

# STUDENT MISCONDUCT POLICY AND PROCEDURES 2021

The Joint Venture Board of the University of Sydney Foundation Program Pty Limited (USFP), as the governing authority of the University of Sydney Preparation Programs, by resolution adopts the following policy and procedures.

Dated: 30 July 2021

Last amended: N/A

Signature:

Position:

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## PART 1 – STUDENT MISCONDUCT POLICY

### 1 Name of policy

This is the Student Misconduct Policy and Procedures 2021.

### 2 Commencement

This policy commences the day after the day on which it is registered.

### 3 Policy is binding

Except to the extent that a contrary intention is expressed, this policy binds The University of Sydney Foundation Program Pty Limited (CRICOS Provider Code: 00026A), staff, students and affiliates.

### 4 Overview

This policy (and its procedures) outlines the requirements for addressing allegations of student misconduct involving students enrolled in University of Sydney Preparation Programs (USPPs). It supports the Code of Conduct in creating and maintaining a productive and safe learning environment. The focus is on non-academic student misconduct as academic misconduct is covered by the Academic Integrity Policy and Procedures.

### 5 Application

This policy (and its procedures) applies to students:

- (a) currently enrolled, and
- (b) who have been enrolled in the past two years

in the USPPs delivered on behalf of the University of Sydney by Navitas Australia Pty Limited (formerly named Study Group Australia) (CRICOS Provider Code: 01682E) trading as Taylor College Sydney (the College), and to staff of the College.

### 6 Definitions

<b>Affiliates</b>	means consultants and contractors to the College; members of the Board of USFP; members of College committees; and any other persons appointed or engaged by USFP to perform duties or functions on its behalf.
<b>The College</b>	means Taylor College Sydney, including its staff, affiliates and contractors.
<b>College Director</b>	means the most senior staff member for the College (or their delegate).
<b>Caregiver</b>	means a person engaged by a student's parents or legal guardians to provide support and welfare services to the student in Australia, while on a student visa.
<b>CRICOS</b>	means Commonwealth Register of Institutions and Courses for Overseas Students.
<b>Delegate</b>	means a person who has been authorised to perform a specific responsibility.
<b>International student/overseas student</b>	means a person (whether physically located within or outside Australia) who holds or needs a visa with rights to study in Australia and who has the right to enrol at the College.
<b>Head of Department</b>	means the most senior leader of an academic discipline, responsible for recording allegations of academic misconduct.

<b>Internal Appeal</b>	means a request by a student for an internal appeal of a decision regarding a complaint, as detailed in the Student Complaints and Appeals Policy and Procedures.
<b>Investigator</b>	means a person who has been delegated responsibility to investigate misconduct allegations.
<b>Program Manager</b>	means the Director of a course.
<b>Student</b>	means a person who is currently an enrolled student in a USPP and students enrolled in a USPP within the past two years..
<b>Student misconduct</b>	<p>means an allegation of non-academic misconduct.</p> <p>Student non-academic misconduct could comprise a number of actions or situations, including but not limited to:</p> <ul style="list-style-type: none"><li>• behaviour that impairs the freedom of other students to study, research, work or participate in activities at the College</li><li>• unauthorised access to, use and/or disclosure of information about yourself, other students or staff, whether intentional or not; for example, providing your College system login details to any other person</li><li>• breaching the copyright of academic resources, for example, by selling, sharing or uploading study guides, presentation slides, lesson recordings, assessment questions and other teaching resources</li><li>• causing damage to or theft of facilities or property, or obstructing others' access to facilities, whether intentional or not</li><li>• incorrect use of Information and Communications Technology, library and other learning support resources</li><li>• providing false information or fraudulent documents to a member of the College community</li><li>• attending College activities under the influence of (or in possession of) illicit drugs</li><li>• drinking alcohol when under the age of 18 or acting inappropriately under the influence of alcohol while attending College activities</li><li>• smoking when under the age of 18, including when on campus, engaged in College activities, and when smoking within 4 metres of the entrance of the campus building</li><li>• failing to comply with reasonable directions, penalties or conditions set by College staff in accordance with College policies and procedures</li><li>• altering, falsifying or fabricating data, results or information</li><li>• refusing to identify themselves or produce a student ID card when asked to do so by a staff member</li><li>• a breach of the Student Code of Conduct.</li></ul>

