

NON-ACADEMIC MISCONDUCT POLICY

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Date of Next Review	13 May 2020	
Approved by	Executive Committee	13 May 2008
Responsible Person	National Manager of Student Experience	
Related Documents	Principles of Procedural Fairness Policy, Non-Academic Grievances, Complaints and Appeals Policy and Procedure, Student Code of Conduct, Privacy of Student Personal Information Policy, Cultural Awareness Policy, Student Welfare and Support Policy, Awards Issuance Policy, Revocation of Awards Rule.	
References and Legislation	Tertiary Education Quality and Standards (TEQSA) Act 2011 (Cth); Higher Education Standards Framework (Threshold Standards) 2015; Education Services for Overseas Students Act 2000 (Cth); Education Services for Overseas Students Regulations 2001; National Vocational Education and Training Regulator Act 2011; Migration Act 1958 (Cth); National Code of Practice for Providers of Education and Training to Overseas Students 2018; the Higher Education Support Act 2003 (Cth); Privacy Act 1988 (Cth)	

1. Purpose:

The purpose of this policy is to define the actions and behaviours that constitute non-academic misconduct at the College, to describe the penalties available for students who engage in non-academic misconduct, and to describe the procedures relating to allegations of non-academic misconduct.

2. Scope:

This policy applies to all students of the College.

3. Definitions:

Term	Definition
<i>Academic staff / teaching staff</i>	Permanent and casual employees engaged in teaching and assessment of courses at the institution.
<i>College (the)</i>	The Australian College of Applied Psychology (ACAP).
<i>Discontinuation of enrolment (also referred to as termination, exclusion or cancellation)</i>	A forced cessation of enrolment for a specified minimum or maximum period due to the decision of a panel convened to examine a matter of academic or non-academic misconduct or convened to examine the failure to meet a core requirement of a course or other serious matters. A student whose enrolment has been discontinued will need to re-apply for admission to the College.
<i>Formal warning</i>	A formal advice of non-academic misconduct which is recorded on the student file. As the name suggests, the Formal Warning contains a warning that there will be more severe consequences should misconduct continue.

Term	Definition
<i>International student/ Overseas student</i>	A student required to hold a student visa for study in Australia.
<i>Reprimand</i>	An informal advice of non-academic misconduct having been committed that is not recorded on the student's file. It is usually issued when the person making the determination, having taken into account the factors listed in the policy, is satisfied that there was no intent on the part of the student involved or the nature or seriousness of the non-academic misconduct is such that it does not warrant a formal warning or the convening of a Student Non-Academic Misconduct Panel.
<i>Support person</i>	Family member, friend, colleague, interpreter or other non-legal support person.
<i>Suspension</i>	A temporary interruption in the continuation of enrolment. The student's place at the College is held open.
<i>Unit</i>	A unit of study in a higher education course or a unit of study, module and/or unit of competency in a vocational education and training course.

4. Policy:

4.1 The College is committed to creating a safe and supportive environment which empowers, encourages and promotes the personal and professional development of students.

The College expects that students, as members of a community of learning, will conduct themselves in a manner which:

- allows all members of the College reasonable freedom to pursue their activities safely and without unreasonable disruption or discrimination
- is fair, honest and consistent with the principles of academic integrity
- ensures that the College facilities, property and services are used appropriately
- promotes an environment of mutual respect between all students and staff of the College
- is consistent with the College's Student Code of Conduct.

Student non-academic misconduct as set out in this policy will not be tolerated. Students must not engage in non-academic misconduct. If a student is found to have engaged in non-academic misconduct, they will be subject to the penalties imposed according to this policy.

4.2 Definition of non-academic misconduct

Student non-academic misconduct is the unacceptable or improper behaviour on the part of a student. It can occur as a single instance, a number of instances or in a pattern of behaviour and is not limited to campus or an online class space but includes physical and virtual private and public spaces such as the internet and social media.

