

Non-academic Misconduct Policy

POLICY PURPOSE

All students are expected to respect other students, staff, others who are not connected to UTS College in any way, and property, so that their conduct does not negatively impact others. While students who commit non-academic misconduct should be appropriately dealt with, the process of discovery, review, and punishment should always be procedurally fair.

SCOPE

This policy applies to all UTS College students admitted to courses and programs delivered by UTS College or its transnational education partners. It may also apply to the conduct of a person who is an applicant or former student and irrespective of whether the misconduct occurred on-campus or off-campus.

Nothing in this policy precludes UTS College from initiating civil or criminal proceedings against a student or a former student in respect of misconduct.

DEFINITIONS are set out at the end of this policy.

POLICY PRINCIPLES

Principle
<p>1. RESPONSIBILITY FOR INVESTIGATING AND MANAGING NON-ACADEMIC MISCONDUCT</p>
<p>1.1 Managing and investigating non-academic misconduct.</p> <p>Managing allegations of non-academic misconduct is the responsibility of the Student Compliance Team and the Student Conduct Committee (SCC). In instances of non-academic misconduct relating to accommodation or welfare, the Student Support Manager and his /her delegate will lead the review.</p> <p>The membership of the SCC is determined by the type of non-academic misconduct which occurs (please refer to definition at the end of this policy).</p>

Principle

1.2 Clear Understanding of the Allegation

Before any conclusion is reached in an inquiry into alleged misconduct by a student, the student must be:

- a) given the precise terms of and any reasons for the allegation in writing;
- b) given an outline or summary of all details intended to be given to the inquiry body;
- c) given access to or a copy of documentation intended to be given to the inquiry body consisting of the Student Compliance Team or delegate and any other staff member deemed appropriate to enable the matter to be fully reviewed; and
- d) given an opportunity to address all the information supplied.

The student must be given adequate time to prepare for the inquiry and to deal with the information provided; what is adequate depends upon the nature of the matter and the volume and complexity of the information but unless a longer period is approved by the Student Compliance Team, students will be given seven calendar days in which to prepare.

1.3 Admission of Non-Academic Misconduct

A student may admit an act of misconduct at any time. When a student admits both the occurrence and the substance of an act of misconduct:

- a) any enquiry being undertaken in relation to that act of misconduct will cease; and
- b) the relevant officer of UTS College will make recommendations only as to the penalty or penalties in accordance with this policy.

Principle

1.4 Investigations of Allegations of Non-Academic Misconduct

The nature of the investigation regarding non-academic misconduct is determined as described in the Non-Academic Misconduct Procedure.

1.5 Failure to Respond

If the student:

- fails to respond within seven calendar days to reasonable attempts to communicate by the Student Compliance Team or Student Support Manager; or
- does not provide the Student Compliance Team or the Student Support Manager with acceptable reasons for not attending a hearing.

The Student Compliance Team will make a determination as to whether to adjourn or proceed in the absence of the student.

Principle

1.6 Suspension in cases of serious non-academic misconduct

In serious cases of non-academic misconduct UTS College reserves the right to suspend or restrict a student from all or part of the UTS College and UTS campuses to prevent or terminate a clear and present threat from the student concerned

- to the safety of any person within UTS College or UTS campuses,
- to the proper functioning of any UTS College or UTS activity or
- the damage of UTS College or UTS resources.

The CEO, Student Conduct Committee and the Executive can suspend or restrict a student. A Suspension or restriction in response to serious non-academic misconduct must be notified to a student in writing via their student email address. A Suspension or restriction imposed on a student does not preclude the making of an allegation of student misconduct.

A Suspension or restriction will not, in the first instance, exceed 14 days.

Any Suspension or restriction shall be reported to the Student Conduct Committee.

The Student Conduct 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.

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.

1.7 Further Notification of Serious and/or Dangerous Non-academic Misconduct

The Student Compliance Team, or Student Support Manager where applicable, is responsible for determining who, in addition to the student against whom the allegation was made, should receive formal notification of the decision and/or recommendation and the reasons for it. In making this determination, the Student Compliance Team will take into account potentially conflicting needs of the student for privacy and of others who participated in the process and who may have an ongoing responsibility for UTS College courses or facilities.

In circumstances including where an alleged victim of violent crime or any sexual offence makes a written request, UTS College will disclose to the alleged victim any decision and /or recommendation and the reasons for it with respect to any disciplinary proceedings conducted by UTS College against a student who is the alleged perpetrator of the crime or offence. The Student Compliance Team may impose conditions of confidentiality on any person who is so noted.

