



### Student Misconduct Policy

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<b>Responsible Officer</b>	General Manager, Services
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### Policy Approval

<b>Approver</b>	<b>Responsible Officer</b>	<b>Policy Officer</b>
Laurie Pearcey	Vicki Drewe	Hayley Alderton
Date: 9/11/2020	Date: 2/10/2020	Date: 6/11/2020

### UNSW College

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## 1 Background

UNSW College is committed to delivering a high standard of education and training services which enables all students to achieve their full academic potential. To help meet this commitment, UNSW College requires that all students (both domestic and international) maintain a standard of conduct that is consistent with this objective.

As a wholly owned enterprise of UNSW Sydney, UNSW College adopts the principles of UNSW Sydney's Student Code (*the Code*). Consequently, the standard of conduct set out in the Code shall apply to all UNSW College students. A copy of the Code can be found on UNSW Sydney's website.

As the Code is a UNSW Sydney document it makes reference to UNSW procedures and contact persons. For UNSW College students, the processes and contact details set out in this Policy shall apply for the purpose of:

- (a) implementing the principles set out in the Code; and
- (b) dealing with instances of student misconduct.

## 2 Purpose

This policy describes how UNSW College deals with allegations of student misconduct.

## 3 Scope

The following persons are covered by this policy:

- (a) all UNSW College students, which includes students previously enrolled, not currently enrolled and students on program leave, where the event forming the basis of the complaint occurred while they were enrolled or is directly related to their enrolment;
- (b) UNSW College, its employees and contractors; and
- (c) any third party providing services on UNSW College's behalf.

This policy does not apply to Diploma students – please refer to UNSW Sydney's policy framework.

This policy applies to all student conduct which takes place in the course of, or is related to, study or enrolment at UNSW College. It applies only to conduct which occurs no more than one year prior to the making of the allegation. This policy does not preclude UNSW College from instituting civil or criminal proceedings.

## 4 Definitions

**Academic Misconduct** means behaviour or conduct undertaken to obtain an academic advantage, including for another person, to which the student or the other person is not legitimately entitled. It includes, but is not limited to, the misconduct identified in section 0.

**Appeals Committee** means the Appeals Committee reporting to UNSW College's CEO.

**Bullying** means behaving unreasonably towards another person in a manner which creates a risk to the health, wellbeing and/or safety of such person. Intimidating, threatening or humiliating another person is considered bullying under this Policy.

**Compliance Committee** means the legal, governance and compliance committee reporting to UNSW College's CEO.

**Exclusion** means the permanent cancellation of a student's enrolment and termination of all rights and privileges as a student of UNSW College, including the right to re-enrol as a student and the right to enter UNSW College and UNSW Sydney property.

**Harassment** means conduct which causes someone to feel intimidated, insulted or humiliated because of their race, colour, national or ethnic origin; sex; disability; or sexual orientation.

**Non-Academic Misconduct** all student misconduct other than Academic Misconduct and includes, but is not limited to, the forms of misconduct referred to in section 5.1.

**Plagiarism** means using the words or ideas of others and passing them off as your own.

**Probation** means a defined period of time during which any finding of misconduct in accordance with this Policy will result in Exclusion.

**Student Misconduct Register** means the centrally held register where findings of student misconduct are recorded.

**Suspension** means the withdrawal of all rights and privileges as a student of UNSW College, including the right to enter UNSW College and UNSW Sydney property, for a defined period of time.

**UNSW Sydney** means the University of New South Wales.

## 5 Policy Statement

UNSW College is committed to procedural fairness and handles allegations of student misconduct in a manner that is fair, clear and consistent. The principles of the Code apply to the processes set out in this policy.

Student misconduct is divided into two categories: Non-Academic Misconduct and Academic Misconduct. It is not possible to cover every circumstance and situation in this policy. If a circumstance or situation arises which is not expressly covered by this policy, individuals are expected to act in accordance with the underlying principles of this Policy and the Code.

### 5.1 Non-Academic Misconduct

The appropriate penalties or outcomes are determined according to the form and circumstances of the misconduct. The severity of the penalties or outcomes imposed will correspond to the seriousness of the misconduct, as set out in the table below.

