

Student Misconduct Policy

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Scope

This policy applies to all students enrolled in a course or in a subject at Nan Tien Institute (NTI). It applies to students previously enrolled, not currently enrolled and students on any form of leave from their studies (including breaks in teaching sessions) where the event forming the basis of the allegation occurred while they were enrolled or is directly related to their enrolment.

This policy applies to student conduct that occurs:

- a. During any activity associated with NTI anywhere within or outside Australia, including any off-campus activity, exchanges with other education providers, institutions or organisations or while using online or social media services monitored or facilitated by NTI;
- b. In any mode of delivery of educational services, including on-campus, online, digital classroom or distance education mode.

This policy does not apply to student academic conduct covered by NTI's Academic Integrity Policy.

This policy does not apply to sexual harassment or sexual assault covered by NTI's Prevention of Sexual Assault and Sexual Harassment Policy.

This policy doesn't preclude NTI from initiating civil or criminal proceedings against a student who engages in unlawful or criminal activity on NTI premises.

Definitions

Expulsion	Expulsion means the removal or banning of a student from NTI for serious violation of this policy.
Extenuating circumstances	Events or circumstances which directly related to the timing of the misconduct and:

	<ul style="list-style-type: none"> a. are beyond the person’s control, i.e. the person is not responsible, directly or indirectly, for the situation. These events or circumstances must be unusual, uncommon or abnormal; and b. are claimed by the student with appropriate supporting documentation which NTI may verify.
NTI Community	<p>All students, employees, contractors, volunteers, associates and stakeholders of NTI at any location where NTI activities are undertaken, including (but not limited to):</p> <ul style="list-style-type: none"> a. NTI campus b. Online environment <p>Pilgrim Lodge and events</p>
Staff	All persons appointed by NTI as academic or professional services staff regardless of their level of seniority and regardless of whether holding full-time, part-time, or limited- term appointments, including conjoint appointments. For the purposes of this policy, it also includes persons engaged by NTI as casual employees.
Student Conduct Committee	The Student Conduct Committee investigates and determines the outcome of allegations of major student misconduct and comprises of the Student Services and Academic Support Manager, the Head of Program, the Student Representative to the Academic Board and the General Manager, Operations.
Student misconduct	Conduct of a student that is in breach of Student Conduct Policy.

Policy Statement

NTI values ethical behavior in all aspects of its endeavour and doesn’t tolerate misconduct. NTI recognises that the seriousness of misconduct varies and treats every case on its own terms and merits and in accordance with its own circumstances. NTI investigates and deals with incidents of misconduct by its students in a consistent, transparent and timely manner in accordance with this policy, affording natural justice and procedural fairness and applying penalties that are appropriate, fair and just.

Systems and Procedures

1. STUDENT MISCONDUCT

Student misconduct includes, but is not limited to, conduct where a student:

- a. Contravenes any provision of the rules or policies of NTI
- b. Behaves in a manner that prejudices the good name of NTI or NTI staff
- c. Engages in unlawful or criminal activity on NTI premises
- d. Damages or destroys NTI property (including library books, computing hardware or software, or the deliberate release of computer viruses)
- e. Misuses NTI facilities, systems and equipment, to engage in illegal activity or activity prohibited by NTI’s rules and policies (for example, computer hacking, infringing copyright)

- f. Steals or misappropriates NTI property or equipment
- g. Harasses, vilifies, bullies, abuses, threatens, assaults or endangers staff, students or other members of NTI community directly or by other means of communication
- h. Unreasonably disrupts staff or students or other members of NTI community from undertaking their normal activities at NTI
- i. Fails to follow reasonable directions of an employee of NTI
- j. Alters, falsifies or fabricates any document or record of NTI (for example, Statement of Results)
- k. Alters or falsifies any documentation that NTI requires of the student (for example, medical certificate or other supporting documentation)
- l. Divulges confidential or personal information relating to any NTI matter, staff member or student (for example, employment records, in-camera committee discussions) in circumstances where there is no reasonable or lawful excuse for doing so
- m. Behaves inappropriately in an activity (for example, in virtual or physical environments such as e-learning sites, face-to-face classes, meetings) or a facility in or under control or supervision of NTI
- n. Refuses or is unable to identify him/herself or produce a Student ID card when asked to do so by an officer of NTI (for example, security officer)
- o. Knowingly provides false or misleading information to staff of NTI
- p. Publishes material which is malicious, abusive, offensive, harassing, discriminatory or inappropriate about a staff member, student, alumni or any other member of NTI community
- q. Uses alcohol or any illegal substances on NTI premises
- r. Uses or carries any weapon or article which is deemed by NTI to be inappropriate
- s. Fails to comply with a penalty imposed or outcome agreed to under this or other policies of NTI