Non-academic misconduct includes but is not limited to the following behaviour:

- acting in a way that jeopardises the safety of other students, staff, visitors, and other members of the College community including clients and staff at placement organisations
- assaulting, causing or attempting to cause physical harm or psychological harm to another student, College staff or any other person at the College
- harassing, sexually harassing, vilifying, bullying, intimidating, or encouraging any such behaviour, either directly, in class, on campus, in other locations, online in any forum or media, including but

not limited to print, internet, social media, email, digital or electronic communications and broadcasting forums

- abusing, using abusive language or acting aggressively towards other students, staff or members of the College community directly, in class, on campus, in other locations and online in any forum or media, including but not limited to print, internet, social media, email, sms digital or electronic communications and broadcasting forums
- discriminating against other students or staff including but not limited to discrimination in relation to race, ethnic or national origin, gender, marital status, sexual preference, disability, age, political conviction or religious belief
- hindering or disrupting study or work of students and staff either directly, or indirectly, for example, by being disorderly or creating a disturbance
- deliberately, negligently or unlawfully accessing, using or disclosing information of or about other students, staff, clients and/or patients including while on placement; breach confidentiality or privacy requirements or obligations in respect of the College or its staff, students or other relevant parties
- engaging in behaviour that unfairly advantages or disadvantages other students
- damaging College facilities or property, or unlawfully impeding access to College facilities either deliberately or through negligence
- misusing IT resources or using IT resources in a manner which is inconsistent with the acceptable use of IT resources for the purposes of study
- using College libraries, computer laboratories or other learning support resources and facilities in a manner which is inconsistent with any condition for use of the facility or resource which has been notified to students
- harming the reputation of the College
- impersonating another student, or arranging for anyone to impersonate a student, in an examination, assessment task, an assessment requirement or in any other College related activity;
- making a false or fraudulent representation, or submit falsified or fraudulent information or documentation to the College,
- engaging in offensive behaviour, consuming illicit drugs and/or alcohol or engaging in any unlawful activity on the College campuses or areas related to the College such as placement organisations, internships and student exchange programs
- attending an academic activity including placement, adversely affected by alcohol or other drugs impacting on the safety or performance of other students and/or other members of the College community
- breaching any laws in undertaking any College activity, including criminal law and laws relating to copyright, discrimination, harassment and defamation
- breaching any policy of the College which applies to students
- using the College's name, logo, trade mark, seal or other symbol without permission of the Director of Student Services
- using any other name, logo, trade mark, seal or symbol which so closely resembles the College's as to be likely to deceive

4.3 Penalties

The penalty, if applied for non-academic misconduct, will be determined by the type and severity of the non-academic misconduct. The penalty which may be applied may include (but is not limited to) one or more of the following:

- revocation of an academic award conferred by the College where the award is the result, or partly the result, of non-academic fraud or serious non-academic misconduct committed by the student before the award was conferred
- withholding of graduation entitlement for non-academic misconduct matters as set out in the College's Awards Issuance Policy
- withdrawal of a recommendation to the Board of Directors that a student has satisfied the requirements for an award

- discontinuation of enrolment from the College for either a specified period or permanently
- suspension of enrolment from a unit, course or the College for a specified period
- suspension or discontinuation of enrolment in student placement
- withholding of academic results or official academic records
- imposing conditions on enrolment and/or participation in specified units for a specified period
- exclusion from attendance at specified classes for a specified period
- exclusion from and prohibition from use of specified facilities and / or resources of the College for a specified period
- a formal warning
- a reprimand.

4.4 Exclusion from facilities and/or participation in activities

The General Manager (or delegate) of the College may exclude a student from facilities and/or participation in activities, including student placement, under this policy when the student has committed an act of non-academic misconduct and when an immediate action may be required. All instances of immediate exclusion need to be reported to the National Manager of Student Services' office.

5 Procedures

5.1 Procedural fairness

The implementation of the procedures in this policy including, the procedures of the Student Non-Academic Misconduct Panel, will be conducted in accordance with the College's policy Principles of Procedural Fairness.

5.2 Procedures related to cases of non-academic misconduct

The following section outlines the procedures for making allegations of non-academic misconduct and the process to be followed in dealing with cases of non-academic misconduct.

