

# Student Misconduct

## Procedure

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Related policies and documents:	Bullying in the Workplace Prevention Health and Safety at Work Policy Managing Diversity, Access & Equity for Students Student Academic and Non-Academic Grievance / Complaints Policy Student Code of Conduct Student Duty of Care Policy Student Misconduct Policy

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## Purpose

This document provides the procedure for William Angliss Institute (WAI) staff to follow in cases of student misconduct or breaches of the Student Code of Conduct. The Student Code of Conduct outlines students' obligations and responsibilities and provides directions for staff should a student breach the Student Code of Conduct.

It is not the purpose of this procedure to cover issues relating to academic misconduct.

## Procedure

The student enrolment and orientation processes provide the appropriate forums to outline the Institute's Student Code of Conduct. The duty of care provided by staff will ensure that all students are cared for on campus as well as in off campus managed WAI learning activities. The procedure ensures that potential risks are identified and mitigated against. In an emergency situation staff should take reasonable action to ensure everyone's safety e.g. contact security if a student is being abusive or threatening.

### Managing student misconduct

This procedure adopts a three-tier system of informal review, formal review, and appeal (except in emergencies or for serious incidents).

Acts of misconduct may include, but are not limited to:

- disruption, interruption or interfering with the rights of other students to a positive learning environment including wilful, unlawful, violent or other unsafe disruptions of lectures, tutorials or other learning-based activities,
- bullying, assaulting, harassing, intimidating or displaying aggressive, disruptive or ill-mannered behaviour in ways including but not limited to filming, photography, recordings without knowledge or consent, towards others whether in person; online; via social media; mobile/telephone conversation, or all other forms of communication.
- interfering with, or causing wilful or negligent damage or defacing, any Institute property or property of others.

- theft of Institute property or any personal property
- attending under the influence, or in possession, of alcohol, drugs or any prohibited substance
- attending with weapons or items likely to cause harm or intimidation to others at any time
- smoking in any enclosed areas of the Institute or outside of designated smoking areas, in particular, within 5 metres of building entrances, air-conditioning intakes and gas, storage areas.
- discriminating against anyone on the grounds of gender identity, sexual orientation, lawful sexual activity, marital, parental or carer status, pregnancy, breastfeeding, age, physical features, impairment, race, ethnicity, political or religious belief or activity, or industrial activity.
- breaches of the Institute's Learning Resource Centre (LRC) student network policies or any Institute policy relating to internet or Wi-Fi use
- any other behaviour which causes significant interference with the daily operations of the Institute
- vexatious claims against other students and members of staff
- falsification of Institute files.
- submission of fraudulent documentation to the Institute.
- inappropriate contact of fellow students and/or staff whether in person; online; via social media; mobile/telephone conversations, or all other forms of communication.
- forming an intimate relationship with a fellow student under 16 years of age. This behaviour is also illegal.

If an International student is involved in an act of misconduct the International Office must be notified immediately if the student is to be suspended.

### **Stage One – Informal**

Any allegation of misconduct must be reported to the relevant Senior Lecturer/Program Leader/Course Co-ordinator, who may deal with the matter informally, in line with the following options:

- a) request the student to cease the actions which are the subject of the misconduct;
  - b) discuss the matter with the student, the complainant and witnesses (if any) to the actions which are the subject of the misconduct;
  - c) in the case of misconduct occurring in the classroom, a student may be asked to leave the room in situations such as, but not limited to, the following:
    - the student's behaviour is disruptive to other students in the class;
    - the student's behaviour is disruptive to the learning environment;
    - the student is found to be under the influence of alcohol or prohibited substances;
    - the student is behaving in a manner that is of a health and/or safety issue;
- NB. WAI has a particular duty of care for its students under 18 and in such instances the Senior Lecturer/Program Leader/Course Co-ordinator should be called to stay with the student until the student's parent/guardian arrives.
- d) where the teacher/trainer considers the student's behaviour to be physically threatening, the teacher/trainer must contact Security immediately and/or call the police;

- e) inform the students that support services, such as wellbeing and counselling services, is available as a free, voluntary and confidential support service
- f) if the student is under the age of eighteen and full time a letter will be sent informing the parent/guardian of the incident, the warning given and the potential consequences of continued unreasonable behaviour and any correspondence is kept on file by the Program Leader.  
if the student is under the age of eighteen and part time in a Youth Learning program a letter will be sent informing the home school of the incident, the warning given and the potential consequences of continued unreasonable behaviour and any correspondence is kept on file by the Program Leader.  
if the student is under the age of eighteen and an apprentice a letter will be sent informing the Employer of the incident, the warning given and the potential consequences of continued unreasonable behaviour and any correspondence is kept on file by the Program Leader.
- g) after the submission of a documented history of the students' behaviour, the Senior Lecturer/Program Leader/Course Co-ordinator may implement up to five days cooling off period with a clear statement that if the matter occurs again it may proceed back to an informal review for a maximum of 3 occurrences or straight to a Formal Review;
- h) in the case of an alleged breach of Institute's Learning Resource Centre (LRC) student network policies:
  - decide that there has been no such breach and restore network access if it has been removed;
  - counsel the student without proceeding further, in which case the student's network access (if removed) will be immediately restored;
  - decide that a serious breach of the Institute's guidelines has occurred. In such a case, removal of the student's access to the network will either be confirmed or implemented.

## Stage Two - Formal Review

If, in the reasonable opinion of the Senior Lecturer/Program Leader/Course Co-ordinator the allegation should be reviewed formally rather than being dealt with informally then the Program Leader/Course Co-ordinator may refer the matter to the Student Misconduct Committee.

The Student Misconduct Committee will be convened by the Department Manager (Chair), and will normally meet to hear a case within ten (10) working days of the date of receipt of such referral unless the Chair of the Student Misconduct Committee, acting reasonably, deems that more time is required.