When necessary, matters will be reported to the Police and relevant authorities.

Referral into behaviour change counselling where the misconduct is sexual in nature.

Principle
<p>1.8 Privacy and Confidentiality</p> <p>UTS College regards student misconduct as a confidential matter. Staff involved in the student misconduct process must not divulge to any unauthorised person any information related to any allegations against an individual student.</p>
<p>1.9 Fairness of Process</p> <p>All students who are the subject of recommendations or decisions in respect of allegations of misconduct are entitled to be treated fairly and with dignity.</p> <p>All students are entitled to be regarded as not having behaved in an alleged manner until and unless they admit that behaviour or a fair and proper inquiry leads to a reasonable conclusion that they have so behaved.</p> <p>Knowledge that a student has behaved in a particular way in the past is not evidence that the student has behaved in the same manner again. Such knowledge may be evidence that the person is aware that the behaviour is an act of misconduct (or it may be relevant to the level of penalty).</p> <p>Each case must be dealt with on its own terms and merits and in accordance with its own circumstances.</p> <p>Where the alleged misconduct is of a sexual nature all efforts are made to support the complainant in making their complaint and in their recovery from the impacts of the event.</p>
<p>1.10 Access to Advice</p> <p>All students must have an opportunity to seek advice; in some circumstances it may be appropriate for UTS College to make arrangements for advice to be given. There may be a need for translating and/or interpreting services to be provided. A support person may also attend any interview with the student.</p>
2. PENALTIES

Principle

2.1 Imposing Penalties

Matters taken into account when imposing a penalty are the nature and seriousness of the misconduct, a student's previous record of misconduct, previous penalties imposed for misconduct, the fact that a student has admitted an alleged act of misconduct, and/or the fact that a student came forward on the student's own initiative and admitted an act of misconduct.

Each case is dealt with on its own merits and according to its own circumstances with the proviso that the second instance of misconduct will be penalised more severely than previous instances of misconduct and a student's third offence will normally result in exclusion.

The penalty will be imposed by the Student Compliance Team in all non-academic misconduct cases except those involving accommodation and welfare where the penalty is imposed by the Student Support Manager in consultation with the Student Compliance Team.

Levels of Penalty:

2.2.1 Rescission of an academic award conferred by UTS College where the award is as a result of fraud or serious non-academic misconduct committed by the student before the award was conferred.

2.2.2 Revocation of a recommendation to the UTS College Academic Board that a student has satisfied the requirements for an award, effective for a period of up to twelve months.

2.2.3 Permanent exclusion from UTS College, in which case:

- a) the student's enrolment will be terminated;
- b) the student will be recorded as excluded from UTS College
- c) the student will not be entitled to any benefits, advantages or privileges of UTS College;
- d) the student will not be permitted to enrol in any course of study whether for award or otherwise at UTS College; and
- e) any further applications from the student for admission to any course of study at UTS College will not be considered.

Principle

2.2.4 Exclusion from UTS College for a period of up to five years in which case:

- a) the student's enrolment will be terminated;
- b) the student will be recorded as excluded from UTS College for the specified period of exclusion;
- c) the student will not be entitled to any benefits, advantages or privileges of UTS College for the specified period of exclusion;
- d) the student will not be permitted to enrol in any course of study at UTS College whether for award or otherwise during the period of any exclusion; and
- e) the student may re-apply for readmission to the course at UTS College at the end of the period of exclusion. Readmission is not automatic and conditions relating to the student's future conduct at UTS College may be set by Chief Operating Officer.

2.2.5 Suspension from a course offered by UTS College for a specified period not exceeding twelve months in which case:

- a) the student will not be entitled to any course-related benefits, advantages or privileges of UTS College during the period of suspension;
- b) the student will not be permitted to enrol in any course of study whether for award or otherwise at UTS College during the period of suspension; and
- c) the student will be entitled to re-enrol in the course from which the student has been suspended at the end of the period of suspension.

N.B:

In 2.2.3, 2.2.4 and 2.2.5 above, where a CAAW is in place this will not be cancelled until one of the following occurs:

- The student returns overseas;
- UTS College is no longer able to guarantee welfare arrangements for the student;
- The responsibility for Accommodation and Welfare arrangements is accepted by another provider; or
- The student reaches the age of 18.

