

## **NON-ACADEMIC MISCONDUCT POLICY**

### **SECTION 1 - PURPOSE AND SCOPE**

- (1) As part of the overall good management of the College, and in the interests of promoting the welfare and safety of staff and students of the College, the Student Non-Academic Misconduct Policy aims to deal with allegations of student misconduct in a timely and fair manner.
- (2) When students allegedly behave in a manner regarded as being contrary to the principles and ethos of the College, the matter will be dealt with as either Academic Misconduct, or Non-Academic Misconduct in relation to College policies and the UWSCollege Student Charter.
- (3) This policy applies to all students of the College and to conduct occurring at any premises or facilities owned or occupied by the College and to any events or activities conducted under the name and auspices of the College such as e-learning sites, excursions and the like.
- (4) An allegation of non-academic misconduct may be brought against any student of the College. An allegation may be made by College staff, students or an external person with an association to the College. An allegation of non-academic misconduct may be dealt with in accordance with the procedures outlined in the Non-Academic Misconduct Procedures.
- (5) The College reserves the right to refer any matter of Non-Academic Misconduct to the University, in accordance with the University’s Non-Academic Misconduct Policy, particularly for cases relating to students who are enrolled in programs which are awards of the University.

### **SECTION 2 - DEFINITIONS**

- (6) For the purpose of this Policy:
  - a. “Non-academic misconduct” has the meaning set out in clause 7.
  - b. “Date of delivery” means the date on which a notice is handed to the student, or the date of sending an email or facsimile, or two days after the date of posting by mail.
  - c. “Student” means all persons taking any courses at the College.
  - d. “Working day” means any day that is not a Saturday or a Sunday or a public holiday or a College closedown day.

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- (7) “Non-academic misconduct” includes, but is not limited to, conduct where a student:
- a. contravenes any policy, provision, rule or regulation of the College;
  - b. behaves in a manner that prejudices the good name or standing of the College;
  - c. engages in unlawful or criminal activity on the premises or facilities of the College, including;
    - (i) damages or destroys College property (including library books, computing hardware or software, or the deliberate release of computer viruses);
    - (ii) misuses College facilities, systems and equipment, to engage in illegal activity or activity prohibited by the College’s rules and policies (for example, computer hacking, infringing copyright);
    - (iii) steals or misappropriates College property or equipment;
    - (iv) harasses, vilifies, abuses, threatens, assaults or endangers staff, students or other members of the College’s community directly or by other means of communication;
    - (v) obstructs staff or students or other members from undertaking their activities at the College;
    - (vi) fails to follow reasonable directions of an employee of the College;
    - (vii) alters, falsifies or fabricates any document or record of the College (eg. Statement of Academic Record);
    - (viii) alters or falsifies any documentation that the College requires of the student (eg. medical certificate or other supporting documentation);
    - (ix) divulges confidential or personal information relating to any College matter, staff member or student (eg. employment records, in-camera committee discussions) in circumstances where there is no reasonable or lawful excuse for doing so;
    - (x) behaves inappropriately in an activity (eg. In the virtual and physical environments such as e-learning sites, face to face classes, meeting), facility in or under the control or supervision of the College or a recognised College student association; or refuses or is unable to identify him/herself when asked to do so by an officer of the College (eg. security officer, examination invigilator);
    - (xi) knowingly provides false or misleading information to staff of the College;
    - (xii) fails to comply with a penalty imposed or outcome agreed to under this or other policies of the College.

### **SECTION 3 - POLICY STATEMENTS**

#### **Part A - Responsibilities and Rights of Staff**

- (8) The College has the responsibility to:
- a. Ensure staff are aware of the College's policies and procedures regarding non-academic misconduct;
  - b. Provide training for staff regarding the detection of non- academic misconduct, and appropriate ways to deal with non-academic misconduct;

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- c. Inform students of the College's policies and procedures regarding non-academic misconduct;
- (9) The College and staff have the right to expect that students will avoid any action or behaviour that may give rise to non-academic misconduct.

**Part B - Responsibilities and Rights of Students**

- (10) Students have the responsibility to read, understand and follow the College's policies and procedures regarding all forms of non-academic misconduct.
- (11) Students have the right to:
  - a. Be made aware of the College's policies and procedures regarding non-academic misconduct and the penalties that will be imposed for proven non-academic misconduct; and
  - b. Respond to allegations of non-academic misconduct.

**Part C - Managing Student Misconduct**

- (12) An allegation of non-academic misconduct may be brought against any student of the College. An allegation may be made by College staff, students, a member of the College community or an external person with an association to the College. An allegation of non-academic misconduct may be dealt with in accordance with the procedures outlined in the Procedure section of this policy:
  - a. Part A covering temporary removal situations; or
  - b. Part B covering situations that shall be managed by Student Services; and
  - c. Part C covering matters to be referred to the Non-Academic Misconduct Committee.