Non-Academic Misconduct	
Forms of misconduct:	Potential penalties or outcomes:
<ul style="list-style-type: none"><li>misconduct in relation to or misuse of UNSW College or UNSW Sydney property</li><li>misconduct in relation to or misuse of email</li></ul>	<ul style="list-style-type: none"><li>formal reprimand or formal warning</li><li>remedial educative action</li><li>withdrawal of access to UNSW College and/or</li></ul>

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## Non-Academic Misconduct

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### Forms of misconduct:

- and ICT resources, including breach of UNSW College and/or UNSW ICT policies
- any behaviour:
  - (a) that may be a criminal offence;
  - (b) that potentially puts staff or other students at risk; or
  - (c) in breach of the Code, such as Harassment, Bullying or failing to treat staff or students with courtesy, tolerance or respect
- misconduct in relation to falsified documents and misrepresentations
- any other Non-Academic Misconduct not referred to above

### Potential penalties or outcomes:

- UNSW Sydney property for a period not exceeding the remainder of the current semester
- loss or restriction of access to ICT
- conditions on enrolment or re-enrolment
- restitution or damages
- referral to an external agency, such as NSW Police or Australian Human Rights Commission
- Probation, Suspension or Exclusion
- non-issue or revocation of award
- any other penalty or outcome available in accordance with this policy

## 5.2 Academic Misconduct

The type of penalties or outcomes to be imposed for Academic Misconduct are determined according to the level and the circumstances of the Academic Misconduct. The severity of the penalties or outcomes imposed will correspond to the seriousness of the Academic Misconduct.

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## Academic Misconduct

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### Levels of misconduct:

#### Level 1

- minor Plagiarism where inexperience is a mitigating factor (e.g. insufficient or inappropriate citation due to lack of academic skill)
- other Academic Misconduct leading to little or no advantage to student (e.g. bringing a non-approved calculator into an exam or talking to another student about exam-related content during an exam)

### Potential penalties or outcomes:

- formal reprimand or formal warning
- remedial educative action
- reduction of marks
- student resubmits work for a capped mark or capped pass

#### Level 2

- moderate Plagiarism (e.g. more than one instance of level 1 Plagiarism, substantial Plagiarism in single piece of work, minor collusion)
- other Academic Misconduct leading to some advantage for the student (e.g. notes containing exam-related content that is of very little or no use to the overall exam)

- any one or more Level 1 penalties
- failure of the subject, course or program
- delayed certification of program

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## Academic Misconduct

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### Levels of misconduct:

### Potential penalties or outcomes:

#### Level 3

- Plagiarism which is considered to be deliberate, reckless and/or involves gross and persistent negligence (e.g. repeated instances of level 2 Plagiarism, significant collusion, submission of the complete work of another person, purchasing academic work)
- other Academic Misconduct leading to significant advantage for the student (e.g. notes containing exam-related content that is directly related to exam, intentional breach of exam security, assisted or otherwise)
- misconduct in relation to entry into a program or receiving an award the student was not legitimately eligible for, or entitled to
- misconduct in relation to falsified documents and misrepresentations

- any one or more Level 2 penalties
- conditions on enrolment or re-enrolment
- Probation
- Suspension
- Exclusion
- annulment of grades
- non-issue or revocation of award

any other Academic Misconduct not referred to above

any penalty or outcome available in accordance with this policy

### 5.3 Serious Student Misconduct

- (a) Any serious, extreme or repeated occurrence of the forms of misconduct identified in sections 5.1 (*Non-Academic Misconduct*) and 5.2 (*Academic Misconduct*) above are considered Serious Student Misconduct.
- (b) Misconduct in relation to the submission of falsified documents and/or misrepresentations made by a student is also regarded as Serious Student Misconduct. In particular, making or using a false document with an intention to induce another person, e.g. a UNSW College Staff member, to accept the false document as genuine may also be a criminal offence under the *Crimes Act 1900 (NSW)*.
- (c) A student committing the misconduct should be also aware that the institution affected by a fraudulent document, e.g. a medical practice, has a right to refer the matter to the Police.
- (d) All allegations of Serious Student Misconduct (except for those referred to in section 5.3 (e) and (f)) are assessed by the Student Misconduct Committee. The Student Misconduct Committee will also determine the nature and severity of the penalty.
- (e) Allegations involving fraudulent documents at admission are determined by the Admissions and Enrolment Manager, who also imposes the penalty.
- (f) The first instance of Serious Misconduct involving fraudulent documents, after admission, will be dealt with by the Assistant Academic Director (Foundation Studies) or the Head of Studies (English Language Programs). Any subsequent or repeated instances of Serious Misconduct involving fraudulent documents, after admission, will be dealt with by the Student Misconduct Committee.



- (g) All findings of Serious Student Misconduct go on the student's permanent record, which UNSW College may disclose to other educational institutions upon request.
- (h) On receipt of a Serious Student Misconduct allegation, the Student Misconduct Committee may decide that it is appropriate to refer the matter to an external agency.

## 6 Process

The student misconduct process is set out below. Students who need help or have questions about the process should speak to a Student Adviser by making an appointment in person at Student Services or via email at [student.support@unswcollege.edu.au](mailto:student.support@unswcollege.edu.au).

### Step 1: Allegation

An allegation is a formal complaint or accusation made about a student's conduct. Any student may make an allegation about another student's conduct if their conduct falls within the scope of this Policy.

