

Student Misconduct Policy and Procedure

RSY-SAS-PY-006-v2.1 Student Misconduct Policy and Procedure

Document History

Version	Date of Review	Date of Approval	Change(s)
1.0	June 2016	5 Aug 2016	Replaces the Student Disciplinary Action Policy.
2.0	March 2017	21 Apr 2017	<ul style="list-style-type: none"> • Amended the procedure in accordance to the reviewed Student Grievance and Appeal Policy and Procedure. • Amended avenues of external appeal and references.
2.1	April 2018	11 May 2018	<ul style="list-style-type: none"> • Inserted provisions related to sexual harassment, sexual assault and violence. • Included breach of Student Code of Conduct as Misconduct. • Amended Department of Immigration and Border Protection to Department of Home Affairs

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Distribution List

To: All RCDC Staff
 All RCDC Students
 All Associate Colleges, College Directors

Cc: Chair, Council
 Chair, Senior Management Committee

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1 Purpose

The aim of the Policy is to set out the framework for the handling of allegations of student misconduct in a manner that is fair, consistent, clear and in accordance with the principles of natural justice for all Raffles College of Design and Commerce (RCDC) students.

2 Scope

This Policy applies to all enrolled students, both domestic and international students on all campuses delivering RCDC awards and qualifications.

3 Definition of Terms

Academic matters include those matters which relate to student progress, assessment, course content, or awards in a course of study.

Authorised investigator is a senior manager appointed by the Principal who holds the position of Manager, Program Director or Dean. In the event of a complaint made against the Principal, the authorised investigator is the Chair of the College Council. The Principal or Chair of the College Council may also appoint an appropriate external person to act as authorised investigator.

Complainant is the person who made the complaint of misconduct against a student.

Complaint is a person's expression of dissatisfaction against the conduct of a student.

Emergency exclusion is where a student who is the subject of a misconduct investigation is not permitted to continue carrying out their studies on-campus or attend their place of study. They are also not permitted to be present on any property owned by the company or communicate with any staff, students or the Complainant relative to their enrolment at the College. Access to services including email and building access will be withdrawn during any emergency exclusion.

Non-academic matters are administrative matters which do not relate to student progress, assessment, course content or awards in a course, and may include grievances in relation to support and administration functions of the College, or personal information that RCDC holds in relation to the student.

Respondent(s) is (are) the student(s) whom the allegation of misconduct has been made against.

Support person is a person accompanying either a Complainant or Respondent to a complaint resolution meeting, who is a current student or staff member and who is nominated by the Complainant or Respondent to provide support, and if required make representations on the Complainant's or Respondent's behalf. A support person must not be a current legal practitioner.

Misconduct has occurred when a student has been found to have carried out at least one of the following:

- a) Academic misconduct and plagiarism as defined in Academic Misconduct and Plagiarism Policy;
- b) Failure to comply with other College policies or rules;
- c) Forgery, alteration, or misuse of any College document, record, instrument or identification;
- d) Defamatory conduct prejudicial to the reputation, good order and governance of the College;

- e) Abuse, threats, intimidation, harassment, sexual harassment, sexual assault, violence, coercion, deceit or other conduct (whether by physical, verbal or electronic means) in a context substantially connected to the College that:
- threatens or endangers the health, freedom or safety of any person;
 - obstructs a College staff member or student in performance of their duties; or
 - interferes with teaching, research or related activity, the ability of a College staff member or student to pursue their studies, examinations, official meetings, graduation or other proceedings of the College.
- f) Attempted or actual endangerment of, or damage to, or wrongful dealing with any persons and/or property, College or public property including any act of hazing;
- g) Failure to comply with reasonable direction of staff (including sessional staff, security staff and contractors) or officer of the public emergency services acting in performance of their duties or failure to identify oneself to these persons when requested to do so;
- h) Unauthorised possession, duplication or use of keys and/or access card to any College premises or unauthorised entry to or use of College premises;
- i) Unlawful use, possession, cultivation or distribution of drugs;
- j) Illegal or unauthorised possession or use of firearms, ammunition, explosives, other weapons or chemical on College premises;
- k) Disorderly or indecent conduct, breach of peace, or aiding or procuring another person to breach the peace of College premises or at activities (including excursions) sponsored by, or participated in, by the College;
- l) Theft or other abuse of College computer time or facilities, including but not limited to:
- unauthorised entry into a file;
 - unauthorised transfer of, or change to, a file
 - unauthorised use of another individual's identification and password;
 - use of computer facilities to interfere with the work of another College staff member or student;
 - use of computing facilities to send obscene or abusive messages;
 - use of computing facilities to interfere with normal operations of the College's computing systems.
- m) Interference with the application of this Policy by:
- falsifying, distorting or misrepresenting information;
 - disrupting or interfering with the orderly conduct of an investigation or hearing;
 - attempting to discourage an individual's proper participation in the application of this Policy;
 - attempting to influence the impartiality of an authorised investigator, appeal officer, or panel;
 - harassing or intimidating an authorised investigator, appeal officer or panel.
- n) Divulging any confidential College information;
- o) Conduct involving acts or threats of violence, harassment, sexual harassment, sexual assault, intimidation or discrimination;
- p) Influence or attempting to influence another person to commit an act of academic or behavioural misconduct;
- q) Any form of criminal activity, or action(s) that may lead to such activity, not otherwise specified in this Policy;