**Serious non-academic misconduct** includes, but is not limited to:

- actions that adversely impact the reputation of the College, Navitas Australia or the University of Sydney
- actions or behaviours that put the safety of other students, staff or the College community at risk
- engaging in any unlawful or criminal activity on campus or in connection with College activities off campus, or online
- discriminating against anyone on the grounds of gender identity, disability, sexual orientation, marital or career status, pregnancy, breastfeeding, age, physical features, impairment, race, ethnicity, political or religious belief or activity
- attending College activities with weapons or items that can cause harm or intimidation
- bullying, abusing, intimidating, assaulting, vilifying, threatening, endangering or harassing (including sexual harassment) another person, either on or off campus or online, or encouraging such behaviour
- causing or attempting to cause physical harm to another student, College staff or visitors
- providing fraudulent documents to a member of the College community during the admissions process, such that the student would otherwise be ineligible for enrolment
- repeated misconduct or other misconduct deemed serious at the discretion of the Program Manager or delegate.

**Student Misconduct Register**

means confidential information recorded pertaining to allegations and decisions about student misconduct that can only be accessed by authorised officers, authorised staff of the College or those requesting access as authorised by law.

**Student Non-Academic Misconduct Panel**

means the panel formed by the College Director or delegate, to make decisions regarding allegations of student misconduct.

**Support Person**

means a person who is not directly involved in the complaint such as a friend, counsellor or family member. A support person's role is not to act as a legal representative.

**University of Sydney Preparation Programs (USPP)**

means the non-award pathway programs offered by The University of Sydney and delivered by Navitas Australia trading as Taylors College Sydney. They include the University of Sydney Foundation Program and the High Achievers Preparation Program (HAPP).

## 7 General principles

- (1) All allegations of non-academic misconduct, and potential breaches of the Code of Conduct, will be investigated in a timely, transparent, ethical and appropriate manner in conjunction with all relevant policies, procedures and guidelines.

- (2) The College is committed to investigating and resolving allegations of student misconduct as expeditiously as possible and acknowledges that a student can be significantly affected by delays in resolution of matters. Knowledge that a student has been found guilty of past non-academic misconduct will be taken into account when determining the penalty or penalties to be imposed.
- (3) All members of the College community are responsible for reporting any alleged instances of student misconduct.
- (4) Non-academic matters should be referred in the first instance to the Program Manager or delegate, who is responsible for recording the incident in the College's Misconduct Register. The Program Manager or delegate will refer a matter to the College Director or delegate in accordance with this policy and procedures if the alleged action(s), taken at its highest, would amount to misconduct.
- (5) Academic matters should be referred in the first instance to the Head of Department or delegate who is responsible for recording the incident in the College's Academic Misconduct Register. The Head of Department or delegate will determine if the allegation requires escalation to the College Director. Allegations of student academic misconduct are handled in accordance with the Academic Integrity Policy and Procedures.
- (6) Verified serious misconduct findings that result in a student being expelled, excluded or having their transcript cancelled (if already issued) will be reported to the University of Sydney, as provided for in section 12(8) of this policy and procedures.
- (7) The caregivers, parents or legal guardians of students aged under 18 will be informed of allegations and the status of investigations and findings of non-academic misconduct.
- (8) The College is obliged to report potential serious indictable offences (as defined by the *Crimes Act 1900 NSW*) to the Federal or NSW Police. All processes may be suspended upon requests by the Federal or NSW Police.

## 8 Procedural fairness

- (1) The College is committed to the principles of procedural fairness and natural justice when dealing with allegations of student misconduct, which include:
  - (a) the right to be heard
  - (b) the right to be treated fairly and impartially
  - (c) ensuring that parties are not victimised or discriminated against in relation to a misconduct allegation and process
  - (d) the right to be informed of allegations being made with appropriate notice, and to be provided with an opportunity to respond to these
  - (e) the right to be given reasons for any decision
  - (f) an opportunity to correct information, explain mitigating circumstances and make a submission regarding the penalty or penalties that may be imposed
  - (g) no member of College staff being able to make a determination on a non-academic misconduct allegation if they have had prior involvement in any aspect of the allegation or if any other conflicts of interest arise.

## 9 Confidentiality

- (1) Except as provided in section 7, the College will keep confidential all information relating to the implementation of this policy and its procedures, including allegations of potential non-academic misconduct, unless a student or former student consents to disclosure of part or all of the information for a specified purpose.