A student can invite a friend or representative from Student Services to accompany them to any formal meeting held. If the student is under the age of 18 a parent/guardian will be invited to attend the meeting. If the student is under the age of 18 and an apprentice the Employer will be invited to attend the meeting.

## Committee Membership

- a) The Student Misconduct Committee will consist of:
  - i) the Associate Director from the student's course or nominee (Chair)
  - ii) Centre Manager or Associate Dean (HE Operations) of the student's course or nominee;
  - iii) two members of the teaching department, or (in the case of a breach of Student Network Discipline) the Manager, Learning Information Services or nominee;
- b) Both genders shall be represented wherever practicable.
- c) Where a member of the Student Misconduct Committee has a conflict of interest in the proceedings or has been directly involved in the proceedings instituted against the student, such member is disqualified from the membership of the Committee.

### **Committee responsibilities**

- a) The committee must:
  - I. Meet within 10 working days of receiving an allegation of misconduct; where practically possible.
  - II. Inform all parties are informed in writing of the allegations to be presented to the committee.
  - III. Ensure both sides of the argument are given due consideration.
  - IV. Confirm that a student has been given the opportunity to bring a friend or representative of Student Services.
  - V. Inform all parties in writing of the outcome of the Misconduct Committee meeting.
  - VI. Inform the Director Corporate and Student Services of the Misconduct Committees decision for addition to the WAI precedents file.

### **Penalties**

There shall be degrees of penalty depending upon the severity of the misconduct and the circumstances of the student's case. The penalties that may be imposed are:

- (a) reprimand and caution (warning);
- (b) payment of the cost of repair or replacement of lost, misappropriated, damaged, defaced or destroyed property, including (where relevant) damaged data, computer and/or network facilities;
- (c) restitution of property taken or removed;
- (d) an appropriate period of suspension to network access;
- (e) suspension for a period not exceeding two (2) semesters, including:
  - (i) suspension from attendance at lectures, seminars, tutorials, practical classes or similar periods of instruction;
  - (ii) suspension from the use of all or part of the LRC, computer rooms, kitchens, or other WAI facilities;
  - (iii) withdrawal of right to enter WAI land, buildings, facilities or any part thereof;
  - (iv) suspension from representing the Institute;
- (f) imposition of conditions on the student's attendance, entry or access to premises and facilities or contact with nominated persons;
- (g) imposition of conditions of participation by the student in Institute activities;
- (h) exclusion from the course in which the student is enrolled for a period not exceeding two (2) years, so that the student must re-apply for admission to that course or its nearest equivalent;
- (i) prevention of re-enrolment, receiving results, graduating or receiving an academic award, until the penalty has been served;
- (j) expulsion from the Institute.

Where an act of misconduct is reported and the continued presence of the student on WAI property constitutes an immediate threat to the safety or security of any member of the WAI community, WAI property or personal property, staff must advise the appropriate Manager, Director and Security/Police (as appropriate), immediately.

WAI may exclude a person from its premises and facilities where the Institute deems this necessary in order to meet its obligations under occupational health and safety legislation or its duty of care to WAI staff and students, regardless of the procedures set out herein and the outcome of any decision under this Policy and Procedure.

In instances where alleged misconduct threatens staff or student wellbeing, or the integrity of the institutes network , students may be suspended by the relevant program manager for a period of not more than 15 days during which time an investigation into the breach must commence;

The type and combination of penalties imposed shall be at the discretion of the Student Misconduct Committee (in consultation with the Director Corporate and Student Services), but will reflect the severity of the misconduct or offence.

Where penalties apply to international students and have an impact on the course duration or completion the Angliss International Office will be notified and will implement procedures related to meeting the requirements under the ESOS Act 2007.

### **Appeals**

A student may appeal a decision or penalty if the student can demonstrate to the CEO that an appeal should be heard on one or more of the following grounds:

- (a) that the case had not been heard or decided on its merits:
- (b) that the student is able to provide new evidence that could not reasonably have been provided at the time that the decision was made/penalty imposed;
- (c) that a procedural irregularity has occurred.

These are the only grounds of appeal that will be considered.

### **Lodgement of an Appeal**

A student who wishes to appeal against a decision/penalty detailed above shall lodge the appeal with the Office of the CEO in writing no later than *twenty (20)* working days after the notification of the decision/imposition of the penalty.

The written appeal must:

- (a) state the grounds on which the appeal is made;
- (b) detail and, where appropriate, provide evidence relevant to the grounds for appeal. A copy of documentary evidence referred to in the letter of appeal must be attached if available.

### **Student Misconduct Appeals**

Appeals shall be heard by the CEO.

### **Record Keeping**

Program Leaders are expected to maintain appropriate records on file.

In addition to ensure that penalties are imposed in a consistent manner, the Director of Corporate and Student Services (or nominee) shall maintain a precedents file and advise the relevant committee of the penalties imposed in similar cases, should such cases have been resolved in the past.

### **Legal Obligation**

This procedure has been developed to reflect the requirements and obligations of WAI towards staff and students under State and Federal legislation including:

- Victorian Equal Opportunity Act 1995 (Vic)
- Freedom of information Act 1982 (Vic)
- Occupational Health and Safety Act 2004 (Vic)
- Human Rights and Equal Opportunity Commission Act 1986 (Cwlth)
- Racial Discrimination Act 1975 (Cwlth)
- Sex Discrimination Act 1984 (Cwlth)

- Ombudsman Act 1973 (Vic)
- Educational Services for Overseas Students Act 2007 (ESOS Act 2007)
- National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students (National Code)
- Migration Act 1958
- Migration Regulations 1994
- Victorian Registration relevant to the education of overseas students.