- r) Consuming alcohol on College premises or being under the influence of alcohol or illicit drugs while on College premises;
- s) Breach of the Student Code of Conduct.

4 Policy Principles

- 4.1 RCDC is committed to providing clarity to students about what may constitute misconduct, and therefore minimising incidents of misconduct complaints and investigations.
- 4.2 Where a student breaches a code of conduct, RCDC may take disciplinary action. Such matters are handled in accordance with the Student Misconduct Procedure. Where there are breaches of the code of conduct relating to plagiarism and academic misconduct the Academic Misconduct and Plagiarism Policy and Procedure should be referred to in the first instance.
- 4.3 When a complaint or alleged misconduct is made, RCDC is committed to providing a fair and transparent investigation process, which holds due regard for procedural fairness and the principles of natural justice.
- 4.4 Where a student's conduct is a cause of concern in relation to safety of that student or other students, the matter should be referred to the Principal. The Critical Incident Management Policy and Procedure may also be relevant.

5 Procedure

5.1 Lodging a Misconduct Allegation

- 5.1.1 Allegations of student misconduct must be made in writing to the Student Services Manager by email to studentservices@raffles.edu.au
- 5.1.2 In instances where a College staff wishes to lodge a misconduct complaint against a student, they must do so in writing to an authorised investigator appointed by the Principal.
- 5.1.3 The student (Respondent) will be notified of the allegation(s) in writing either by email to their student email address and/or another email address belonging to the student if necessary. The notification shall include information as set out in the Pro Forma appended under [Appendix A](#).
- 5.1.4 Where the student does not respond, the notification should be repeated. If there is no response, the Program Director should be notified.
- 5.1.5 In investigating the matter, the relevant RCDC policies and procedures should be reviewed.

5.2 Investigation

- 5.2.1 The authorised investigator must consider whether the allegations, if founded, would constitute misconduct under this Policy for which penalties would be imposed. If so, the investigation may proceed under this Policy. If not, the investigation must cease and the authorised investigator must consider whether the complaint would be better considered under a different policy, or not be investigated any further.
- 5.2.2 RCDC may choose not to act on a complaint that it regards on reasonable grounds as malicious, made in bad faith, vexatious or trivial.

- 5.2.3 Where alleged misconduct may also be a criminal offence, RCDC may seek advice from the police or legal counsel before alerting the student of any allegations of misconduct.
- 5.2.4 The authorised investigator must share a copy of the complaint with the Respondent and provide the Respondent with an opportunity to respond to the allegations. The Respondent must be given the option of responding via an interview with the authorised investigator or in writing. The Respondent must be given a minimum of at least 5 working days before either the interview is held or their written response is required. It is at the discretion of the authorised investigator to extend deadlines set following a reasonable request by the Respondent.
- 5.2.5 The Respondent is permitted to share any evidence they feel relevant in their response, including statements from other people or witnesses.
- 5.2.6 If the Respondent chooses to respond via an interview with the authorised investigator, they are permitted to bring a support person along to the interview, as well as other witnesses who agree to share evidence in person.
- 5.2.7 The authorised investigator must carry out all reasonable actions to collect as many facts and evidence as possible to allow for an effective and thorough investigation of the alleged misconduct. The authorised investigator must at all times act in an inquisitorial and not adversarial manner.
- 5.2.8 At the conclusion of the investigation, the authorised investigator must make a determination as to whether a prima facie case of misconduct has occurred. If a prima facie case of misconduct has been found to occur, the authorised investigator must decide which penalties to impose against the student.
- 5.2.9 The authorised investigator must write to the Respondent within one week of the written response deadline or interview date with their determination of the complaint. The authorised investigator may extend this deadline if it will assist them in collecting more facts to make an effective decision, but the deadline may only be extended by a maximum of 5 working days. The Respondent must be informed of this in writing.
- 5.2.10 If no prima facie case of misconduct is found, the authorised investigator must inform the Respondent of this and that no further action will be taken.
- 5.2.11 If a prima facie case of misconduct has been found to occur, the authorised investigator must inform the Respondent of this, must inform the respondent of the penalties imposed and must inform the Respondent of their right to appeal under this Policy.

