

## POLICY DOCUMENT

# STUDENT MISCONDUCT (NON-ACADEMIC) POLICY

## 1 Purpose and Scope

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This policy defines the actions that constitute non-academic misconduct by students and outlines the College process for investigating allegations of student misconduct. It also describes the potential consequences should an allegation be proven.

### Scope:

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

## 2 Policy Statement

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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 excursions, educational placements with external organisations and the like.

This policy should be read in conjunction with the **Student Code of Conduct** which describes the expectations of the College and students' behaviour. It is the College's expectation that students will respect the values that underpin College life and will not intentionally act in a way that results in a breach of this Code. A breach of the Code may result in an allegation of student misconduct. All allegations of student misconduct will be investigated in a manner that is fair, consistent and transparent providing all parties with an opportunity to be heard.

### 2.1 Student Misconduct

Student Misconduct can be defined as either academic, non-academic or research-related.

### **2.1.1 Student Misconduct (Academic)**

It includes but is not limited to conduct that involves academic fraud, cheating, plagiarism, collusion and any other dishonest conduct by a student to gain academic or general advantage; and/or contravenes or demonstrates disregard for the provisions of the Code, academic rules, policies, procedures and/or guidelines.

Note: All actions that constitute academic misconduct/dishonesty and consequences that may apply to a student involved in any form of academic misconduct/dishonesty (including any form of plagiarism) are set out in the *Academic Integrity Policy* and *Academic Integrity Procedure*.

### **2.1.2 Student Misconduct (Non-Academic)**

It includes, but is not limited to conduct that:

- a. contravenes or demonstrates disregard for the provisions of the Code, non-academic rules, policies, procedures and/or guidelines; and/or
- b. adversely impacts on the College's reputation including the reputation of staff, students or other members of the College community; and/or
- c. is criminal or unlawful on College premises or property, or on a location where a student is present under the auspices of the College; and/or
- d. damages or wrongfully deals with any property under the control of the College, any property on College premises, or property on a location where a student is present under the auspices of the College; and/or
- e. obstructs any staff, student or other member of the College community in the performance of their duties; and/or
- f. assaults, threatens, bullies, harasses, or endangers any staff, student or other member of the College community or causes them fear for their personal safety; and/or
- g. attempts to improperly influence any staff, student or other member of the College community in the performance of their duties; and/or disobeys any instruction of the College community, including the failure to leave any building or part of a building when directed to do so, or the failure to comply with an imposed penalty or agreed outcome under College rules and policies; and/or
- h. impairs the reasonable freedom of other persons to pursue their studies or search or to participate in the life of the College; and/or
- i. disrupts, interferes with, or is detrimental to the conduct of any teaching, study,

- assessment, research, or administration of the College; and/or
- j. refuses, withholds, or fails to identify oneself truthfully or furnishes false personal information to any staff, student or other member of the College community; and/or
  - k. falsifies, or attempts to falsify, College records or official files/documents; and/or breaches confidentiality or privacy requirements or obligations in respect of the College, its staff, students, clients or other members of the College community (including via inappropriate communication on social media); and/or
  - l. significantly obstructs or interferes with the business of the College; and/or
  - m. encourages, persuades or incites any other person to engage in conduct or behaviour constituting non-academic misconduct.

### 2.1.3 Student Misconduct (Research)

It means a serious or deliberate breach of the *Australian Code for the Responsible Conduct of Research* or any relevant College policies and/or procedures that involves intent and deliberation; recklessness or gross and persistent negligence; serious consequences, such as false information on the public record; or adverse effects on research participants, animals or the environment. It includes, but is not limited to conduct that:

- a. fails to declare or manage a serious conflict of interest;
- b. fails to follow research proposals as approved by a research ethics committee;
- c. conceals or facilitates research misconduct by others.

## 2. 2 Responsibility

It is the responsibility of all members of the College community to report alleged incidents of Student Misconduct.

**Non-academic matters** should be referred in the first instance to the Director of Student Services and Campus Wellbeing (or delegate) for investigation.

## 2.3 Classifications of Misconduct

The College has classified non-academic misconduct into two categories:

- General Misconduct
- Serious Misconduct.

Consequences for misconduct are determined by the classification which is applied after investigation of the allegation.

### **2.3.1 General Misconduct**

General Misconduct by a student may include but is not limited to the following examples:

- a. Minor disturbances during academic activities (face to face or online) that interfere with the freedom of a student or limits the capacity of an academic staff member to fulfil their duties.
- b. Minor disturbances in any College venue or activity that represent immature, boisterous or childish behaviour that is disruptive or offensive.
- c. First instances of breaking, ignoring or being unaware of College rules or the Code of Conduct (dependent on the nature of the rule broken or ignored).
- d. Behaving in an unsafe manner in any College venue or activity.
- e. Behaviour that causes offence whether intentional or otherwise.
- f. Smoking on College property.
- g. Drinking on College property unless at an organised event.