- i. Allegations of non-academic misconduct with supporting evidence may be brought by College staff, educators, students or external persons and should be made to the Chief Executive Officer, or the Director of Student Services, or the respective Campus Manager or the respective Associate Dean.
- ii. All allegations with evidence must be forwarded to the Director of Operations Office within 5 working days of receipt.
- iii. The Director of Student Services will then seek the approval of the Chief Executive Officer to appoint an Investigating Officer.
- iv. An allegation of student non-academic misconduct must specify each individual act of alleged non-academic misconduct.
- v. The Investigating Officer will gather and consider evidence in the matter. This may involve contacting the person or persons making the allegation or allegations, any witnesses to the alleged non-academic misconduct and the student against whom the allegation or allegations have been made.
- vi. If the investigating officer is of the view that the allegations merit further investigation, the student involved will be contacted, informed of the allegations in detail and in writing, and asked to respond. The response will be taken into account in any further deliberations and will be treated without bias.
- vii. The Investigating Officer will prepare a report on the findings and submit it to the Director of Student Services.
- viii. Based on the information contained in the report the Director of Student Services will determine whether to:

- a. dismiss the allegation of non-academic misconduct in which case no action will be taken against the student and the complaint will not be kept on file; or
 - b. issue a reprimand in writing, which will not be recorded in the student file, or
 - c. issue a formal warning in writing, which will be recorded on the student file; or
 - d. Pursue the matter further and form a Student Non-Academic Misconduct Panel.
- ix. In general, the following factors are taken into account in the determination:
- a. the intent of the student
 - b. the nature and seriousness of the non-academic misconduct
 - c. any previous record of non-academic misconduct by the student
 - d. any admission of non-academic misconduct by the student

5.3 Student Non-Academic Misconduct Panel

The Student Non-Academic Misconduct Panel will be comprised of the Investigating Officer and two other relevant staff members. The panel will attempt to maintain gender balance and any conflict of interest must be avoided. The Panel Chair will be determined by the Panel and the Chair must ensure that all parties have a fair hearing and the student referred to in the matter is given an opportunity to respond.

The Panel will determine the action which will be taken by the College which may include the application of a requirement or penalty.

The student will be informed that a Panel is being formed to consider the matter and that he or she may address the Panel in person, by telephone, and/or may make a submission in writing. The student may be accompanied by a third party (family member, friend, colleague, interpreter or other non-legal support person) consistent with the College's Principles for Procedural Fairness.

The decision of the panel to apply a penalty will be determined by the intent of the student and the nature and severity of the non-academic misconduct. Penalties available to the panel are listed in this policy. Matters which may be taken into account in recommending or imposing a penalty in respect of instances of non-academic misconduct include but are not limited to:

- the intent of the student
- the nature and seriousness of the non-academic misconduct
- a student's previous record of non-academic misconduct
- any admission of non-academic misconduct by the student

The panel will make a recommendation to the General Manager for a final determination on the penalty applied.

The student will be informed of the outcome of the panel's deliberation in writing by letter attached to an email and posted by mail.

Where the panel has determined that a non-academic penalty is to be applied to the student, this notification will advise the student that he or she has 20 working days to access the College's internal grievances, complaints and appeal process, and that the suspension or discontinuation of the students enrolment will not take effect until the internal appeals process is completed unless extenuating circumstances relating to the welfare of the student apply.

If the student is an overseas student and a penalty of suspension or discontinuation has been applied, this notice will also advise the student that this penalty may affect their student visa and that College is required to notify the Department of Immigration and Border Protection (DIBP) via PRISMS of this decision as is required under section 19 of the ESOS Act. All relevant documentation relating

to the case including written appeal and evidences and including deliberations of the panel and details of any penalties handed down must be recorded and kept by the National Manager of Student Services' Office. Penalties, other than a reprimand, will be noted in the student file both electronic and hardcopy.

5.4 Responsibilities

The College has an obligation to:

- i. publish and promote its policies on non-academic misconduct to all academic staff and students
- ii. implement and apply its policies on non-academic misconduct consistently
- iii. use fair and well-publicised procedures for considering any cases where students are accused of non-academic misconduct
- iv. incorporate a program to inform students of conduct expected of students
- v. implement appeal processes consistent with the College Non-Academic Grievance, Complaints and Appeals Policy and Procedure.

5.5 Appeals

6. Document Management Control

Date	Summary of Changes	Author
1/01/2007	Initial approval	Director of Student Services
13/05/2008	Formal approval and minor amendments	Director of Student Services
17/01/2017	Formative review and redevelopment including policy template transition	Director of Student Services
30/06/2017	Administrative update to business and academic titles and roles	National Manager of Student Services
10/12/2018	Change of template	VET Compliance Manager