

These Procedures support the *Student Conduct Policy*

Procedures Owner: College Director and Principal, Associate Principal

Keywords: Student Misconduct, Student behaviour

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1. INTENT

- 1.1 These Procedures outline the approach ACBT takes when identifying and addressing Student Misconduct.
- 1.2 Student Academic Misconduct is addressed in the *Academic Integrity Policy*.
- 1.3 These Procedures support the *Student Conduct Policy*.

2. ORGANISATIONAL SCOPE

- 2.1 These Procedures apply to all Students at ECC and its Partner Providers.

3. DEFINITIONS:

- 3.1 The *Glossary of Policy Terms* applies to these Procedures.

4. PROCEDURES CONTENT:

Summary Powers Prior to Report and Investigate

- 4.1 All Students are required to produce proof of identity and, if appropriate, proof of authorised access to any College facility when requested to do so by a Staff member.
- 4.2 A Staff member who believes on reasonable grounds, that:
 - a) a Student is committing, has committed or is likely to commit, an act of Misconduct; and

- b) the action is necessary to preserve order and/or allow for an activity to be properly conducted;

may

- a) require the Student to leave or be excluded from the activity;
- b) prohibit the Student from participating in that activity or a related activity, for a period not exceeding twenty-four (24) hours; and/or
- c) prohibit the Student from using College facilities and/or processes which are connected with the act of Student Misconduct or a relevant activity, for a period not exceeding twenty-four (24) hours,

and will then refer the matter to a Senior Staff member in accordance with Clause 4.3.

4.3 Where a Staff member is aware of an allegation of Student Misconduct and believes that there is an immediate or continuing risk of:

- a) serious injury or detriment to any person and/or serious detriment to the College's interests or reputation;
- b) substantial damage to College property; or
- c) severe disruption to any activity

the Staff member must immediately refer the matter to a Senior Staff member.

4.4 A Senior Staff member may direct a Student to leave College premises where the Senior Staff member believes, acting reasonably, that the:

- a) the Student is committing, has committed, or is likely to commit, an act of Misconduct; and
- b) there is an immediate or continuing risk of serious injury or detriment to any person, serious detriment to the College's interests or reputation, substantial damage to College property, or severe disruption to any activity,

and must then cause for an investigation to be commenced.

4.5 Reasonable grounds for a belief may exist even when the relevant person is relying on what they have been told by another person.

4.6 A Staff member must report any allegations of Student Misconduct to a Senior Staff member as soon as they become aware of the allegation.

4.7 The College Director and Principal, must not refer a matter to Staff member for investigation as an allegation of Student Misconduct unless they have the consent of the affected person, there is imminent danger of serious harm to self or others, or there is a legal obligation to disclose the information.

Investigation of Allegations of Student Misconduct

4.8 A Senior Staff member who becomes aware of an allegation of Student Misconduct must commence an investigation into the allegation as soon as practicable, and no longer than five (5) Calendar Days.

4.9 The Senior Staff member investigating an alleged act of Student Misconduct must not have a Conflict of Interest.

4.10 A Senior Staff member may, at any time during an investigation, refer the matter to the

Associate Principal / Principal , for investigation, if they:

- a) believe that it is more appropriate for the matter to be dealt with by another person, due to a Conflict of Interest or otherwise; and
- b) have first consulted with the relevant person about the referral.

4.11 The Senior Staff member investigating an alleged act of Student Misconduct:

- a) may seek evidence from such sources and consult with such persons as they consider appropriate, in their absolute discretion;
- b) must provide the Student with any documents or information being relied upon as evidence (the Senior Staff member can redact portions of documents or information not being relied upon as evidence), and provide the Student with a reasonable opportunity to respond;
- c) must, as soon as practicable:
 - i. notify the Student concerned and provide sufficient details in writing of the alleged Misconduct to enable the Student to respond to the allegation; and
 - ii. inform the Student that any written response to the allegations and/or a request to be heard at any interview must be received within fourteen (14) Calendar Days of the date of notification to the Student of the alleged misconduct;
- d) must act in accordance with principles of natural justice;
- e) must act as quickly as practicable in the circumstances, and
- f) must make decisions on the balance of probabilities which are fair and reasonable, having regard to the substantial merits of a matter.

4.12 If the Student requests an interview under Clause 4.11, the Senior Staff member will arrange an interview with the Student within fourteen (14) Calendar Days of the Student making the request. Interviews may, at the discretion of the Senior Staff member, be conducted in person, by telephone, teleconference or videoconference or by any other means, provided that the Student's preference is considered when making that decision.

4.13 The Student may be accompanied at any interview by a Student, friend, or family member, but may not be legally represented. The accompanying person may only act as the Student's advocate where invited to do so by the Senior Staff member conducting the interview.

4.14 The Senior Staff member may deal with the matter in the absence of any response from the Student under Clauses 4.11(b) or (c).

4.15 A Senior Staff member, following consultation with the College Director and Principal, has the power to discontinue or dismiss an investigation where they consider there is insufficient evidence to warrant further investigation. Where a Student has been notified of an investigation, the Senior Staff member must provide written notice of a discontinuance or dismissal to the Student.

4.16 Notwithstanding Clause 4.15, a Senior Staff member can re-investigate a matter where new evidence becomes available, following discussion with the College Director and Principal/ Associate Principal .