2. DETECTION OF MISCONDUCT

- a. Any person may report an allegation of student misconduct in writing to the Student Services and Academic Support Manager.
- b. If a possible case of student misconduct is brought to the attention of a staff member or a student of NTI, it should be reported in writing to the Student Services and Academic Support Manager.

3. PRELIMINARY REVIEW

- a. The Student Services and Academic Support Manager will conduct a preliminary review to ensure that there is evidence to support an allegation of student misconduct.
- b. Allegations of student misconduct must be based on evidence. 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 behavior is an act of misconduct.
- c. If no evidence of student misconduct is found by the Student Services and Academic Support Manager, the allegation will be dismissed and the student will not be contacted.
- d. If evidence is found of student misconduct in accordance with this policy, the student will be notified within 5 working days of the allegation.

- e. In the case of a possible minor breach, the Student Services and Academic Support Manager will notify the student in writing to both their NTI and personal email accounts (the Notification Letter) that an allegation of student misconduct has been made against them and will provide details of the alleged breach, including the name of the person who made the allegation and the supporting evidence.
- f. In the case of a possible major breach, the Student Services and Academic Support Manager will notify the student in writing to both their NTI and personal email accounts (the Notification Letter) that an allegation of student misconduct has been made against them and will provide details of the alleged breach, including the name of the person who made the allegation and the supporting evidence. The Student Services and Academic Support Manager will also advise the student that the matter has been referred to the Student Conduct Committee for a formal investigation.

4. FORMAL INQUIRY

- a. The student will be invited to respond to the allegations at a formal inquiry which will take place within 20 business days of the Notification Letter.
- b. Students may respond to the allegations in writing or in person (including by video conference or other multimedia) or both. Students must notify NTI how they intend to respond to the allegation.
- c. Students who wish to respond to the allegation in person are entitled to be accompanied by a support person. The support person may not act as a legal representative.
- d. In the event that a student does not respond to the allegations in person or in writing, the formal inquiry will proceed in their absence.
- e. In the case of a possible minor breach, the formal inquiry will be held by the Student Services and Academic Support Manager.
- f. In the case of a possible major breach, the formal inquiry will be held by the Student Conduct Committee, which will comprise of the Student Services and Academic Support Manager, the Head of Program, the Student Representative to the Academic Board and the General Manager, Operations.
- g. The members of the formal inquiry will be entitled to speak to the person who made the allegation and any other person who it considers might help it reach a decision.
- h. The formal inquiry members will apply the principles of this policy in determining whether student misconduct has taken place and will:
 - i) Apply an open, impartial and unprejudiced mind to their duties;
 - ii) Base findings and recommendations solely on relevant considerations;
 - iii) Maintain confidentiality about all matters before them;
 - iv) Not be involved in a case or have any involvement in the finding and recommendation of a case before them if they have a personal relationship with the student or direct or indirect financial or personal interest in that case, or who otherwise has a conflict of interest in the case, even if they do not believe that their interest would affect their duties.
- i. Students will be notified of the outcome of the formal inquiry in writing to both their NTI and personal email accounts within 10 business days of the formal inquiry.

