examen ou l'interdiction pour une durée maximum de cinq ans de subir tout examen conduisant à l'obtention d'un grade, diplôme ou certificat délivré par l'Université.*

*7° En cas de fraude ou de plagiat : le retrait à titre rétroactif du grade, diplôme ou certificat délivré par l'Université.*

The penalties set out in items 6 and 7 are subject to three types of appeal: a non-contentious appeal (*recours gracieux*), an appeal before the Dispute Committee (*Commission des litiges*), and an appeal before the Luxembourg Administrative Tribunal.

Any fraud, attempted fraud or plagiarism that has been **proven** will entail the **cancelling of the grade** (a mark of 0) for the relevant assessment. The Vice-Rector for Academic Affairs decides whether a penalty among those set out in Article 43 should be imposed.

After the decision taken by the Vice-Rector for Academic Affairs, an appeal to the Dispute Committee is possible. The Dispute Committee, after considering the case and hearing the parties involved, either confirms the contested decision, or changes the contested decision, or cancels the contested decision.

Please note: Fraud and plagiarism are disciplinary offenses in terms of ethics, and they can violate intellectual property rights.

## 3 Disciplinary procedure

### 3.1 Types of academic misconduct

#### a. Fraud or attempted fraud

Fraud or attempted fraud are forms of academic misconduct that intend to falsify or misrepresent as one's own a work submitted for assessment, the result of an examination, or another form of assessment.

Fraud or attempted fraud include, but are not limited to the following: claiming authorship for text for which the student is not the original author, e.g., using a ghost writer or content generated or modified by a chatbot/artificial intelligence; the falsification of data or statistical indicators; sharing/exchanging notes during an examination; non-permitted use of a smartphone or a laptop with a live Internet connection during the examination; concealed checking of draft notes; helping someone else to cheat; writing assessed work for someone else; sharing information about an examination or a test; using non-permitted supporting materials (dictionaries, crib notes, calculator, online documents).

The student under suspicion of fraud will have the choice between two (2) options: either to continue the written work or to stop at the point where they were accused.

The report of misconduct should be completed in the examination hall by the invigilator. The student should be asked to sign the report, which includes space in which students may state their own version of the incident. After the report is made, the student will be given the choice to continue the examination or not.

If fraud is detected or suspected during the process of correction of an exam or a take-home assignment, the person in charge of the correction must:

- Complete a report of misconduct;
- Ask the student suspected or accused of attempting or committing fraud to sign the report, and allow the student to give his or her version of the facts. If the student refuses to sign, this is noted in the report.

The correction should be completed and a preliminary mark assigned.

The suspicion or accusation of fraud is reported to the course coordinator, the Study Programme Director and the Dean's Office of the Faculty concerned, who all receive a copy of the report.

Any candidate suspected or accused of fraud who has submitted examination papers is entitled to a fair and equitable evaluation of his/her examination.

The Board of Examiners deliberates on the results under the same conditions as those applied to other candidates. Students suspected or accused of plagiarism or fraud have the right to access their transcripts and to be informed of their grades in courses not affected by the alleged fraud. This is independent of any future sanctions.

#### b. Plagiarism

Plagiarism may be defined as the act, voluntary or involuntary, of copying or otherwise using another person's work and passing it off as one's own.

Examples of plagiarism include the following, but are not limited to: presenting under one's own name the work or ideas of someone else, including unpublished text by another author; the reproduction of passages from grey documents (documents distributed outside of commercial publishing channels, including files compiled as part of exam preparation), the reproduction of images, graphics and data without citing the source.

Self-plagiarism involves re-using for publication or assessment one's own work that has previously been published or submitted for assessment. Students who wish to re-submit a work or parts of a work they have previously submitted for assessment in another course

should indicate this and ask for permission from the concerned course instructor. Failure to disclose this may be investigated under the present procedure.

In proven cases of plagiarism, the penalty according to article 43, items 6 and 7, of the Law shall be combined with the requirement to follow a training for plagiarism awareness.

Participation in this training is required after the first case of proven plagiarism (and not in cases of repeat offenses).

## 3.2 Stages of the disciplinary process

The starting point of the disciplinary process is a reported misconduct. The report is written by the invigilator(s) or the marker(s) who has/have noticed the suspected misconduct. This report is countersigned by the Study Programme Director.

A **consultative meeting** is held between the student and the director of the study programme along with the examination invigilator or the marker of the assessed work (as applicable). In cases where the individuals involved cannot attend in person, an audio or video connection is permitted.

A set of minutes are drafted and counter-signed by the student under suspicion along with the other participants in the meeting.

This procedure is identical for cases of fraud and plagiarism.

The report of misconduct, together with the minutes of the deliberative meeting, is forwarded to the Vice-Rector for Academic Affairs within no more than five (5) working days from the date of the finding of facts that are alleged to constitute the misconduct.

On receipt of the report of misconduct and the minutes of the meeting, the Vice-Rector for Academic Affairs prepares a file relative to the alleged misconduct on the basis of the transmitted report. The case will be examined and opinions exchanged during the formal hearing. After this formal hearing, the Vice-Rector for Academic Affairs shall reach a decision.

