



STUDENT MISCONDUCT PROCEDURE

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

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1. PURPOSE

1.1 The Student Misconduct Procedure sets out the processes to be followed when dealing with instances of alleged student misconduct at Adelaide Institute of Higher Education (AIHE).

2. SCOPE

2.1 The Student Misconduct Procedure applies to all students and staff of AIHE, and students previously enrolled, not currently enrolled and students on leave of absence, where the event forming the basis of the misconduct allegation occurred while they were enrolled or is directly related to their enrolment or their admission to an AIHE course.

2.2 These procedures apply to academic misconduct where the matter has been referred for action under the Student Code of Conduct policy because the breach of academic integrity is repeated or significant, otherwise breaches of academic integrity are dealt with under the Academic Integrity Policy and related Procedure.

3. RESPONDING TO POTENTIAL STUDENT MISCONDUCT

3.1 An AIHE staff member who believes that a student has committed or may be committing student misconduct will first give the student reasonable directions:

- to ensure the safety of the student or of any other person;
- to prevent damage to or destruction of AIHE property or facilities;
- for the proper performance of the staff member's duties regarding the custody, maintenance or use of AIHE property or facilities;
- to ensure the orderly and proper conduct of any teaching or learning group; examination; event or ceremony of AIHE; and any meeting of Council or a board, committee or other body constituted pursuant to AIHE's policies and procedures; or
- for the maintenance of good order.

3.1.1 What is considered a 'reasonable direction' will depend on the situation.

3.2 In most cases where the staff member has reasonable grounds to believe that a student may be acting or may have acted contrary to the behavioural standards expected an 'educative response' will be appropriate.

3.2.1 An educative response may include informing the student of the standards expected, asking the student to desist and advising the student of the consequences of continued inappropriate behaviour.

3.3 In more serious situations, it may be appropriate for the staff member to temporarily withdraw permission for the student to participate in an AIHE activity, and/or to use or enter AIHE premises or facilities for a period not exceeding 48 hours, and it will be decided through staff discretion.

3.3.1 The temporary removal of a student should only be applied:

- in circumstances where the staff member has reasonable grounds to believe that a student has or may be committing student misconduct, and
- where it is considered necessary for the maintenance of good order (for example where the student's behaviour impedes the normal functioning of an activity or where the student's behaviour is perceived as a threat to the safety of people or property).

3.3.2 Specific examples of where temporary removal may be appropriate include, but are not limited to:

- a) continued disruption of an activity such as a lecture, tutorial, examination or field trip;
- b) behaviour contrary to the rules of use in the Library or Information Technology facilities; or
- c) vandalism or other anti-social behaviour in the premises of AIHE.

3.3.3 The temporary removal of a student under (a) above will generally only be imposed for the duration of the activity and in the case of conduct under (b) or (c) can be for a period of no greater than 48 hours.

3.3.4 Where a staff member temporarily removes a student, she or he must report the incident to the General Manager within 24 hours of the incident so that a central record can be made.

3.4 If a student's conduct causes any person to be concerned for their or another person's physical safety, that person should contact the Police and notify the General Manager.

3.5 If a staff member believes that, taking into consideration any relevant circumstances, the alleged misconduct suggests that the student may be at risk, they must refer the matter to the General Manager for consideration under the Critical Incident Policy.

3.5.1 Where a student is referred to the General Manager on this basis, the misconduct process will be suspended pending the outcome of the process described in the Critical Incident Procedure.

4. REPORTING ALLEGED STUDENT MISCONDUCT

4.1 Where a staff member believes that action taken in accordance with Section 3 above is inappropriate or insufficient to adequately address the alleged conduct, they must promptly report the matter to the General Manager or Head of School.

4.1.1 The sort of alleged misconduct that should be escalated includes, but is not limited to any potential student misconduct matter where an educative response would be insufficient or inappropriate to adequately deal with the alleged behaviour.

4.1.2 Generally, anything other than potential low-level/ minor misconduct should be escalated. Further, where a staff member is in any doubt, advice should be sought from the General Manager or Head of School.

5. PRELIMINARY FACT-FINDING AND CONSIDERATION OF THE ALLEGATION

5.1 Where the General Manager receives a report of alleged student misconduct they or the delegated Designated Officer should inform themselves as they see fit to decide as to whether the alleged conduct should either be:

- dismissed (for example, where it has already been adequately dealt with by the staff member making the report or where the allegation lacks merit);
- referred back to the staff member to be dealt with in an informal, educative manner;
- investigated by the General Manager (or delegated Investigating Officer); or
- referred to a Student Misconduct Board in serious cases.