All allegations must be made in writing and supported by evidence (where available). Evidence includes any records, emails, text messages, screenshots, witness statements or other relevant materials.

If an allegation is assessed to be properly made and falls within the scope of this policy, it progresses to Step 2: Notification and Investigation.

#### If you wish to make an allegation you must:

1. Book an appointment to see a Student Adviser.
2. Provide details of the allegation you are making during your appointment with the Student Adviser. You may be required to give a statement and/or sign a form confirming the allegation you are making.

#### We will:

1. Complete an assessment of all allegations made within **5 working days** of the meeting with the Student Adviser.
2. Inform the person who made the allegation, within the above timeframe, if it is determined that an allegation will not progress to Step 2: Notification and Investigation.

## Step 2: Notification and Investigation

Students who have an allegation of misconduct made against them will be notified and, in certain circumstances, an investigation will be carried out.

### We will:

1. Notify the student of the allegation made against them (and confirm whether an investigation is to be conducted) within **10 working days** of the completion of Step 1. The student will be notified by email or, where appropriate, in person (e.g. notification of alleged Level 1 Academic Misconduct at the end of an exam).
2. Appoint an investigator if investigation of the allegations is required. The investigator may need to conduct interviews with relevant people and review relevant UNSW Global policies and procedures.
3. Complete all investigations within **20 working days** of completion of Step 1.

### Upon being notified that an allegation of Misconduct has been made against you, you must:

1. Provide any written response to the allegations made within **5 working days**.
2. Attend a meeting with a staff member to discuss the allegations made.

**Note:** A determination of the allegation is conducted in Step 3, regardless of whether or not the student provides a written response to the allegations made or attends the required meeting.

Investigations of certain Academic Misconduct (including misconduct in relation to examinations or assessments) may take longer than 20 working days. The student will be informed of any delays.

## Step 3: Determination

Serious Student Misconduct will be determined by the Student Misconduct Committee (except for submission of fraudulent admission documents: see paragraph 5.3 (c) above). All other misconduct allegations will be determined by an appropriate decision maker, in accordance with the Student Misconduct Procedure.

### We will:

1. Refer misconduct allegations to the appropriate decision maker or to the Student Misconduct Committee for determination at the conclusion of Step 2.
2. Ensure that the decision maker or the Student Misconduct Committee is provided with all materials submitted during the investigation process, including any statements made by the student and the records of any interviews conducted.
3. Make the determination and notify the student of the decision made within **5 working days** of the conclusion of Step 2 or within **5 working days** of the relevant Student Misconduct Committee Meeting (which occur fortnightly). The person who made the allegation will be informed of the outcome where appropriate.

## 6.1 Determination and Penalties

- (a) When making a determination, the decision maker or committee must:



- (a) not take into consideration any previous findings relating to a past misconduct;
  - (b) evaluate the evidence presented and consider whether it is more likely than not, on the balance of probabilities, that the allegations or any number of the allegations against the student are proven;
  - (c) refer to the matters set out in paragraphs 6.1(b) to (d) before imposing or recommending any penalty; and
  - (d) produce a written report of its determination and the reasons for the outcome.
- (b) Where the student **admits** the allegations and the conduct is found to have occurred, the decision maker or committee may determine:
- (e) to impose no penalty because no penalty is warranted; or
  - (f) that one or more of the possible penalties are to be applied.
- (c) Where the student **denies** the allegations the decision maker or committee may determine:
- (g) the student has satisfactorily addressed the allegations and the allegations should be dismissed; or
  - (h) the misconduct is proven and that one or more of the possible penalties are to be applied.
- (d) To determine whether or not a penalty is appropriate, the following factors should be considered and may be taken into account by the decision maker or committee:
- (i) seriousness of the misconduct;
  - (j) previous findings of misconduct and the penalties imposed;
  - (k) level of study;
  - (l) student's intention or personal circumstances; and
  - (m) any other matters considered relevant in the particular circumstances.

## 6.2 Recordkeeping

- (a) Records must be kept at all stages of a student misconduct investigation. UNSW College securely maintains records of all misconduct matters and their outcomes. Only authorised individuals have access to these records.
- (b) Information and records about an allegation are confidential and are disclosed only to staff of UNSW College or UNSW staff with direct involvement in the process to enable proper investigation of the matter. However UNSW College may disclose records about an allegation to its legal advisers, insurers and, if necessary, to an external agency.
- (c) At the conclusion of a student misconduct matter the details will be added to the Student Misconduct Register. A finding is entered on the Register whether or not a penalty had been imposed. Access to the Register is limited and records are stored confidentially.
- (d) No record of any student misconduct allegation or proceedings brought against a student will be included on the student's academic transcript. All findings of Serious Student Misconduct will go on the student's permanent record.



- (e) The Student Misconduct Committee reports outcomes to the Compliance Committee.