5.3 Determination

- 5.3.1 After evaluating the evidence presented, the authorised investigator should consider whether it is more likely than not, on the balance of probability, that the allegation(s) against the student is proven.
- 5.3.2 Where student admits the allegation(s) and/or the misconduct is found to have occurred, the outcome may be determined, and to
- impose no penalty because no penalty is warranted, or
 - impose one or more of the penalties under [Section 5.4](#) below, or
 - refer the matter to the Principal.
- 5.3.3 A written report should be lodged at the conclusion of the investigation with the Student Services department.

5.4 Penalties

5.4.1 The authorised investigator may impose at least one of the following penalties or a combination of more than one of the following penalties, should a student be found to have committed misconduct:

a) Minor Penalties

The following minor penalties may be imposed by the authorised investigator:

- Reprimand;
- Probation;
- Directive to undertake counselling;
- Directive to undertake mediation;
- Directive to make a verbal or written apology;
- Downgrade of an assessment result;
- Directive to repeat an assessment item (maximum grade possible is 50%);
- Withdrawal of services for a period not exceeding three months;
- Full costs of, or replacement of the damaged property or compensation for personal injury determined by the authorised investigator;
- Suspension from enrolment for a period not exceeding three months.

b) Major Penalties

The following additional major penalties may be imposed by the authorised investigator with the approval of the Principal:

- Downgrade a subject result;
- Withdrawal of services for a period not exceeding three years;
- Suspension from enrolment for a period not exceeding three years;
- Exclusion from College premises for a period not exceeding three years;
- Expulsion;
- Revocation of award.

5.4.2 An authorised investigator may consider previous cases of misconduct when deciding penalties.

5.5 Emergency Exclusion

5.5.1 On advice of an authorised investigator, the Principal may, at their discretion, impose an emergency exclusion on a student whilst a misconduct investigation is being undertaken. The student will continue to be enrolled during the process and all endeavours will be made to prevent their academic progress from being affected during an emergency exclusion.

5.5.2 The decision to impose an emergency exclusion is not to predict outcomes of investigations in any way. Rather, it is to protect the physical and/or psychological safety of the Complainant and/or Respondent and/or wider staff and student community. An emergency exclusion remains in place until an investigation is complete. It may only be temporarily lifted to allow the Respondent sufficient access to resources to prepare their response or appeal, or attend an interview. Due to loss of services, the College will communicate with a Respondent via any or all of personal email, phone and post.

5.6 Record Keeping

A record of cases where the student was found to have committed misconduct will be maintained on that student's file. The College is also required to provide reports to the Academic Board, College Council and government departments on instances of misconduct.

5.7 Communication with Complainant

Authorised investigators may maintain contact with the Complainant to keep them updated on the investigation process but must be mindful to protect the privacy of the Respondent. This includes keeping decisions on penalties imposed confidential.

6 Visa Status of International Students

If RCDC has decided to cancel or suspend the student's enrolment as a result of misconduct, the College is required to report this to the Department of Home Affairs through PRISMS and the student is required to contact the Department of Home Affairs office to seek advice about the student's current visa status.