- 4.17 If the Senior Staff member determines that an act of Student Misconduct has occurred, they must:
- a) give the Student the opportunity to be heard on the issue of any Outcome to be imposed;
 - b) in imposing an Outcome described in Clauses 4.20-4.25, consider all relevant factors, including:
 - the Student's history (if any) of previous findings of Student Misconduct;
 - mitigating or aggravating factors; and
 - the impact of any Outcome on the Student's overall program of study, including any delay that the Outcome may cause to the completion of that program;
 - c) within seven (7) Calendar Days of the finding and the Outcome being determined, provide the Student with written notice of their reasons for that finding and for the Outcome imposed; and
 - d) inform the Student of the matters set out in Clauses 4.20-4.25 (Outcomes).
- 4.18 The Senior Staff member will provide a copy of the notices referred to in Clauses 4.11 and 4.15 to the Quality and Compliance Manager for retention in College records.
- 4.19 The Senior Staff member will give due consideration, subject to College Policies and Procedures, as to any information relating to the matter that may be disclosed to any person affected, or to the police, but is not obliged by these Procedures to disclose such information.

Outcomes

- 4.20 The Senior Staff member, following consultation with the College Director and Principal may, for any act of Misconduct by a Student, impose one or more of the following Outcomes:
- a) caution or reprimand the Student instead of, or in addition to, any Outcome that might be imposed for Student Misconduct; and/or
 - b) defer the imposition of an Outcome until the time for Appealing against that Outcome has expired, or on such terms and conditions, including undertakings by the Student, as the person granting the deferment considers appropriate.
 - c) fine the Student
 - d) require a Student to make restitution of an amount not exceeding \$1,000 to the College for property lost, damaged or destroyed as a result of the Misconduct;
 - e) Suspend the Student for a period not exceeding 12 (twelve) months from any participation in College activities or the use of College facilities or services;
 - f) Suspend the Student's Enrolment; and/or
 - g) Expel the Student.
- 4.21 The persons authorised to impose an Outcome under these Procedures may:
- 4.22 If both a fine and suspension from participation in College activities or the use of services or facilities of the College are imposed as Outcomes, the person imposing the Outcomes

may stipulate that the period of suspension is to conclude on payment in full of the fine or restitution.

- 4.23 A Student Expelled from the College under these Procedures may only apply to re-Enrol as a Student if the College Director and Principal consents in writing. That consent is in the absolute discretion of the College Director and Principal and may be given subject to such terms and conditions, including undertakings by the Student, as the College Director and Principal believes are suitable.
- 4.24 The College Director and Principal may take or direct that one, some or all of the following actions be taken if a Student has not paid a fine or restitution owing to the College:
- a) withhold official notification of the Student's Marks or Grades;
 - b) defer the conferral of an Award or certificate on the Student; and/or
 - c) not permit the Student to re-Enrol in a subsequent Study Period.
- 4.25 An Outcome applied pursuant to Clauses 4.20-4.24 does not otherwise limit the College's rights that may be available at law.

Appeal to the Student Appeals Committee

- 4.26 A Student may appeal to the Student Appeals Committee against a finding of Student Misconduct, the Outcome imposed, or both. See the *Student Appeals Policy*.
- 4.27 The Student Appeals Committee is the final avenue of Appeal within the College for Student Misconduct matters.

External Grievance Mechanisms

4.28 At any time, a Student may lodge a grievance with an external agency, for instance, the Sri Lankan Ombudsman, WorkSafe, the Human Rights and Equal Opportunity Commission, the State Administrative Tribunal or other external agencies that may be relevant depending on the nature of the grievance

Service of Documents

- 4.29 Where a notice or other document is permitted or required by these Procedures to be given or served, service of the notice or document may be effected on the person to be served by:
- a) giving the notice or document directly to that person by hand;
 - b) sending, as an email message, the notice or document to that person's College email address;
 - c) sending, in the body of an email message to that person's College email address, a URL (uniform resource locator) link to the notice or document, together with notification that the person required to download the notice or document;
 - d) posting the notice or document as a letter to that person's address as recorded on any Student Management System used by the College; or
 - e) leaving it for that person at the address recorded on the College's Student Management System.
- 4.30 Where the notice or document is sent in accordance with Clause 4.28(b) and (c), service

is deemed to occur at the time of sending the message.

- 4.31 Where the notice or document is posted in accordance with Clause 4.28(d), service is deemed to occur at the expiration of five days from the time of posting.

Timing and extensions of time

- 4.32 The College Director and Principal, Associate Principal (or nominee) may extend or abridge any period of time specified in these Procedures and may do so after the expiration of such period, where there are reasonable circumstances for doing so and having regard to principles of natural justice.

5. RELATED DOCUMENTS

- 5.1 These Procedures support the *Student Conduct Policy*.
 5.2 Other documents related to these Procedures include:

Academic Integrity Policy
Fitness to Study Policy
Privacy Policy
Sexual Assault and Sexual Harassment Prevention and Response Policy
Student Appeals Policy

6. CONTACT INFORMATION:

For queries relating to this document please contact:

PROCEDURES OWNER	College Director and Principal
ALL ENQUIRIES CONTACT:	Quality and Compliance Manager
TELEPHONE:	011 2565595
EMAIL ADDRESS:	

7. APPROVAL HISTORY:

PROCEDURES APPROVED BY:	Academic Director / Associate Principal
DATE PROCEDURES FIRST APPROVED:	June 2022
DATE LAST MODIFIED:	
REVISION HISTORY:	
NEXT REVISION DUE:	2023