

POLICY DOCUMENT

STUDENT MISCONDUCT (NON-ACADEMIC) PROCEDURE

1 Purpose and Scope

This document outlines the procedures for dealing with possible non-academic student misconduct, and are designed to be as limited and responsive as possible.

Scope:

- All courses and subjects
- All students
- All staff (including contractors)

2 Procedures

The ACPE Board of Directors and the Dean and Operations Director delegate authority to the Student Services and Learning Support Manager to deal with an allegation of misconduct by either:

- a. making a decision to accept or dismiss the allegation and providing reasonable penalties based on classification of misconduct if the allegation is accepted; or
- b. referring the allegation to the Dean and Operations Director.

2.1 Procedure Steps

Step 1

- If a staff member or student experiences or observes what they believe may be 'Misconduct', they should advise Student Services staff. As a preliminary step, it is at the discretion of the observer experiencing the perceived misconduct as to whether they question or advise the individual concerned, before notifying Student Services staff.
- In advising the Student Services staff, the observer who experienced possible misconduct should provide the details of the alleged misconduct and any supporting evidence. The Student Services staff are not to discuss the matter with the 'observer'.

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The Student Services staff member should collect the information and forward on to the Student Services and Learning Support Manager as soon as possible.

Step 2

- The Student Services and Learning Support Manager (or delegate) will review the allegation and supporting evidence along with any information of previous incidents that may be on the student's record, and will take one of the following actions within 5 working days:
 - dismiss the allegation; or
 - contact the student, put the allegation to them and invite them to comment.
- If it is decided to dismiss the allegation, this would mean that there is little or no supporting evidence to support the allegation and there are no clear grounds for the allegation to be put to the student.
- In all other instances, the student will be contacted either via telephone, face to face meeting or in writing and will have the right to reply to the allegation within 10 working days (this may be either in writing, via an organised meeting, or in some instances may occur verbally during the telephone conversation).

Step 3

- If the student replies to the allegation, the Student Services and Learning Support Manager (or delegate) will record the response and any additional supporting evidence on the student's record. All evidence will then be taken into consideration, and the delegated individual will determine a classification of misconduct.
- For allegations classified as serious misconduct, the Student Services and Learning Support Manager (or delegate) will then refer the matter to the Dean and Operations Director for further action.
- The relevant decision-maker will then choose either option (a) or (b) below within 5 working days of the student reply; or, if the student does not reply, the decision will be made within 5 working days of the required response date:
 - make a decision on the matter and advise the student (and relevant internal staff) of the outcome and any associated penalty/ies; or
 - refer the matter to the Student Misconduct Committee (Serious Misconduct only).
- The decision-maker may at any time during their deliberations, request information or advice from others who may be able to assist with the investigation.

- In certain circumstances of serious misconduct, the decision-maker may advise the student of a temporary exclusion from all student activities pending the results of the investigation and the final outcome of the Student Misconduct Committee. The student will be advised in writing of the terms of their exclusion by the decision-maker. All rights will be returned if the student is deemed to be innocent. When handling matters related to international students, the decision-maker should refer to the *Deferring, Suspending or Cancelling Enrolment Policy – International*.

Step 4

Allegations of student misconduct may be referred to the Student Misconduct Committee if the student appeals the decision of the decision-maker, or if the allegations are considered to be of a serious nature that could have a significant impact on the student or the reputation of the College.

2.2 Student Misconduct Committee

The Student Misconduct Committee is an ad hoc committee that is brought together only in instances where a misconduct allegation requires further investigation or if the decision-maker requires further advice.

As part of the Committee's investigation, it may require students and staff involved in the allegation to attend a further meeting or provide information on request.

The Committee will determine an outcome and will notify the student in writing of this outcome and any associated penalty/ies within 10 working days of the Committee's decision. The Committee Secretariat will be responsible for ensuring that the student's record is updated with information on outcomes and penalties.

If the student wishes to further appeal the outcome of the Student Misconduct Committee, then the appeal will be considered immediately as a **Stage 4 Appeals** and the College will arrange external mediation as detailed in the *Grievances, Complaints and Appeals Policy*.

2.3 Outcomes & Penalties

2.3.1 General Misconduct

Possible outcomes determined by the decision-maker for allegations found to be General Misconduct may include, but are not limited to, the following:

- a. allegations made against the student are dismissed
- b. verbal reprimand/warning against further misconduct via telephone or in person

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- c. a formal written warning via email or letter and recorded on student file
- d. requested written and/or verbal apology to those involved
- e. student to attend alternative class sessions based on availability of timetabled classes
- f. restricted access to certain College facilities for a period of time

2.3.2 Serious Misconduct

Possible outcomes determined by the decision-maker or the Student Misconduct Committee for allegations found to be Serious Misconduct may include, but are not limited to, the following:

- a. a formal written warning via email or letter and recorded on student file.
- b. requested written and verbal apology to those involved.
- c. student to initiate and complete action designed to mitigate the consequences of the serious misconduct to the satisfaction of the decision-maker.
- d. immediate withdrawal of the student from professional placement or activities
- e. exclude the student from representing the College at any College activity for a period of time (e.g. University championships, educational expos, internships)
- f. exclude the student from representing the student body on College governing bodies.
- g. probationary enrolment for a period up to 12 months, subject to the student's ongoing good behaviour and/or other conditions as determined by the decision-maker.
- h. suspend the student from the College for a specified period of time, not exceeding 12 months.
- i. cancel credit or enrolment for any subject/unit of study.
- j. withhold results.
- k. exclude the student from the College permanently.
- l. refer the matter to an external agency for action (e.g. Police or ICAC); or
- m. a combination of the above.