Hereafter, the different stages of the disciplinary procedure (Report of misconduct / Hearing / Result of investigations / Decision).

### a. Report of misconduct

The report (see Annex 2) must be established immediately (in the case of an in-person examination, at the place of the offence committed). The period of time between the discovery of the infraction and the date of the hearing should be as short as possible.

Please note that an accusation will have a negative impact on the student's studies. Normally the grades for the semester in which the misconduct occurred are withheld, and the lack of availability of all grades for that semester may prevent a student's re-enrolment. This can have serious consequences. For example, a Luxembourg resident may not be able to claim their « bourse d'études ». A third-country national may lose their right to live in Luxembourg, and may be unable to obtain a visa for their mobility semester. It follows that an accusation must always be made responsibly and resolved quickly, with respect to the principle that the accused person is assumed to be innocent until proven guilty.

Moreover, any malicious accusation on the part of an invigilator, a teacher or a Study Programme Director may be open to a disciplinary penalty in accordance with applicable regulations.

In cases where a student has already left the University, a disciplinary procedure can be held up to six (6) months after their departure. Beyond that time, no disciplinary procedure is possible except for the case provided for in article 43 (1) 7° of the Law.

### b. Consultative meeting

See above.

### c. Hearing

The Vice-Rector for Academic Affairs invites the student to a hearing no more than six (6) weeks following the accusation.

Participants in the hearing are:

- the student accused of the offense who may be accompanied by a person (advocate) of their choice,
- the Vice-Rector for Academic Affairs,
- the Study Programme Director,
- the person who discovered/reported the infraction,
- a member of the University staff, who acts as minute-taker.

They may attend the hearing in person or via an audio or video link.

The case file will be sent to the student at least five (5) working days before the hearing.

The student is allowed to invite someone to support them. In this case, the name of that person and their connection with the student must be provided to the Vice-rector for Academic Affairs at least three (3) working days before the hearing.

In the hearing, the facts are set out and the point of view of each participant is presented.

Every participant in the process is expected to maintain confidentiality.

After the hearing, the minutes of the meeting are presented to the participants of the meeting to read and to sign. The student keeps a copy and a second copy is kept in the administrative file of the student.

The written minutes include a proposed sanction, for final decision by the Vice-Rector for Academic Affairs.

#### d. Outcome of the investigation

##### *(i) Case dismissed*

After the hearing, the Vice-Rector for Academic Affairs establishes in the minutes that the accusation is unfounded. In this case, the Vice-Rector for Academic Affairs requests that the student should be declared innocent, and that they should be permitted to re-take the assessment as soon as possible.

No comment shall be entered into the administrative file of the student after the Vice-Rector for Academic Affairs' decision.

##### *(ii) Light penalty*

After the hearing, it is established that academic misconduct took place, which automatically implies the annulment of the corresponding assessment.

A comment shall be entered into the administrative file of the student after the Vice-Rector for Academic Affairs' decision.

##### *(iii) Severe penalty*

After the hearing, the offence is proven with aggravating circumstances and the Vice-Rector for Academic Affairs recommends that the student should be subject to a penalty in addition to the annulment of the corresponding assessment.

A comment shall be entered into the administrative file of the student after the Vice-Rector for Academic Affairs' decision.

#### e. Decision

The Vice-Rector for academic affairs shall reach a reasoned decision in fact and in law no more than ten (10) working days after the hearing.

The Vice-Rector for Academic Affairs shall send notification of the outcome either via a registered letter or an email (as the student prefers). The decision is also communicated by email to the persons who attended the hearing.

The penalty applies from the day after the student received notification of the decision. A copy of the decision along with a comment will be added to the student's administrative file.



The Dean / Director of an Interdisciplinary Centre, the chair of the examination board (in the event of exam fraud), the teachers involved in the case (including invigilators/markers or others, but in all cases having an interest in the case being heard), the administrative direction of the Faculty or Interdisciplinary Centre will be informed (by email) only of the decision and not of the content of the hearing.

It is possible to submit an appeal against a disciplinary decision in cases of fraud, attempted fraud and plagiarism before the Dispute Committee within seven (7) days of the notification of the decision in question.

The Study Programme Director should make themselves available during the two (2) weeks after the penalty is notified, in order to discuss the matter with the student and to support them in planning the remainder of their studies.

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Attached to this procedure are the different forms referred to in this procedure.

## Annex 1. Minutes of the hearing

The template for preparing minutes of the hearing can be downloaded from:

<https://uniluxembourg.sharepoint.com/sites/tr/SitePages/VRA-Documents.aspx>, folder 'Fraud and plagiarism.

This template should be use for all hearings concerning cases of fraud, attempted fraud and plagiarism.

## Annex 2. Report of misconduct

The template for reporting a fraud or plagiarism case can be downloaded from:

<https://uniluxembourg.sharepoint.com/sites/tr/SitePages/VRA-Documents.aspx>, folder 'Fraud and plagiarism'.

This template should be used to report all cases of fraud, attempted fraud or plagiarism.