- (2) All students must keep confidential all information concerning the implementation of this policy and its procedures, unless disclosure is required to obtain support or advice from:
  - (a) immediate family members, parents, legal guardians or caregivers
  - (b) a medical professional, qualified counsellor or psychologist
  - (c) a student representative or support person
  - (d) the Federal or NSW Police for the purposes of reporting or assisting with investigations.
- (3) Staff and affiliates must keep confidential all information concerning the implementation of this policy and its procedures, unless they have been directly impacted by student misconduct and disclosure is required to:
  - (a) a medical professional, qualified counsellor or psychologist for the purposes of obtaining personal medical treatment or support
  - (b) a staff representative, legal representative or support person for the purposes of obtaining personal support or advice
  - (c) the Federal or NSW Police for the purposes of reporting or assisting with investigations.
- (4) Staff and affiliates must keep confidential all information concerning the implementation of this policy and its procedures unless disclosure is required to:
  - (a) the Federal or NSW Police for the purposes of reporting or assisting with investigations
  - (b) the DHA for the purposes of reporting
- (5) The confidentiality requirements concerning the implementation of this policy apply, but are not limited to, the identity of the person who reports alleged misconduct, the information collected in the course of investigating the alleged misconduct, the fact that misconduct is being investigated and the outcome of the investigations.

## **10 Records Management**

- (1) Records in association with this policy will be kept in accordance with the Records Management Policy and Procedures. Confidential documents related to the implementation of the policy will be maintained according to relevant privacy requirements, and all information about allegations and investigations will be stored in a confidential file.

## **PART 2 – STUDENT MISCONDUCT PROCEDURES**

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### **11 Process**

- (1) Identification of potential non-academic misconduct
  - (a) If a student sees what they believe may be potential misconduct, they should notify a member of staff at the College.
  - (b) All members of staff who witness potential misconduct should use their professional judgement to stop the behaviour, ensure the safety of the person and/or others, and report it to the Program Manager or delegate.
  - (c) The staff member or student who sees potential misconduct should provide in writing sufficient details of that conduct and any supporting evidence, which the Program Manager or delegate may use to determine if the allegation is minor or more serious.
- (2) Initial review



- (a) Minor instances of potential misconduct are investigated by the Program Manager or delegate investigator, whilst more serious allegations are escalated to the College Director or delegate.
  - (b) The Program Manager or delegate investigator reviews the allegation and supporting evidence, makes an initial decision as to whether the matter is to proceed and within 5 working days either:
    - (i) dismisses the allegation or
    - (ii) contacts the student, communicates the allegation to them and invites them to respond, and in cases deemed serious, refers the matter to the College Director or delegate.
  - (c) If the decision is to dismiss the allegation, this would mean there is insufficient evidence to support the allegation and therefore no clear grounds for the allegation to be put to the student. There may still be sufficient concerns to issue a caution, to be determined by the Program Manager.
  - (d) In all other instances, the student will be contacted in writing, including after initial telephone contact or meetings, and will have the right to reply to the allegation within 5 working days.
  - (e) If a student admits to the conduct referred to, the matter will be considered for an appropriate penalty and will not require further investigation.
- (3) Investigation process
- (a) If the student replies to the allegation, the Program Manager or delegate investigator will record the response and any additional supporting evidence on the Student Misconduct Register. The investigation will be completed in no more than 20 working days.
  - (b) If the student does not reply, existing evidence will be used to determine the outcome including any penalties considered relevant.
  - (c) All evidence will be taken into consideration to determine the outcome, with an option to request information or advice from other parties who may be able to assist with the investigation.
  - (d) The investigation will include a review of any recorded information of the student's prior non-academic misconduct history.
  - (e) The Program Manager or delegate investigator may, during an investigation, refer an allegation to the College Director or delegate to complete an investigation into an allegation which is deemed more serious than initially anticipated or requires temporary exclusion. The College Director or delegate at their discretion may determine an appropriate outcome and if relevant, penalties, or refer the matter for consideration to the Student Non-Academic Misconduct Panel.
  - (f) In certain instances of alleged non-academic misconduct, the College Director or delegate may advise the student of a temporary suspension from attending the College by restricting a student's access to College facilities (including buildings, spaces and online facilities) for a defined period of time pending the results of investigation and the final outcome of the Student Non-Academic Misconduct Panel. For example, when the safety of members of the College community may be at risk, or to prevent damage to property, or to avoid serious disruption of any activity conducted by the College, the student will be advised in writing of the terms of their suspension. When considering suspension, the College Director or delegate or the Student Non-Academic Misconduct Panel should refer to the Deferment, Suspension, Withdrawal or Cancellation of Enrolment Policy.
- (4) Student Non-Academic Misconduct Panel
- (a) The Student Non-Academic Misconduct Panel is a panel that is convened by the College Director or delegate in instances where a non-academic misconduct allegation is serious or complex and requires further review.