### **2.3.2 Serious Misconduct**

Serious Misconduct by a student may include but is not limited to the following examples:

- a. Repeated disruptions during academic activities (face to face or online) that interfere with the learning of other students.
- b. Showing disrespect to College staff or other students (including via social media or other online activities).
- c. Showing disrespect to members of the public when acting on behalf of the College (e.g. professional experience supervisors).
- d. Bullying or harassing behaviour including (but not limited to) cyber-bullying, assault, intimidation or displaying aggression towards others at any time during academic activities, when representing the College publicly or when on campus.
- e. Interfering with or causing wilful or negligent damage to or defacing any College Property.
- f. Theft of College property or any personal property from other individuals or organisations on College property.
- g. Attending College activities (including academic and non-academic activities) under the influence, or being in possession of alcohol, drugs or any other prohibited substance.

- h. Attending College activities (including academic and non-academic activities) with weapons or items likely to cause harm or intimidation to others at any time.
- i. Discriminating against anyone on the grounds of gender identity, sexual orientation, marital, parental or carer status, pregnancy, breastfeeding, age, physical features, impairment, race, ethnicity, political or religious belief or activity, or industrial activity.
- j. Engaging in fraudulent or intentionally deceptive activity.
- k. Wilful, violent or unsafe behaviour.
- l. Repeated instances of breaking, ignoring or being unaware of College rules or the Code of Conduct.

## 2.4 Procedural Fairness

The College is committed to the principles of procedural fairness and natural justice. This includes:

- the presumption of innocence unless guilt is freely admitted or proved by clear and convincing evidence.
- the right to be heard.
- the right to be treated without bias.
- the right to be informed of allegations being made and to be provided with an opportunity to respond to these.
- the right to be given reasons for any decision.

The student shall be given an opportunity to correct information, explain mitigating circumstances and make a submission as to the penalty/ies that may be imposed.

No member of staff can make a determination on a misconduct matter if he or she has had prior involvement in any aspect of the allegation.

Students are entitled to due notice of any allegations of student misconduct made against them. Allegations may be amended at any time before their determination, provided the student has received notice.

The College takes multiple breaches of the Code seriously. Knowledge that a student has been found guilty of a past misconduct offence will be taken into account when determining the penalty/ies to be imposed.

The College is committed to investigating and determining allegations of student misconduct as expeditiously as is practical recognising that a student can be significantly affected by delay in the resolution of the matter. A specified time period may be extended at the discretion of the College

## 2.5 Handling the Alleged Misconduct

Process used for **non-academic student misconduct** is specified in the ACPE *Student Misconduct (Non-Academic) Procedure*. For information about the process for handling **academic misconduct**, please refer to the ACPE *Academic Integrity Policy* and the *Academic Integrity Procedure*.

## 2.6 Appeals

If the student wishes to further appeal the outcome determined by the decision-maker they must respond to the written notification of the outcome within 10 working days of receipt of the decision, requesting an investigation by the Student Misconduct Committee.

If the student wishes to further appeal the outcome of the Student Misconduct Committee, they must lodge an appeal within 10 working days of receipt of the committee's decision in accordance with the *Grievances, Complaints and Appeals Policy*.

## 3 Definitions

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- **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.
- **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.

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- **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**

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**

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- Academic Integrity Policy
- Academic Integrity Procedure
- 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 \(Cwlth\)](#)
- [Age Discrimination Act 2004 \(Cwlth\)](#)
- [Privacy Act 1988 \(Cwlth\)](#)

## **5 Policy Administration**

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<b>Policy Name &amp; Code:</b>	Student Misconduct (Non-Academic) Policy (POL-13)
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<b>Policy Owner:</b>			Director of Student Services and Campus Wellbeing
<b>Approval Authority:</b>			Academic Board (ACPE)
<b>Date for Next Review:</b>			September 2023
<b>Approval Date</b>	<b>Effective Date</b>	<b>Version</b>	<b>Summary of changes</b>
5 Sep 18	6 Sep 18	9	<i>Harmonised policy:</i> Full revision – combining higher education policies.
11 Dec 18	12 Dec 18	10	<ul style="list-style-type: none"> <li>• Revision includes rebranding to apply to only ACPE, from former SGA harmonised Student Misconduct - UG Policy of 2016.</li> <li>• Document format changed in line with the new document template for ACPE policies, procedures and ToRs.</li> <li>• References to other SGA colleges have been removed.</li> <li>• Job titles updated.</li> <li>• Content revised to ensure it complies with relevant HES,</li> <li>• Section with information regarding academic-misconduct matters have been removed as they are specified in the ACPE <i>Academic Integrity</i> and <i>Academic Integrity Procedures</i>.</li> <li>• It has also been noted in Section 1 and Sections 2.1 – 2.2, that this policy covers nonacademic matters only.</li> <li>• Section 2.9 updated to reflect practices and properly address Standard 2.4 of the HES.</li> <li>• Changes made to document format include: <ul style="list-style-type: none"> <li>- Old logo with references to Study Group removed.</li> <li>- Document code, version and dates moved to 'Document Administration' section.</li> <li>- Paragraphs numbered.</li> <li>- Previous 'Further Information Section' with references to related policies moved to new 'Related Documents' section. This section includes a list of related policies, procedures, and other documents.</li> <li>- Policy Administration table reformatted.</li> <li>- Numbering system updated.</li> <li>- Footer updated to include document title, document code, and document version only.</li> </ul> </li> </ul>
14 Mar 19	14 Mar 19	10.1	<ul style="list-style-type: none"> <li>• References to Dean and Operations Director replaced with CEO and Dean.</li> <li>• References to Student Services and Learning Support Manager replaced with Director of Student Services and Campus Wellbeing.</li> </ul>

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