

# Student Misconduct Procedure

## 1. Purpose

UNSW College is committed to delivering a high standard of education that enables all students to achieve their full academic potential.

To assist in meeting this commitment, all members of UNSW College community are required to conduct themselves in a manner that aligns with this objective and supports the responsibilities and standards of behaviour expected of students and outlined in the [Student Code of Conduct](#) (Student Code).

Students who breach the Student Code will be subject to the disciplinary action outlined in this [Student Misconduct Policy](#) and [Student Misconduct Procedure](#).

## 2. Scope

This Procedure applies to:

- (a) all enrolled students and their activities undertaken within UNSW College or with members of the UNSW College community;
- (b) former students, students not currently enrolled, and students previously enrolled where the behaviour in question occurred whilst a member of the UNSW College community; and
- (c) enrolled students where the relevant conduct directly relates to enrolment or admission to a UNSW College program.

## 3. Forms of Student Misconduct

- (a) Breaches of the Student Code fall into one of two categories, academic or non-academic.
- (b) If the breach is one of academic misconduct, students will be subject to disciplinary action in accordance with the [Academic Integrity Policy](#) and [Academic Integrity Procedure](#), which includes referral to the [Student Misconduct Policy](#) when a 'Serious Breach', as referenced in 8.4 of the [Academic Integrity Policy](#), is identified.
- (c) If non-academic misconduct, the alleged breach is managed in accordance with the [Student Misconduct Policy](#) and [Student Misconduct Procedure](#).

## 4. Reporting student misconduct

- (a) Any person may report a student for possible misconduct. This means any staff member, student or a member of the public.

If the matter relates to academic misconduct, the matter should be reported in accordance with the [Academic Integrity Policy](#) and the [Academic Integrity](#)

Procedure. Academic misconduct is any behaviour or attempted behaviour that may result in an unfair academic advantage to one or more students.

- (b) Otherwise, the report is made to [studentmisconduct@unswcollege.edu.au](mailto:studentmisconduct@unswcollege.edu.au) and will be referred to one of the Decision Makers in Section 8 of this Procedure.
- (c) The allegation of misconduct must:
  - i. provide details of the alleged misconduct, including the name(s) of the student(s) who are alleged to be involved; and
  - ii. if possible, cite the relevant section(s) of the [Student Code of Conduct](#) that are alleged to have been breached.

## 5. Factors considered in determining the seriousness of a breach

- (a) The following factors may be considered in determining the seriousness of a breach of the [Student Code of Conduct](#):
  - i. the extent of deviation from expected behaviour;
  - ii. the extent to which members of the UNSW College community, UNSW College resources, external parties, and / or the integrity of UNSW College courses or programs are or may have been adversely affected by the breach;
  - iii. any prior breaches of the Student Code by the student;
  - iv. the student's level of academic experience at UNSW College;
  - v. whether any institutional failures contributed to the breach;
  - vi. any mitigating or aggravating circumstances.

## 6. Managing reports of student misconduct

### 6.1 Initial steps relating to a report

- (a) On the basis of the information provided, the Decision Maker (DM) or their nominee – see Section 8 of this Procedure – will assess if the alleged breach of the Student Code falls within the scope of this Procedure. Further information may be sought from relevant parties to complete this initial assessment.
- (b) If the matter does *not* fall within the scope of this Procedure, the DM may refer it to an alternative UNSW College process, to another institution or organisation to be resolved or alternatively, dismiss the matter.
- (c) If determined that the matter constitutes a breach of the Student Code as described in Section 3, an assessment is undertaken to determine whether immediate intervention is warranted to prevent or minimise an imminent and serious threat from a student in relation to:
  - i. the safety or well-being of any member of the UNSW College community, or

- ii. the proper functioning of any UNSW College activity or damage to its resources.
- (d) If it is determined that the threat is serious, with potential impacts being those in (c) i. or ii., the student may be suspended from UNSW College campus immediately, initially for a period not exceeding twenty (20) working days while an investigation is undertaken. Such a suspension can only be authorised by the UNSW College Chief Executive Officer or Chief Academic Officer. The student(s) will be notified in writing by either the UNSW College Chief Executive Officer or Chief Academic Officer of the interim suspension until finalisation of the investigation.
- (e) If it is determined that the matter does constitute a breach of the Student Code, but there is no immediate or imminent threat to UNSW College or its community, an investigation is undertaken while the student continues their studies.