- (b) As part of the Panel's investigation, students and staff involved in the allegation may be required to attend further meetings or provide information on request. Where a student is required to appear before the Non-Academic Misconduct Panel, they will have an option to bring a support person.

## 12 Outcomes

- (1) Outcomes and penalties (if any) will be determined having regard to the student's prior non-academic misconduct history and will be logged on the College's Student Misconduct Register.
- (2) A student will be advised of the outcome of investigations into non-academic misconduct and if any penalties apply.
- (3) Where a student is not found to have engaged in non-academic misconduct, the allegations will be dismissed and no penalties will apply.
- (4) Where a student is found to have engaged in non-academic misconduct, outcomes and penalties may include, but are not limited to:
  - (a) a formal written warning via email or letter and recorded on student file
  - (b) a College community service
  - (c) student to attend alternative class sessions based on availability of timetabled classes
  - (d) restricted access to certain College facilities (including buildings, spaces and online facilities) for a defined period of time
  - (e) student excluded from representing the College at any College activity for a period of time
  - (f) student excluded from representing the student body on College governing bodies
  - (g) probationary enrolment for a period of up to one term, subject to the student's ongoing good behaviour and/or other conditions as determined by the decision-maker
  - (h) suspend or cancel the student's enrolment with the College for a specified period of time
  - (i) an exclusion by cancelling enrolment for all or any subject or unit of study for a set period of time up to no longer than 2 years
  - (j) withhold results
  - (k) cancel the transcript (if already issued)
  - (l) expel the student from the College permanently
  - (m) a fine
  - (n) a combination of the above.
- (5) Only the College Director can authorise suspension, exclusion or cancellation of enrolment, unless a delegate has been nominated to authorise in place of, or in the absence of the College Director.
- (6) As a condition of suspension, a student may be directed to provide a written apology, attend behavioural education sessions or workshops, or obtain medical clearance.
- (7) Where a student is found to have engaged in non-academic misconduct, they may lodge an internal appeal against the decision in accordance with the Student Complaints and Appeals Policy and Procedures.
- (8) Notification of verified serious misconduct findings that result in a student being expelled, excluded, or having their transcript cancelled (if already issued) will be reported to the University of Sydney, as the principal provider of the course in which a student is enrolled, at the conclusion of the case.
- (9) Please refer to the Cancellation and Refunds Policy and Procedures for refund entitlements in the event of a student's suspension, or exclusion by cancellation of enrolment.



### 13 Rescissions and replacements

This document replaces the following, which are rescinded as from the date of commencement of this document:

Nil

### NOTES

Student Misconduct Policy and Procedures 2021

Date adopted: 30 July 2021

Date registered: 13 August 2021

Date commenced: 13 August 2021

Administrator: Position title of the most senior person responsible for the day to day operation of the policy.

Review date: At least once every 5 years from the date of commencement.

Rescinded documents: Not applicable

Related documents:

- (1) *Education Services for Overseas Students Act 2000 (Cth)*
- (2) *Education Services for Overseas Students Regulations 2019 (Cth)*
- (3) Higher Education Standards Framework (Threshold Standards) 2021
- (4) National Code of Practice for Providers of Education and Training to Overseas Students 2018 (the National Code)
- (5) National Standards for Foundation Programs
- (6) *Privacy Act 1988 (Cth)*
- (7) Academic Integrity Policy and Procedures
- (8) Attendance Policy and Procedures
- (9) Cancellation and Refund Policy and Procedures
- (10) Deferment, Suspension, Withdrawal or Cancellation of Enrolment Policy and Procedures
- (11) Records Management Policy and Procedures
- (12) Sexual Misconduct and Sexual Harassment Policy and Procedures
- (13) Student Code of Conduct
- (14) Student Complaints and Appeals Policy and Procedures
- (15) Student Privacy Policy
- (16) Student Progression and Exclusion Policy and Procedures
- (17) Student Support Procedures
- (18) University of Sydney Under 18 International Students Policy 2016
- (19) University of Sydney Under 18 International Students Procedures 2016



## **AMENDMENT HISTORY**

Nil