5.2 This initial process may include undertaking some preliminary fact-finding if the Designated Officer does not believe that there is enough information.

5.3 The preliminary fact-finding process (if required) and the forming of a preliminary view regarding how the matter should be handled should take place quickly. Unless there are unusual circumstances, this process should take no longer than ten (10) business days.

6. DISMISSING THE ALLEGATION WHERE IT HAS BEEN ADEQUATELY DEALT WITH OR LACKS MERIT

6.1 If after informing her or himself as necessary, the Designated Officer is of the view that the alleged misconduct matter has been adequately dealt with by the staff member, or if they believe that the allegation has no merit, they may dismiss the allegation and take no further action. Circumstances where an allegation could be dismissed for having no merit include:

- where, in the opinion of the Designated Officer, the allegation is frivolous, vexatious, misconceived, lacks substance or is otherwise an abuse of AIHE processes;
- where the allegation, if proved, clearly would not constitute student misconduct; or
- where the person against whom the allegation is made is not a student.

7. ADDRESSING THE ALLEGED MISCONDUCT

7.1 Where a Designated Officer is of the view that the alleged misconduct may have occurred and that it requires further action, they must either:

- refer the matter back to the reporting staff member to address where the alleged misconduct is deemed to be low-level/ minor misconduct that warrants an informal, educative response; or
- investigate the alleged student misconduct in accordance with Section 14 of this Procedure, and where the student acknowledges or is found to have committed student misconduct, impose a sanction in accordance with Section 15 of this Procedure; or
- where, in the opinion of the Designated Officer, the alleged student misconduct is considered to be major misconduct, refer the matter to the Chairperson, Student Misconduct Board.

7.2 The Designated Officer may also take any other action that is reasonable in the circumstances.

8. TEMPORARY REMOVAL BY DESIGNATED OFFICER

8.1 Depending on the situation, other reasonable action may include temporarily withdrawing permission for the student to participate in AIHE activity, use or enter AIHE premises or facilities for a reasonable period, not exceeding one (1) week.

8.2 The temporary removal of a student by a Designated Officer should only be applied to circumstances where it is necessary for the maintenance of good order (for example where the student's behaviour impedes the normal functioning of an activity or where the student's behaviour is perceived as a threat to the safety of people or property).

8.3 Where a Designated Officer considers such action to be necessary, they should endeavour to impose the least restrictive period appropriate in all the circumstances. The Designated Officer must report the removal to the General Manager within two (2) business days so that a central record can be made.

9. REFERRAL TO THE STUDENT MISCONDUCT BOARD

9.1 Whether a matter is sufficiently serious to warrant a referral by a Designated Officer to the Chairperson, Student Misconduct Board will be a question of judgement. As a general guide, major misconduct matters include, but are not limited to:

- conduct, which if found to occur, would likely result in a sanction that only the Student Misconduct Board can impose (e.g. exclusion from AIHE);

- conduct which could be categorised as significant academic misconduct under the Academic Integrity Policy;
- serious behavioural issues which present a high risk to the AIHE community; or
- behaviour in breach of State and Commonwealth laws that is referred to the Police (e.g. drug taking on AIHE premises).

9.2 Referral to the Chairperson, Student Misconduct Board can be made by lodging a Student Misconduct referral form with the General Manager.

9.2.1 The referral form should clearly set out the following:

- the background to and details of the alleged misconduct;
- the specific type of misconduct that the student is alleged to have committed;
- the names of any witnesses and their contact details; and
- any supporting documentation that may be relevant to the investigation of the allegation(s). Depending on the nature of the allegation(s) supporting documentation could include, witness statements, written complaints and copies of relevant communication (e.g. emails).

10. INVESTIGATION BY DESIGNATED OFFICER

10.1 Where a Designated Officer investigates the alleged misconduct, rather than referring the matter to the Chairperson, Student Misconduct Board, they must follow the investigation process detailed in Section 14 of this Procedure.

10.2 The investigation process should commence as soon as practicable, and will generally mean no more than ten (10) business days after the matter was first referred to the Designated Officer.

10.3 Where the student admits the misconduct or, after investigation, is found to have committed misconduct, the Designated Officer may impose one or more of the appropriate penalties under Section 15 after considering all the circumstances of the case.

11. REFERRAL TO THE CHAIRPERSON, STUDENT MISCONDUCT BOARD

11.1 Once the Chairperson of the Board receives a report of alleged student misconduct, they may inform themselves as necessary to form a view as to whether the allegation has any merit. This may include seeking further information if the referral form does not contain sufficient information.