## **6.2 Investigation of a breach of the Student Code**

- (a) The purpose of the investigation is to make findings of fact, enabling the DM or their nominee to assess if a breach of the Student Code has occurred, the extent of the breach and any further action required.
- (b) In conducting the investigation, the DM or their nominee will provide the student with a written statement of allegations and invite them to admit or deny the allegations in whole or part within ten (10) working days of receiving the notice of alleged breach of the Student Code.
- (c) The DM or their nominee may also:
  - i. invite the student to a meeting to discuss the allegations made and offer the student the opportunity to respond in person, supported by a written statement. The student may bring a support person to such a meeting;
  - ii. contact other parties to gather relevant information;
  - iii. consider whether expert advice is required and seek such advice if necessary;
  - iv. consider if additional allegations or concerns should be raised with the student;
  - v. consider notifying other parties or institutions in accordance with relevant legislative provisions, agreements and misconduct policies and/or rules.
- (d) If the student declines or fails to respond to the allegations, either at a meeting or in writing, the process will proceed directly to the penalty recommendation stage.

## **7. Penalty recommendation**

- (a) On completion of the investigation and receipt of the student's submission, the DM or their nominee will prepare a report which includes:

- i. a summary of the allegations and the process undertaken to investigate the allegations;
  - ii. an evaluation of the facts, documents and information gathered, including the responses, if any, received from the student;
  - iii. a determination on the outcome of the investigation; and
  - iv. recommended actions, which may include dismissal of the allegations.
- (b) The report and recommendation are to be submitted to the Student Misconduct Committee within ten (10) working days of receipt of the student’s response to the allegations (or, in the event that the student fails to respond to the allegations, within 10 working days of the deadline for the student’s response).
- (c) The Student Misconduct Committee will then determine the penalties if any, that will apply.
- (d) The student will be advised of the outcome within twenty (20) working days of receipt of the student’s response to the allegations (or, in the event that the student fails to respond to the allegations, within 20 working days of the deadline for the student’s response).

## 8. Decision makers

The decision makers who submit the report and make a recommendation to the Student Misconduct Committee on completion of the investigation are as follows:

Misconduct Category	Decision Maker responsible for recommendation
Academic matter	Nominee of Executive Director, Academic
College resources or facilities	Chief of Staff or nominee
Discrimination, harassment, bullying	Head of HR or nominee
Financial matters	Chief Finance Officer or nominee
Admissions Matters	Nominee of Executive Head, Marketing, Student Recruitment and Admissions
IT Matters	Head of IT
Other	CEO or nominee

## 9. Penalties

- (a) The following factors are taken into account when determining the penalty imposed:
- i. any previous findings of misconduct and the penalties imposed;

- ii. the year or level of study of the student;
  - iii. the severity of the breach;
  - iv. any intention or deliberation on the part of the student;
  - v. any personal health, family or other factors that are found to have contributed to the misconduct;
  - vi. other matters considered relevant in the circumstances.
- (b) Available penalties include:
- i. a formal reprimand or warning;
  - ii. remedial educative action;
  - iii. probationary enrolment, with continuation of enrolment subject to specific conditions and/or the future good behaviour of the student;
  - iv. rescinding a passing grade already awarded to the student;
  - v. a requirement that the student pay compensation equal to the cost of restoring or replacing an item;
  - vi. review of eligibility for admission and any credit already granted;
  - vii. revocation of an award;
  - viii. suspension from UNSW College;
  - ix. exclusion from UNSW College, either permanently or for a specific period of time

## 10. Outcome advice to student

- (a) The student is advised in writing of the investigation outcome, within twenty (20) working days of receipt of the student's response to the allegations ((or, in the event that the student fails to respond to the allegations, within 20 working days of the deadline for the student's response).
- (b) The student advice will include a summary of the allegations, the investigation process subsequently undertaken, the outcome of the investigation, the penalty, if any, to be applied and the appeal process if the student seeks such an action.

## 11. Review and appeal process

- (a) A student has the right to appeal the determination made in regard to the allegations of student misconduct, through the [Student Review and Appeals Policy](#) and [Student Review and Appeals Procedure](#).
- (b) Appeals may only be validly made on the grounds of lack of procedural fairness, not on the merits of the decision.
- (c) Any appeal must be submitted by email to the UNSW College Student Appeals Committee ([appeals@unswcollege.edu.au](mailto:appeals@unswcollege.edu.au)) on the [Request to Appeal Form](#) within

twenty (20) working days of the notification regarding the outcome of the student misconduct investigation.