Principle

2.2.7 Withholding of academic results for the relevant teaching period, and/or of an academic transcript, including deferral or withdrawal of permission to graduate, for a specified period not exceeding twelve months.

2.2.8 Imposing conditions on enrolment and participation in specified subjects for a specified period not exceeding twelve months, in which case if there is a further act of misconduct during the specified period the Student Compliance Team shall refer the matter to the Chief Operating Officer for a recommendation on the imposition of a more severe penalty.

2.2.9 Exclusion from attendance at specified classes or subjects for a specified period not exceeding twelve months, provided that these do not include the entirety of classes or subjects for which the student is enrolled or is eligible to be enrolled.

2.2.10 For temporary exclusion of less than a term or semester, the student will be registered as absent.

2.2.11 Exclusion from and prohibition from use of specified facilities of UTS College for a specified period not exceeding twelve (12) months.

2.2.12 Payment to UTS College or a third party by a specified date of a specified amount not exceeding the amount of any loss or damage where an act of misconduct involves loss of or damage to property or facilities of UTS College or a third party, in which case failure to pay the specified amount to UTS College by the specified date will be treated as a debt to UTS College and incur any or all such sanctions for non-payment of charges.

2.2.13 Payment to UTS College by a specified date of a specified amount for its costs, not exceeding the amount of any costs incurred where an act of misconduct involves lengthy inquiries and proceedings, in which case failure to pay the specified amount to UTS College by the specified date will be treated as a debt to UTS College and incur any or all such sanctions for non-payment of charges.

2.2.14 Payment to UTS College by a specified date of a fine up to A\$2,000, in which case failure to pay the specified amount to UTS College by the specified date will be treated as a debt to UTS College and incur any or all such sanctions for non-payment of charges.

Principle
<p>2.2.16 Imposition of specified conditions on attendance at specified classes or use of specified facilities of UTS College.</p> <p>2.2.17 A reprimand or caution.</p> <p>2.2.18 Removal from accommodation arrangements made by UTS College.</p> <p>N.B: Where a CAAW is in place UTS College will ensure that the student is relocated to appropriate accommodation and welfare arrangements.</p> <p>2.2.19 The Chief Operating Officer has the power to waive all penalties.</p>
<p>2.3 Notification of Penalty</p> <p>For UTS College students the penalty determined (in accordance with the Non-Academic Misconduct Procedure) will be recorded on the student's file (S1) and the student will be notified by email of the imposition of the penalty.</p> <p>The student is entitled to be given the reasons for the decision and/or recommendation at the time it is made known to the student.</p>
<p>3.0 Appeal Against Findings</p> <p>The student is free to lodge an appeal against the process with respect to the original inquiry and /or against the severity of the penalty imposed. The nature of these arrangements regarding appeal is determined in the Non-academic Misconduct Procedure.</p> <p>Appeals will be handled in accordance with UTS College's Student Complaints and Appeals Policy/Procedure.</p>

DEFINITIONS

Affiliates	UTS College Limited Board members, honorary appointees, contractors, labour hire personnel, volunteers, agency staff and any other person appointed or engaged by UTS College to perform work or functions for UTS College.
CAAW	Confirmation of Appropriate Accommodation and Welfare (issued through the PRISMS system) to confirm UTS College is responsible for appropriate accommodation and welfare arrangements for international students under the age of 18.

Executive	Formerly known as the Senior Leadership Team (SLT). Comprises Managing Director, Dean of Studies, Chief Operating Officer, Chief Financial Officer/Company Secretary, Chief Officer Partnerships and Growth and the Director, People.
Non-academic misconduct	<p>Includes but is not limited to:</p> <ol style="list-style-type: none"> 1. Acting dishonestly including providing fraudulent or misleading documentation in relation to an application for admission at UTS College 2. Knowingly making any false or misleading representation about things that concern the student as a student of UTS College 3. Contravening any provision of UTS College rules, policies and procedures 4. Acting in contravention of any official statement that defines acceptable standards of conduct and behaviour as approved by the UTS College Board or UTS College Academic Board from time to time 5. Prejudicing the good name or academic standing of UTS College 6. Prejudicing the good order and government of UTS College 7. A breach of confidentiality or privacy requirements or obligations in respect of UTS College or its Staff, Affiliates, students or other relevant parties 8. Interfering with the freedom of other persons to pursue their studies, carry out their functions or participate in the life of UTS College 9. Harassing or engaging in any other form of improper or discriminatory behaviour towards another student, an officer of UTS College, a visitor to UTS College, or any other person. Such misconduct may relate, but is not limited to, race, ethnic or national origin, gender, marital status, sexual preference, disability, age, political conviction or religious belief. 10. Sexual assault and harassment: involving UTS College or non-UTS College persons and occurring on or off UTS College premises. 11. Intimidating or assaulting another student, officer of UTS College, a visitor to UTS College or any other person irrespective of whether they are pursuing any activity related to their UTS College purposes. 12. Failing to comply with any order or direction lawfully made or given under UTS College rules, policies and/or procedures. 13. Refusing to identify himself or herself when asked lawfully to do so by an officer of UTS College 14. Failing to comply with any conditions set by UTS College under the rules, policies and procedures.