3 Definitions

- **Student** – is an individual person who is formally enrolled to study at the College. The individual person is that who appears on the College's documents such as enrolment, admission and payment documents, and who is assigned an individual student ID.
- **Appeal** - An application to a higher authority for a decision to be reversed.

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- **Claimant** – refers to the person who formally instigates a grievance, complaint or appeal.
- **Complaint** – A statement that a situation is unsatisfactory.
- **Support Person** – the student is entitled to be supported by another person, being willing to support, whom the student appoints to assist at any stage of the process.
- **Unfair treatment** – any treatment that the Claimant feels has been biased against them and has resulted in an outcome that would otherwise have been different, had the treatment been 'fair'. This usually means the Claimant feels discriminated against in some way.
- **Working Day** – a weekday (Monday to Friday) on which the College is open for business. This does not include national public holidays or College shutdown periods (e.g. Christmas holidays) as noted on the Student Calendar.
- **Bullying** - It is repeated, unreasonable behaviour that is intimidating, degrading or humiliating. Bullying has the potential to create a risk to health, safety and wellbeing, including psychological, emotional and physical health. It may take place face to face on campus, via phone or email, on-line or within residential colleges.
Bullying may be discriminatory, based on someone's race, gender, sexual orientation, disability or religious beliefs or have no apparent cause.
Some examples of bullying may include:
 - Verbal abuse, including shouting, aggressive or offensive language, name-calling and personal insults
 - Threatening physical behaviour including physical gestures and unwelcomed physical contact
 - Abusive and inappropriate emails, phone calls or posts on social network sites, either in nature or frequency
 - Distributing offensive photos, graphic material or messages
 - Non-constructive criticism about work or academic performance including derogatory, demeaning and insulting remarks
 - Excluding or isolating students from normal study interaction without justification
- **Discrimination** - Discrimination can be either direct or indirect. Under NSW and federal legislation, discrimination on the basis of certain characteristics or grounds is unlawful (see Grounds below):

➤ **Direct discrimination**

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Direct discrimination occurs when, in the same or similar circumstances, a person treats, or proposes to treat, someone less favourably because they have certain characteristics or belong to a particular group of people, than they would treat someone who doesn't belong to that group, or who belongs to a different group of people.

In relation to a person with a disability, direct discrimination also occurs if the College does not make, or proposes not to make, reasonable adjustments for that person, and where the failure to make a reasonable adjustment has the effect, because of the disability, of that person being treated less favourably than a person without the disability in the same or similar circumstances.

➤ **Indirect discrimination**

Indirect discrimination occurs when a rule, practice or policy appears to be neutral but in effect has a disproportionate impact on a particular group of people. Indirect discrimination occurs when a person imposes (or proposes to impose) a requirement, condition or practice:

- a. that someone from a particular group does not or cannot comply with, and
- b. that has or is likely to have the effect of disadvantaging the person from that particular group, and
- c. that is not reasonable in the relevant circumstances.

In relation to persons with a disability, indirect discrimination also occurs if:

- a. the failure to make reasonable adjustments has, or is likely to have, the effect of disadvantaging persons with the impairment or disability.

This provision does not apply if the requirement or condition is reasonable, having regard to the circumstances of the case.

4 Related Documents

- Student Misconduct (Non-Academic) Policy

- Academic Integrity Policy
- Academic Integrity Procedures
- Grievances, Complaints and Appeals Policy
- Student Code of Conduct
- Deferring, Suspending or Cancelling Enrolment Policy – International Students

Legislation:

- Higher Education Standards Framework 2015
 - Tertiary Education Quality and Standards Agency Act 2011
 - National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2018
 - [Racial Discrimination Act 1975 \(Cwlth\)](#)
 - [Sex Discrimination Act 1984 \(Cwlth\)](#)
 - [Disability Discrimination Act 1992 \(Cwlth\)](#)
 - [Privacy Act 1988 \(Cwlth\)](#)
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5 Policy Administration

Policy Name & Code:			Student Misconduct (Non-Academic) Procedure (PRO-04)
Policy Owner			Student Services and Learning Support Manager
Approval Authority:			Academic Board (ACPE)
Next Review:			September 2023
Approval Date	Effective Date	Version	Summary of changes
11 Dec 18	12 Dec 18	1	Procedures document developed in line with the revised ACPE Student Misconduct (Non-Academic) Policy. Content reflects current ACPE activities.

* Unless otherwise indicated, this policy will still apply beyond the review date.