11.2 If, after forming a preliminary view, the Chairperson believes that the allegation has no merit, they may dismiss the allegation and take no further action. Circumstances where an allegation a matter could be dismissed for having no merit include:

- where, in the opinion of the Chairperson, the allegation is frivolous, vexatious, misconceived, lacks substance or is otherwise an abuse of AIHE processes;
- where the allegation, if proved, clearly would not constitute student misconduct or significant academic misconduct; or
- where the person against whom the allegation is made is not a student.

11.3 If the Chairperson dismisses an allegation on the basis it has no merit, they must notify the student and the Designated Officer of their decision and the reasons for it.

11.4 If the Chairperson, Student Misconduct Board is of the view that the alleged misconduct may have occurred, the Chairperson must convene the Student Misconduct Board to investigate allegation(s) of student misconduct.

11.5 The Student Misconduct Board must not include anyone who has, or may be perceived to have, a bias or conflict of interest in the matter. A bias or a conflict of interest may include, but is not limited to:

- anyone who has been involved in, or associated with, (or alleged to be involved in, or associated with) the circumstances relating to the alleged misconduct;
- anyone who has, or have in the past had, a close association with:
 - the student who is the subject of the allegation;
 - any person who made the allegation; or
 - a close relative of either.

11.6 When appointing the two other members to the Student Misconduct Board, the Head of School and Chairperson should ensure that where the matter involves alleged academic misconduct, that at least one member is a senior academic member of staff.

12. TEMPORARY REMOVAL PENDING COMPLETION OF PROCESS

12.1 The Chairperson, Student Misconduct Board may also take any other action that is reasonable in the circumstances. This may include withdrawing permission for the student to participate in AIHE activity, use of or entrance to AIHE premises or facilities or services, pending the completion of the investigation process and notification of the decision.

12.2 The temporary removal of a student from all or part of AIHE activity pending the outcome of the misconduct process should only be applied to circumstances where it is necessary for the maintenance of good order (for example where the student's behaviour impedes the normal functioning of an activity or where the student's behaviour is perceived as a threat to the safety of people or property).

12.3 Where the Chairperson, Student Misconduct Board considers such action to be necessary, they should endeavour to impose the least restrictive period appropriate in all the circumstances.

13. INVESTIGATION BY STUDENT MISCONDUCT BOARD

13.1 Once the Chairperson, Student Misconduct Board determines to investigate alleged student misconduct, the Student Misconduct Board must follow the investigation process outlined in Section 14 of this Procedure.

13.1.1 The investigation process should commence as soon as practicable and generally no more than ten (10) business days after the matter was first referred.

13.2 Where the student admits the misconduct, or, after the investigation, is found to have committed misconduct, the Student Misconduct Board will impose one or more of the appropriate sanctions under Section 15 of this Procedure.

14. THE INVESTIGATION PROCESS

14.1 Commencing the investigation process

14.1.1 Prior to the investigation meeting, the Designated Officer or Secretary, Student Misconduct Board will provide the student with written notice, including:

- details of the alleged student misconduct;
- copies of any documents in their possession that may be relied upon when deciding;
- the date, time and location of the investigation meeting;

- information regarding the student's right to be either heard orally or by submitting a written response; and
- information regarding their right to be accompanied by a support person and/or student advocate.

14.1.2 Where a student is located overseas or where it would be inappropriate for them to attend in person, efforts should be made to enable the student to appear by video or other telecommunication device.

14.2 Conducting the investigation

14.2.1 Where practicable, the student should be provided with at least ten (10) business days' notice of the investigation meeting.

14.2.2 The Designated Officer or Student Misconduct Board in conducting the investigation will:

- act fairly and impartially;
- inform themselves as they think fit;
- make all enquiries they believe to be relevant;
- not be bound by legal rules of evidence, technicalities or legal forms.

'Acting fairly and impartially' will include giving the student an opportunity to comment on any documents or statements that are likely to be relied upon by the decision maker(s) in reaching their decision, before the decision is made.

'Making all enquires considered to be relevant,' will generally include reviewing statements from and/or speaking to the person who initially reported the student misconduct as well as other relevant witnesses and the student concerned. It will also include reviewing any relevant documents and, in complex cases, it may also include seeking an investigation report from a suitably qualified person or people.

14.3 Decision

14.3.1 When the investigation is complete, the Designated Officer or Student Misconduct Board will decide as to whether they are persuaded that the allegation of general misconduct and/or academic misconduct is either substantiated or not.

14.3.2 If the student acknowledges the alleged behaviour or if the Designated Officer or Student Misconduct Board finds that there has been student misconduct, they may impose one or more of the sanctions set out in Section 15 of this Procedure.