5. ADJUDICATING AND PENALISING – MINOR OFFENCES

- a. The Student Services and Academic Support Manager or Student Conduct Committee of NTI will determine if the incident represents minor or major misconduct.
- b. Instances of misconduct are deemed minor where the misconduct may reasonably be judged to result from careless practices or neglect of the specific guidelines relating to student conduct. Examples of minor misconduct are:
 - i) Antisocial or disruptive behavior
 - ii) Minor damage to property
 - iii) Unauthorized access to NTI facilities or property
- c. For a minor case of misconduct, the Student Services and Academic Support Manager will decide if the allegation is proven and determine the penalty. The penalty may include:
 - i) A warning or a reprimand to the student
 - ii) A direction to pay for repair or replacement of damaged property
 - iii) A direction to apologise to any person aggrieved by the student's conduct
 - iv) A direction that the student gives a written undertaking to not repeat or continue the behavior or activity that is the subject of misconduct
- d. Matters taken into account when imposing a penalty are the nature and seriousness of the misconduct, previous penalties imposed for misconduct, the fact that a student has admitted an alleged act of misconduct or the fact that a student came forward on the student's own initiative and admitted an act of misconduct.
- e. The Student Services and Academic Support Manager will advise the student in writing of the decision and the penalty. This letter will contain the following information:
 - i) Sufficient detail of the allegation to allow the student to understand the nature of the alleged misconduct;
 - ii) Details of the basis on which the misconduct was determined;
 - iii) The penalty imposed;
 - iv) A referral to the Appeals Process;
 - v) A reference to further advice and support available through NTI.
- f. The student has the right to appeal any decision as described below in sections 9 and 10.
- g. The Student Services and Academic Support Manager will record the details of the misconduct and the penalty in the Student Misconduct Database.
- h. If the allegation is dismissed, the offence will be removed from the Student Misconduct Database.

6. ADJUDICATING AND PENALISING – MAJOR OFFENCES

- a. Instances of misconduct are deemed major where the misconduct may reasonably be judged to result from an intentional breach of guidelines relating to student conduct or rules of behavior expected within NTI community. Cases of student misconduct which are not minor offences are treated as major. Examples of major misconduct are:
 - i) Major damage to property
 - ii) Discrimination or abuse
 - iii) Repeated minor offences

- b. For a case of major misconduct, the Student Services and Academic Support Manager will provide a report to the Student Conduct Committee. The Student Conduct Committee will interview the student following the procedures outlined above, decide if the allegation is proven and determine the penalty. The Student Conduct Committee may also interview any other parties involved. The penalties may include:
 - i) A warning or reprimand to the student
 - ii) A direction to pay for repair or replacement of damaged property
 - iii) Restricted or conditional access or use of any campus facilities for a period of up to 6 months
 - iv) Place the student on probation with, as appropriate, restrictions on enrolment or a requirement to attend counselling and remedial courses as directed
 - v) Expulsion from NTI
 - vi) If the student is already eligible for conferral of an award, deferral or non-conferral of that award
- c. Matters taken into account when imposing a penalty are those described above in section 5, point d.
- d. The Student Conduct Committee will provide a report on the determination and penalty to the Student Services and Academic Support Manager who will advise the student in writing of the decision and the penalty following the procedures set out above.
- e. The student has the right to appeal any decision as described below in sections 9 and 10
- f. The Student Services and Academic Support Manager will record the details of the offence and the penalty in the Student Misconduct Database.
- g. If the allegation is dismissed, the outcome will be recorded in the Student Misconduct Database.

7. MISCONDUCT AND GRADUATION

- a. In a situation where misconduct is not identified until sometime after it has occurred, it must be investigated in a similar manner as if it had been identified immediately.
- b. Where a student has received an award from NTI and serious misconduct is proven, consequential action may include rescinding the award. In such a case, the student's name shall be deleted from the Register of Graduates and the student will be required to return the testamur and final transcript to NTI.

8. ADMISSION OF STUDENT 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 inquiry being undertaken by the Student Services and Academic Support Manager or by the Student Conduct Committee in relation to that act of misconduct will cease; and
- b. Student Services and Academic Support Manager or Student Conduct Committee will determine only the penalty in accordance with this policy.