## 12. Record keeping

- (a) Records of all misconduct proceedings and reports are retained and recorded in the Student Misconduct Register.
- (b) An annual report on trends and emerging issues will be provided twice a year as follows:
  - i. Academic Board for academic matters; and
  - ii. UNSW College Executive for non-academic matters.

## 13. Privacy and Confidentiality

### 13.1 Confidentiality

- (a) Information and records collected during the processes outlined will be kept confidential and handled in accordance with the College's [Privacy Policy](#).
- (b) Access to information will be restricted to staff of the College, UNSW or their service providers who are directly involved in the process or for whom access and use is necessary to enable proper investigation and resolution of the matter.

### 13.2 Disclosure to third parties

- (a) The College will not disclose a student's personal information to third parties during the review and appeal process, except in circumstances contemplated in the College [Privacy Policy](#) (such as where the student has given their consent, or the College is required or authorised to do so by law).
- (b) In certain circumstances, UNSW will be under a legal obligation to report information provided by a student, or in connection with an appeal, to the police, a government department or other public body.

## 14. Roles and responsibilities

Role	Responsibility
Student Misconduct Committee	Determines outcomes/penalties in relation to student misconduct
Student Appeals Committee	Impartial consideration of academic and non-academic appeals

## 15. Definitions

Definitions and Acronyms	
Academic misconduct	Any behaviour or attempted behaviour that may result in an unfair academic advantage to one or more students.
DM	Decision Maker – See Section 8
Exclusion	Cancellation (either permanently or for a specified period) of the enrolment of a student. During the period of exclusion, a student is not permitted to undertake study in any College program. There is no automatic right of re-admission.
Student Code of Conduct	Outlines College responsibilities and the standard of conduct expected of all students as members of the UNSW College community.
Student Misconduct	A failure by a student to meet one or more of the responsibilities articulated in the Student Code of Conduct.
Suspension	Forced, temporary leave from the College with an automatic right of re-entry after eight months (two terms) have elapsed. A student's enrolment will be cancelled during that time and the student is not permitted to undertake study in any College program during the period of suspension.

Related Policy Documents and Supporting Documents	
Legislation	<ul style="list-style-type: none"> <li>• <a href="#"><u>Education Services for Overseas Student Act 2000 (Cth)</u></a></li> <li>• <a href="#"><u>National Code of Practice for Providers of Education and Training to Overseas Students 2018</u></a></li> <li>• <a href="#"><u>Higher Education Standards Framework (Threshold Standards) 2021</u></a></li> <li>• <a href="#"><u>Privacy Act 1988 (Cth)</u></a></li> </ul>
Policy	<ul style="list-style-type: none"> <li>• <a href="#"><u>Admissions Policy</u></a></li> <li>• <a href="#"><u>Privacy Policy</u></a></li> <li>• <a href="#"><u>Equity Diversity and Inclusion Policy</u></a></li> <li>• <a href="#"><u>Student Code of Conduct</u></a></li> <li>• <a href="#"><u>Academic Integrity Policy</u></a></li> <li>• <a href="#"><u>Student Misconduct Policy</u></a></li> <li>• <a href="#"><u>Student Review and Appeal Policy</u></a></li> <li>• <a href="#"><u>Student Grievances and Complaints Policy</u></a></li> </ul>
Procedures	<ul style="list-style-type: none"> <li>• <a href="#"><u>Student Grievances and Complaints Procedure</u></a></li> <li>• <a href="#"><u>Academic Integrity Procedure</u></a></li> <li>• <a href="#"><u>Student Review and Appeal Procedure</u></a></li> </ul>
Forms and Registers	<ul style="list-style-type: none"> <li>• <a href="#"><u>Request to Appeal Form</u></a></li> <li>• <a href="#"><u>Student Misconduct Register</u></a></li> </ul>

## 16. Procedure Governance

Student Misconduct Procedure	
Category/Business Group	Legal and Compliance
Published Externally (Yes/No)	Yes
Approver	Chief Executive Officer
Responsible Officer	Executive Director, Students
Contact Officer	Compliance Manager
Effective Date	17/08/2023
Next Review Date	17/08/2026
Version	1.0

### Revision History

Version	Approved by	Approval date	Effective date	Sections modified
1	Executive Director Student Life and Academic Services – Jacqueline Clements	15 August 2023	17 August 2023	N/A

Please visit our website to ensure that you have the latest version of this Procedure. Policies and procedures are available at: [unswcollege.edu.au/about/policies](https://unswcollege.edu.au/about/policies)