### **6.3 Withdrawal of Allegations**

At any stage, UNSW College, or the person making the allegation, may withdraw an allegation of misconduct or decline to proceed with an investigation. Where the formal process is underway all parties will be notified in writing that the allegation has been withdrawn. In most instances UNSW College will then deem the matter resolved. However in certain circumstances UNSW College may deem the matter serious enough for an internal investigation to continue or for referral to an external agency.

### **6.4 Appeals or External review**

- (a) If students are dissatisfied with the determination, they may lodge a Stage 3: Appeal under the Complaints and Appeals Policy.
- (b) Appeals are heard by the Appeals Committee, unless the matter concerns Serious Student Misconduct. Serious Student Misconduct appeals are heard by the Compliance Committee instead. There are no other changes to the appeal process.
- (c) Students should refer to the Complaints and Appeals Policy for information about the appeal process.

## **7 Suspension or Restriction in Urgent Circumstances**

- (a) UNSW College reserves the right to suspend or restrict a student in urgent circumstances from all or part of the UNSW College and UNSW Sydney campuses, access to UNSW College and UNSW Sydney facilities, where necessary to prevent or terminate a clear and present threat from the student concerned to the safety of any person within UNSW College or UNSW Sydney, the proper functioning of any UNSW College or UNSW Sydney activity or the damage of UNSW College or UNSW Sydney resources.
- (b) A Suspension or restriction may also include a suspension from accessing UNSW College ICT and its affiliated entities.
- (c) The CEO, Compliance Committee, Appeals Committee and Group Executives can suspend or restrict a student.
- (d) A Suspension or restriction in urgent circumstances must be notified to a student in writing via their student email address.
- (e) A Suspension or restriction imposed on a student does not preclude the making of an allegation of student misconduct.
- (f) A Suspension or restriction shall not, in the first instance, exceed 14 days.
- (g) Any Suspension or restriction (other than ICT restrictions) shall be reported to the Compliance Committee.
- (h) The Compliance Committee may extend the Suspension or restriction period to cover the time taken to finalise any misconduct investigation, including any appeal, and may broaden the areas from which the student is suspended or restricted.

- (i) If, in the course of misconduct proceedings or subsequent to a determination, it appears that a Suspension or restriction of a student was not warranted, the Suspension may constitute a ground on which the student may apply for special consideration in the assessment of any courses being taken.

## **8 Legal and Policy Framework**

This policy operates within the context of, and subject to, State and Commonwealth anti-discrimination and harassment legislation and within the context of other UNSW Sydney and UNSW College policies.

### **8.1 Responsibilities**

(a) *Approver*

The Chief Executive Officer is responsible for the approval of this policy.

(b) *Responsible Officer*

The General Manager, Services is responsible for the implementation, dissemination and review of this policy.

(c) *Contact Officer*

The General Manager, Services is responsible for the day to day implementation of this policy and is the first point of contact for all enquiries that relate to this policy.

(d) *Administration and publication*

The Legal and Compliance team is responsible for the administration and publishing of this policy.

(e) *Staff, Supervisors and Executives*

UNSW College staff, supervisors and executives are responsible for assisting in the implementation of and adherence to this policy.

(f) *UNSW College Students*

Students are expected to fully comply with their obligations and responsibilities under this policy.

### **8.2 Review**

This policy is due for review three (3) years from its date of implementation or in case of legislative or regulatory changes.

## **9 Related Documentation**

- (a) Student Misconduct Form

## **10 Related Policies and Procedures**

- (a) [UNSW Student Code of Conduct](#)
- (b) [Complaints and Appeals Policy](#)
- (c) [Student Misconduct Procedure](#)

## 11 Version History

Version Control	Date Effective	Approved By	Amendment Notes
2	1 October 2016	E. Drummond	<p>Clarification in background that UNSW procedure documents do not apply to UNSW College students.</p> <p>Amendment to clauses 5.3(c) and (d) so that first instances Serious Misconduct in relation to the submission of fraudulent documents (after admission) are dealt with prior to the Student Misconduct Committee at the Program level.</p>
3	See page 1	See page 1	Amendment to clause 5.3 by adding legal consequences of submitting fraudulent documents: criminal offence under the Crimes Act 1900 (NSW) and the right of affected parties to refer the matter to the police.
3.1	24 November 2017	T. Kelly	Reflect changes made to the company letterhead and UNSW branding.
N/A	N/A	S. Walpola	Words 'sexual preference' replaced with 'sexual orientation'. Change made upon a request from the UNSW Division of Equity, Diversity and Inclusion in order to continue improving LGBTIQ+ workplace inclusion by using the correct terminology within the policy documentation.
4	See page 1	L. Pearcey	Update to remove Diplomas from the Scope section – UNSW Sydney's policy framework applies