	<ol style="list-style-type: none"> 15. Breaching the terms or conditions of a penalty imposed for student misconduct. 16. Obstructing any officer of UTS College in the performance of the officer's duties including preventing or attempting to prevent an officer of UTS College from occupying or using his or her assigned work area and/or refusing to leave such an area when instructed to do so. 17. Behaving improperly or inappropriately in a class, meeting or other activity in or under the control or supervision of UTS College, or on UTS College premises, or on any other premises to which the student has access for his or her UTS College purposes. 18. Failing to comply with the prescribed provisions relating to the student's placement at another institution, place of learning or place of business. 19. Altering or attempting to alter any document or record of UTS College or causing or attempting to cause any unauthorised alteration of such a document or record. 20. Accessing or using another student's academic work by theft or other unauthorised means 21. Misusing any facility in a manner which is illegal, or which is or will be detrimental to the rights or property of others. 22. Misusing any computing or communications equipment or capacity to which the student has access at or away from UTS College premises for his or her UTS College purposes in a manner which is illegal, or which is or will be detrimental to the rights or property of others. 23. Stealing, destroying, damaging or causing loss or cost in respect of a facility or property of UTS College or for which UTS College is responsible. 24. Taking (and potentially distributing) a photo of another student or member of staff without their approval. 25. Publishing material, which is abusive, offensive, vilifying, harassing, discriminatory or inappropriate about UTS College, another student, staff or affiliates of UTS College, in any forum or media, including but not limited to print, internet, social media, email, digital, or electronic communications and broadcasting forums. 26. Being charged with or being found guilty of a criminal act in a court of law.
PRISMS	Provider Registration and International Student Management System
Serious and/or dangerous non-academic misconduct	Misconduct is considered to be "serious or dangerous" where it has led or is likely to lead to physical or psychological harm to a person or extensive damage to property.

Sexual Offence	Includes sexually abusive behaviours that may not involve physical contact between the offender and the victim.
Student Conduct Committee (SCC)	The membership of the SCC dealing with all types of Non-academic misconduct is: <ul style="list-style-type: none"> ▪ The Student Compliance Team (or delegate); ▪ Compliance and Reporting Officer; and ▪ Student Support Manager (where applicable).
Staff	People employed to work on an ongoing, fixed term, sessional or casual basis under the terms and conditions of an employment agreement (contract) issued by UTS College.
Student misconduct	Includes both academic misconduct and non-academic misconduct.
S1	UTS College's student management system, otherwise known as Student One or Ci.
UTS College	UTS College Limited, its representative offices and its controlled entities.

SUPPORTING DOCUMENTS

- Education Services for Overseas Students Act 2000 (ESOS Act)
- National Code of Practice for Providers of Education and Training to Overseas Students 2018
- Non-academic Misconduct Procedure
- Student Complaints and Appeals Policy
- Student Complaints and Appeals Procedure
- Sexual Assault and Harassment Policy
- Sexual Assault and Harassment Response Procedure

ADMIN USE ONLY

APPROVAL		
Position title:	Chief Executive Officer	Date:
Policy Title	Non-academic Misconduct Policy	
Executive	Dean of Studies	
Manager	???	
Policy ID	[To be added by Governance team]	
Effective Date	[To be determined by the Executive (date of signing or later date)]	
Endorsed by	Executive	Date

VERSION HISTORY

No.	Author	Description of change/purpose	Date
1.0	Ray Litster	Last version	21/04/2021
1.1	Ray Litster	Includes TEQSA wording and inclusion of serious non-academic misconduct wording	7/08/2023