**SECTION 4 - PROCEDURES**

**Part A - Temporary Removal from Activities, Facilities or College**

- (13) The provisions in this part relating to the temporary removal of a student from activities and facilities, or from the College itself, are to be applied primarily to circumstances of urgency where the student's behaviour impedes the normal functioning of the activity or facility or where the student's actions, statements or demeanour are perceived as a threat to the safety of people or property.
- (14) A member of staff having responsibility for the management of an activity or facility or area of the College may temporarily remove any student where they have reason to believe that there is evidence that the student may be guilty of non-academic misconduct, and that the alleged misconduct is in their opinion, serious enough to warrant temporary removal.
- (15) Examples of where temporary removal include:
  - a. Disruption amounting to misconduct in an activity such as a class, examination or field trip, that adversely affect the running of that activity;
  - b. Misconduct in Information Technology Labs, or student recreational facilities;
  - c. Misconduct in the general precincts of the College, including open public spaces, grounds and carparks.
- (16) Temporary removal of a student must not exceed 48 hours.

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- (17) The member of staff has the option of referring the matter onto the Manager, Student Services or nominee if they have further concerns over the student's misconduct. These concerns may include:
- a. The conduct is likely to reoccur;
  - b. The conduct represents a threat to health and safety of others;
  - c. The conduct resulted in a physical or non-physical injury, including fear and apprehension to another person; and/or
  - d. The incident involved physical contact by the student on another person.

**Part B - Matters Managed by the Manager, Student Services**

- (18) The Manager, Student Services or nominee, is responsible for assessing an allegation of non-academic misconduct that has been received, and may resolve this issue under this Part or refer this matter to the Non-Academic Misconduct Committee under Part C.
- (19) Staff, including Heads of Program, must refer misconduct matters to the Manager Student Services to manage the process, so as to ensure consistency in practice across the College and its multiple locations.
- (20) The types of matter to be resolved under this Part may include:
- a. A one-off dispute where the student has gone beyond the bounds of acceptable behaviour;
  - b. Theft or damage to College property with a replacement or repair value of no more than \$1,000;
  - c. A first breach or offence.
- (21) The Manager, Student Services must formally and in writing advise the student outlining the nature of the allegation and arrange to meet with the student to discuss the allegation, where the student will be given an opportunity to address the allegation.
- (22) The student must be given a copy of this policy prior to the meeting.
- (23) The meeting must be documented and in accordance with procedural fairness principles outlined in this policy. A copy of the document will be placed on the student's record.
- (24) In determining the penalty to be imposed on the student, the Manager, Student Services must consult the Head of Program of which the student is enrolled in, and the penalty will be jointly determined, ensuring consistency and appropriateness of the penalty.
- (25) Penalties that may be imposed under this Part are:
- a. No further action;
  - b. A reprimand or warning;
  - c. In the case of damage to College facilities or property, reimbursement of the cost of replacement or repair of no more than \$1,000;
  - d. That the student provide a formal apology;
  - e. Voluntary or community work to be undertaken by the student; and/or
  - f. That the student seek counselling or other support;

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- (26) The penalty provisions in this section should not, as far as possible, affect the student's ability to continue to pursue their studies, attend classes or visit the library and the like.

**Part C - Non-Academic Misconduct Committee**

- (27) The Manager, Student Services may refer matters to the Non-Academic Misconduct Committee.
- (28) The Non-Academic Misconduct Committee will comprise:
- a. The Head of Program, or nominee of which the student was/is enrolled;
  - b. Manager Corporate and Business Services, or nominee;
  - c. Head of Program or Manager from another program area of the College;

Where there may be conflicts of interest, then alternate senior staff may comprise the Committee.

- (29) The purpose of the Non-Academic Misconduct Committee is to meet and:
- a. Establish the facts of the matter
  - b. Assess and form a view as to whether or not on the balance of probabilities, the allegations are made out;
  - c. Consider what penalty might be imposed having regard to any mitigating circumstances; and
  - d. Report and make recommendations on these matters to the CEO of the College who will make the final decision.
- (30) The respondent student has the right to attend this meeting, and may be supported by a fellow student, staff member, a friend or family member. This right does not extend to legal representation being present. Prior consent by the Committee will be required if the student seeks legal representation to be present at the Committee meeting.
- (31) The Non-Academic Misconduct Committee, having reached a decision, may recommend imposing a penalty. One or more of the following penalties may be imposed:
- a. that no further action be taken against the student;
  - b. that a warning be given;
  - c. that a reprimand be given;
  - d. that the student be denied access to certain or all College activities, facilities or services for a specified period of time or that access be only in accordance with particular conditions;
  - e. that the student provide full restoration of the cost of any damage done to College property;
  - f. that the student be required to apologise formally to any aggrieved party where appropriate;
  - g. that the student undertake some form of remediation, such as counseling;
  - h. that the student be suspended for a period of one teaching period;
  - i. that the student be suspended for a period of two teaching periods;