7 Internal Appeal

- 7.1 A student may appeal the determination of an authorised investigator when a prima facie case of misconduct has been found to have occurred and a penalty has been imposed.
- 7.2 The student must appeal against the decision by submitting a completed Student Appeals Form to Student Services Department by email to studentservices@raffles.edu.au within 20 working days of receiving the notification of the outcome from the authorised investigator.
- 7.3 The appeal must be considered by the person or panel as stated below:
 - a) The appeal will be considered by the Principal, where the Principal has not acted as the authorised investigator.
 - b) The appeal must be considered by the Chair of the College Council, where the Principal has acted as the authorised investigator.
 - c) The appeal will be considered by a panel consisting of either the Principal or Chair of the College Council, another authorised investigator and the President of the Student Representative Council.
- 7.4 The Respondent also has the option for their appeal to be considered by a Panel consisting of either the Principal or Chair of the College Council as Chair, another authorised investigator, and the President of the Student Representative Council.
- 7.5 The Respondent may appeal on any of the following grounds and may appeal the determination itself and/or the penalty(ies) imposed:
 - a) The decision was based on an incorrect application of this Policy;
 - b) The decision was based on a mistake as to the facts;
 - c) That a failure of procedural fairness occurred including failure to follow procedure outlined in this Policy, which likely had an impact on the decision or outcome;
 - d) That new evidence not previously available has become available, which would be likely to have had an impact on the decision or outcome;
 - e) The penalty(ies) imposed were excessive or inappropriate;
- 7.6 The person or panel considering the appeal must carry out all reasonable actions to collect as many facts and evidence as possible to allow for an effective and thorough investigation of the alleged misconduct.
- 7.7 At the conclusion of the appeal investigation, the person or panel considering the appeal must take one of the following actions:
 - a) Uphold the original decision and penalty imposed;
 - b) Uphold the original decision and modify the penalty imposed;
 - c) Overturn the original decision and take no further action;
 - d) Overturn the original decision and refer the matter to an alternative process for investigation
- 7.8 The person or panel considering the appeal is not permitted to increase any penalties imposed by the authorised investigator in their original investigation.

- 7.9 The Student Services Manager will provide the student with a written notification of the outcome of the decision and the right to access the external appeal process against the decision.

8 External Review or Referral

- 8.1 Please refer to the Student Grievance and Appeal Policy and Procedure for more details about the avenues for external appeal.
- 8.2 The College will deal promptly with all requests from the external organisations related to reviews or referrals made to them.

9 References

- Tertiary Education Quality and Standards Agency Act 2011 (TEQSA Act 2011) <https://www.legislation.gov.au/Details/F2015L01639>
- National Code of Practice for Providers of Education and Training to Overseas Students 2018 <https://www.legislation.gov.au/Details/F2017L01182>
- Standards for Registered Training Organisations 2015 <https://www.legislation.gov.au/Details/F2017C00663>
- Anti-Discrimination Board: www.antidiscrimination.justice.nsw.gov.au
- Australian Human Rights Commission: www.humanrights.gov.au
- Overseas Students Ombudsman: <http://www.ombudsman.gov.au/about/overseas-student-ombudsman-landing-page>
- ACPET (Australian Council for Private Education and Training): <http://www.acpet.edu.au>
- [The Department of Home Affairs \(Australia\): https://www.homeaffairs.gov.au](https://www.homeaffairs.gov.au)

10 Supporting and Related Documents

- Student Handbook
- RCDC Academic Misconduct and Plagiarism Policy
- Student Grievance and Appeal Policy and Procedure
- RCDC Deferment, Suspension and Cancellation Policy and Procedure
- Student Misconduct Register
- Student Appeals Form

Appendix A

Pro Forma to Notify a Student of Misconduct

Dear [student's name]

An allegation of [delete the one not applicable *academic/student] misconduct concerning you has been referred to me by [staff member's name]. It is alleged that (insert details of the allegation).

In accordance with the RCDC's Student Misconduct Policy and Procedure, I have been appointed to investigate the allegation/s against you.

You should read these [procedures](#) carefully as they outline how this matter will be investigated.

In order to investigate a matter I usually interview a student, and if you wish to attend an interview you need to contact me by [insert date not less than seven days away]. You may bring a support person or friend to the interview, if you wish.

Alternatively, you can provide a written statement by [insert date not less than seven days away] and I will finalise the investigation on the basis of the information I have before me and the statement you provide to me.

For information on the range of student support services available at RCDC refer to the Student Handbook under www.raffles.edu.au/policies-and-procedures.html.

If you have any questions about these allegations or the misconduct processes please contact me.

[Name and designation of investigator]

Date