14.3.3 In making a decision as to which sanction(s) may be appropriate, the Designated Officer or Student Misconduct Board should take into account all the circumstances of the case (for example, early acknowledgement of wrong-doing and/or genuine remorse) and endeavour to choose the least restrictive sanction that is appropriate in all the circumstances. Where the Student Misconduct Board is considering suspending a student, they should consider any time that the student may have been directed to spend away from AIHE throughout the disciplinary process.

14.3.4 The sanction will not come into effect until the expiration of the appeal period, or where an appeal is lodged, until the appeal process has run its course.

14.3.5 Nonetheless, the Student Misconduct Board may make any interim directions they believe may be necessary for the maintenance of good order. For instance, where a decision is made to exclude a student for dangerous behaviour, the Student Misconduct Board may direct that the student not participate in any AIHE activity or use or enter AIHE

premises or facilities until the appeal period or, where an appeal is lodged, the appeal process has run its course.

14.3.6 In the case of international students, the Secretary, Student Misconduct Board must notify the General Manager to ensure that the ESOS requirements are adhered to.

14.4 Notice of decision to student

14.4.1 The decision should be in writing and sent to the student via his or her last known postal and/or email address. The notice should be served to the email address nominated by the student, where this has occurred.

14.4.2 The student must be informed of the outcome of the investigation decision within five (5) business days of the decision being made.

14.4.3 Where a decision is made that the allegation of student misconduct is substantiated, the student must also be informed of:

- the sanction to be imposed;
- the reasons for the decision, including the findings on material facts; and
- their right to appeal in accordance with the Student Grievances, Complaints and Appeals Policy and the time within which an appeal may be made (i.e. twenty (20) business days from the date the student is sent the decision).

15. SANCTIONS

15.1 Sanctions for student misconduct – Designated Officer

15.1.1 Where a student is found to have committed less serious non-academic student misconduct, one or more of the following sanctions may be imposed by a Designated Officer after taking into account all the circumstances of the case:

- reprimanding and/or cautioning the student;
- a restorative sanction that is appropriate and proportionate in all the circumstances;
- requiring the student to refrain from contact with specified person/s;
- restricting or denying access to some or all the AIHE premises, facilities, services or activities for a period of up to one month;
- requiring the payment for the cost of the damage, or a contribution towards the cost of the damage, caused by the misconduct.

15.2 Sanctions for student misconduct – Student Misconduct Board

15.2.1 Where a student is found to have committed serious non-academic student misconduct, the Student Misconduct Board may impose one or more of the following sanctions after taking into account all the circumstances of the case:

- reprimanding and/or cautioning the student;
- a restorative sanction that is appropriate and proportionate in all the circumstances;
- requiring the student to refrain from contact with specified person/s;
- restricting or denying access to some or all AIHE premises, facilities, services or activities for a period of up to one (1) month;
- requiring the payment for the cost of the damage, or a contribution towards the cost of the damage, caused by the misconduct;
- imposing a condition on enrolment in the subject or course;
- suspension from a subject or a course;
- suspension from AIHE or

- exclusion from the AIHE.

15.3 Sanctions for student academic misconduct – Student Misconduct Board

15.3.1 Where a student is found to have committed significant academic misconduct, one or more of the following sanctions may be imposed by the Student Misconduct Board:

- reprimanding and/or cautioning the student;
- recording a failure or zero mark or result or other appropriate mark or result for all or any part of an assessment task;
- requiring the student to repeat an assessment task;
- requiring the student to refrain from association with specified person/s for the purposes of study or assessment;
- requiring resubmission of one or more assessment tasks;
- requiring a student to undertake alternative assessment for the subject on terms determined by the Student Misconduct Board;
- suspending the student from a subject or a course;
- requiring a retraction or correction of an article;
- recommending to Council or nominee that the award not be made;
- suspension from AIHE;
- termination of enrolment; and
- recommending to Council that the award be revoked in accordance with the Academic Progress, Enrolment and Graduation Policy.

16. STUDENT RECORDS AND GENERAL REPORTING

16.1 The decision of an investigation by the Designated Officer or Student Misconduct Board will be recorded on the student's file and stored in accordance with the Records Management Policy and related Procedure. Aggregated and de-identified data may also be used to support AIHE's monitoring, reporting and continuous improvement processes with respect to student services.

17. DEFINITIONS

17.1 See the AIHE Glossary of Terms for definitions.

Document Control

Version #	Date	Key changes
1.0	23/2/2018	Original procedure approved by General Manager
1.1	15/4/2019	Reviewed; minor update to position title