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- j. that the student be expelled (permanent exclusion) from the College;
  - k. that such other penalty or action considered appropriate.
- (32) The respondent student will be advised of the recommendation in writing and may within five working days of the date of notification comment in writing to the CEO about the findings and the proposed penalty. Comments about the penalty may include, but are not limited to, the appropriateness or practicality of the penalty in regard to the student's circumstances.
  - (33) The Non-Academic Misconduct Committee will present the recommendation to the College CEO, who will make a determination.
  - (34) The decision will be advised to the respondent student and all documentation relating to the meeting, and CEO's decision will be recorded on the student's record.
  - (35) The Manager, Student Services will verify that the penalty has been served and report back to members of the Non-Academic Misconduct Committee and the CEO when the penalty has been served and complied with.
  - (36) Should the respondent student not comply with penalty conditions, then this will be a further matter of non-academic misconduct.

**Part D - Appeals Against Determinations Made in Relation to Non-Academic Misconduct**

- (37) A student may appeal against determinations made in relation to non-academic misconduct on either of the following grounds:
  - a. failure of process;
  - b. new evidence;
- (38) An appeal must be lodged in writing within 10 working days of the official notification of the decision.
- (39) The Appeals Panel will determine if the appeal can be heard based on the grounds specified in clause 36. The student will be notified of this decision on writing.
- (40) Late or non-receipt of official letters from the College will not be accepted as grounds for appeal if the student has not ensured that the College is in receipt of accurate and current contact details.
- (41) Appeals against Determinations made in relation to Non-Academic Misconduct will be heard by an Appeals Panel, comprising:
  - a. Two senior managers from the Senior Management Team;
  - b. Human Resources representative;
- (42) No person who was previously involved or associated with the current matter either as a witness, complainant, a member of the Non-Academic Misconduct Committee or otherwise, may be a member of the Appeals Panel.
- (43) The Appeals Panel meeting will be conducted in the same manner as the Non-Academic Misconduct Committee.
- (44) The Appeal's Panel may either uphold or dismiss the student's appeal against the determination made in relation to the student's non-academic misconduct.

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## Part E - Variations to Timeframes

- (45) Whilst allegations of non-academic misconduct are to be considered by the College with due diligence and expedition, the timeframes contained in the procedures are indicative and may be affected by a number of factors including availability of Senior Staff. In exceptional circumstances, the timeframes prescribed in the policy may be varied.

## Part F - Confidentiality

- (46) All matters relating to non-academic misconduct including any “sensitive” or personal information presented shall be treated in confidence by those involved in any non-academic misconduct matter.

## SECTION 5 - GUIDELINES AND REFERENCES

### Part A - Fairness in Procedures Guidelines

- (47) Students are strongly encouraged to act with respect and consideration for others and for the College community’s activities, property and facilities.
- (48) The College is committed to procedural fairness principles. These include:
- a. The opportunity to be heard – the student should be given the opportunity to be heard before a decision that could adversely affect them, is made.
  - b. Adequate prior notice of meetings – all parties should be given adequate notice of meetings.
  - c. Absence of bias or conflicts of interest – potential bias or conflicts of interests must be declared by all parties prior to any decision being made.
  - d. Disclosure of relevant material before the decision - the student about whom the decision is to be made is entitled to know what case is to be met.
  - e. Reasonable opportunity to respond – the student about whom a decision is to be made should have a reasonable opportunity to respond before a decision is made.
  - f. Relevance - decision makers will normally take into account all relevant considerations and disregard irrelevant ones.
  - g. Proceedings will be conducted in a confidential manner and privacy will be respected for all parties, with the understanding that the College may be compelled by law to provide information or documents in accordance with external legal processes.
  - h. A student’s prior record of misconduct may only be considered in the context of the penalty to be imposed.
  - i. If a student is not satisfied with the decision made by the Appeals Panel, they may seek redress. The complaint process is covered in the College’s Student Complaint Handling and Resolution Policy.

### Part B - References

- (49) References include:
- a. UWSCollege Student Charter
  - b. UWSCollege Student Complaint Handling and Resolution Policy

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