9. STUDENT APPEALS

- a. If dissatisfied with the outcome of a misconduct investigation, students have the right to appeal.
- b. The first stage for an appeal is through informal consultation. The student should seek a meeting

with the Academic Dean to discuss the outcome of the case. Any such request should be made within 5 working days of the date of the letter from the Student Services and Academic Support Manager in which the decision on the misconduct was notified.

- c. If the student remains dissatisfied, the second stage for an appeal is a formal request in writing to the President.

10. FORMAL APPEAL PROCEDURES

- a. Students who wish to appeal formally must lodge their appeal in writing to the Student Services and Academic Support Manager within 20 working days of receipt of an official notification from NTI of the decision or matter they wish to appeal. Receipt of the appeal will be notified to the student by the Student Services and Academic Support Manager
- b. A student can appeal on one of the following grounds:
 - i) procedural grounds, i.e. where it is thought that the Student Misconduct procedures were not followed;
 - ii) severe extenuating circumstances which must be validated with supporting documentation; or
 - iii) a letter of support from a staff member of NTI or a Counsellor.
- c. The appeal should include the following details:
 - i) the student's full name [family/surname and first name], student number and contact details;
 - ii) the nature of the decision or matter being appealed;
 - iii) the basis for the appeal;
 - iv) details of the specific outcome(s) sought by the student; and
 - v) copies of all relevant documents.
- d. The student appeal, together with all relevant supporting material, will be submitted by the Student Services and Academic Support Manager to the President for resolution. The President may interview the student and anyone who may have information about the case. The President may set up an Appeal Committee to make a determination on the appeal.
- e. The President will advise the student in writing of the decision on their appeal within ten (10) working days from the date the appeal is submitted. If the student's internal appeal is unsuccessful, the notification will acknowledge their circumstances and explain why their appeal has been unsuccessful.
- f. If the appeal to the President is successful, the offence will be removed from the Student Misconduct Database.
- g. An appeal at any level may be rejected if:
 - i) no reasonable grounds are stated for the appeal;
 - ii) no new or different grounds are stated for the appeal from those already considered by the previous hearing/adjudicator;
 - iii) the student has not ensured that they are in a position to receive all notifications from NTI; late or non-receipt of official letters will not be accepted as grounds for appeal if changes of address have not been notified and received by NTI; or
 - iv) the appeal is lodged outside the time limits stipulated.
- h. The President may appoint a senior member of staff or an external person to undertake the review.

11. EXTERNAL REVIEW OR REFERRAL

A matter may be referred to an external agency. Where this occurs, NTI may cease any internal process pending the outcome of external investigation. External agencies may include:

- a. The NSW Ombudsman
- b. The Anti-Discrimination Board
- c. The Australian Human Rights Commission
- d. The Independent Commission against Corruption
- e. The Police

If the external review results in a decision or recommendation in favour of the student, NTI will immediately implement the decision or recommendation, take any necessary action and advise the student in writing.

12. RECORDS

- a. The Student Services and Academic Support manager will provide a report on misconduct cases to the Academic Dean for each meeting of the Academic Board.
- b. All reasonable efforts will be made by NTI staff to ensure that the principles of confidentiality, security and privacy of student information are maintained while dealing with cases of misconduct. All records relevant to these procedures are to be maintained in a recognized NTI record keeping system.
- c. Information collected from students may, as required in accordance with the Higher Education Support (HES) Act 2003 and other legislation, be provided to the Department of Education, Department of Home Affairs and Commonwealth, State or Territory Government agencies.
- d. NTI is bound by the Australian Privacy Principles (AIPs) under the Privacy Amendment (Enhancing Privacy Protection) Act 2012 with respect to the collection, use and disclosure of personal information.

Legislation and Regulation

Australian Privacy Principles (APPs)

Higher Education Support Act (2003)

Higher Education Standards Framework (Threshold Standards) 2015

Privacy Act (1988)

Privacy Amendment (Enhancing Privacy Protection) Act 2012

Attachments

Suspected Student Misconduct Incident Form

Contacts

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