

STUDENT MISCONDUCT PROCEDURE

Section	Problem Resolution		
Approval Date	26.07.2011	Approved by	Senior Management Team
Next Review	Feb 2012	Responsibility	Chief Executive
Key Evaluation Question	6	ITPNZ Quality Standard	6

PURPOSE

To ensure students have a clear understanding of what constitutes misconduct and the consequences of offending, and that staff members of Nelson Marlborough Institute of Technology have clear and consistent procedures to follow when dealing with instances of student misconduct.

To ensure students are treated fairly and consistently when misconduct occurs and the principles of natural justice are adhered to.

SCOPE

All situations where from any source, an allegation of student misconduct is made.

Students of Nelson Marlborough Institute of Technology (NMIT), on NMIT premises, or off campus on course related activities including students of NMIT training partners and contracted training providers.

This procedure does not cover CAA and MSA regulations relating to “fit and proper” and drug and alcohol criteria documented in the student handbook.

The *Complaints Procedure* shall be followed to resolve student complaints where misconduct of a student has not been identified.

Where misconduct of a student is alleged the *Student Misconduct Procedure* is followed, not the *Complaints Procedure*.

The *Student Misconduct Procedure* does not apply to students failing to meet academic requirements.

The *Student Misconduct Procedure* applies to NMIT staff members attending NMIT courses as students; refer to *Staff Misconduct Procedure*, unless the Chief Executive (CE) or delegate decides that the *Staff Misconduct Procedure* should be applied.

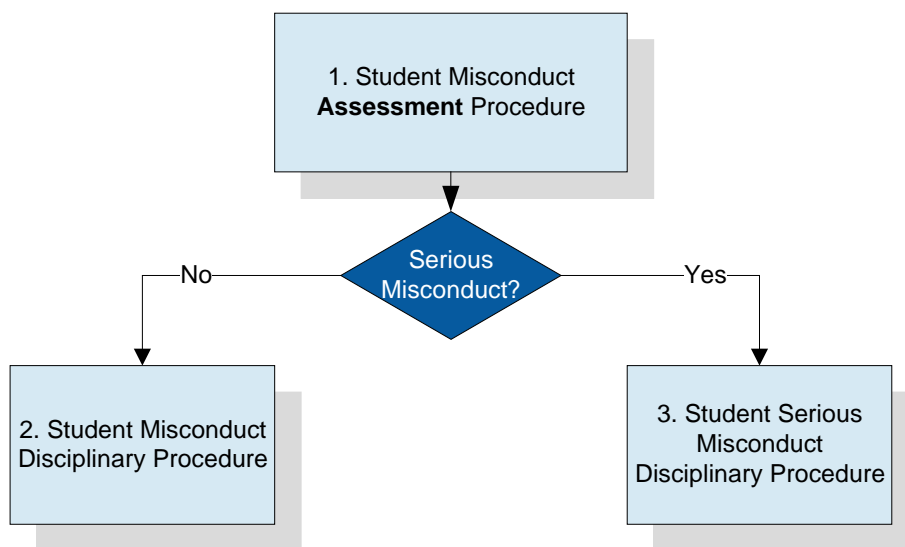
INTRODUCTION

There are two distinct **disciplinary procedures** separately covering:

- Misconduct
- Serious misconduct

Examples of misconduct and serious misconduct are given in Appendix A.

OVERVIEW OF STUDENT MISCONDUCT PROCEDURES



DEFINITIONS

Advocate	A person or persons chosen by a party to speak on behalf of the party. Examples: friend, whanau, Students Association, minister, relative, legal representative, colleague.
PAL	Programme Area Leader
Allegation	A complaint or problem relating to a student's conduct at NMIT
CE	Chief Executive
Disciplinary procedures	Procedures for investigating and dealing with "misconduct" and "serious misconduct".

Exclusion	Studies terminated and student denied the right to study on a NMIT programme. This may be accompanied by a trespass notice restricting access to all or part of NMIT premises, depending on the decisions made in respect of each case.
NMIT Contact Person	<p>For the purpose of this procedure means Programme Area Leader or delegateto who this responsibility has been delegated, Senior Management Team Member or Contracted Training Provider Manager if the responsibility for this procedure has been specifically delegated to the Contracted Training Provider:</p> <p>A Director or Group Area Manager is a member of the Senior Management Team with delegated responsibility from the Chief Executive</p> <p>A Programme Area Leader is an NMIT Manager responsible for a teaching unit within NMIT</p> <p>A Contracted Training Provider Manager or Chief Flying Instructor where the student is undertaking study that NMIT has contracted to teach a programme or course of study.</p>
Panel	The group convened in terms of clause 3.4 to conduct an official hearing under the Serious Misconduct Disciplinary Procedure
Student Record	<p>The case file held by the NMIT Contact Person in relation to the misconduct disciplinary procedure.</p> <p>The case file held by the Academic Manager in relation to the serious misconduct disciplinary procedure.</p>
Support person	A person or persons chosen by a party to assist by being present for the party. Examples: friend, whanau, Students Association, minister, relative, colleague.
The student	The person against whom an allegation has been made.

RESPONSIBILITIES

All staff, CE and Council members are expected to initiate this procedure should they identify student misconduct/serious misconduct.

Where the NMIT Contact Person, responsible for investigating an allegation requires advice as to which, if any, disciplinary procedure applies, NMIT Contact Person should consult with the Director Planning, Quality and Learner Services (DPQLS). The DPQLS will after taking advice as he/she considers necessary, identify the disciplinary procedure to be followed.

Where an allegation under these disciplinary procedures has arisen through the NMIT *Complaints Procedure*, the NMIT Contact Person shall ensure that the person making the allegation is kept informed of the progress and outcome of that allegation.

Where an allegation under these disciplinary procedures is made outside of the *Complaints Procedure* the NMIT Contact Person will advise the person making the allegations of the procedure followed to deal with the allegation and the progress and outcome of the allegation.

Students shall comply with the *Student Charter*, and *Student Rules* printed in the Student Handbook, and any rules specific to the programmes on which they are enrolled. These documents should be read in conjunction with these procedures.

All information relating to cases of student misconduct will remain confidential to those parties involved in the case, and not divulged to outside parties or agencies, with the exception of any cases relating to criminal activity or activities which contravene any external regulations.

PRINCIPLES

All allegations must be put in writing. An allegation must be specific, with clear references to incidents and any evidence available including dates and times including the following information:

- Date
- Name of person making the allegation
- Preferred contact details ie phone (home or other) email address
- Name of the student
- Name of the programme the student is enrolled in
- Details of the allegation and any supporting documents attached

If the nature of an allegation changes, the amendment to the allegation will also be put in writing.

All procedures will be initiated as promptly as is reasonably possible having regard to the nature of the allegation.

Parties involved in the *Student Misconduct Procedure* must observe the utmost confidentiality so as to protect individual privacy.

The principles of natural justice are incorporated, whereby the student shall be provided with all information relating to the complaint.

A student has the right to:

- Be advised of the level of seriousness of the allegation; which procedure NMIT intends to follow to deal with the allegation and the consequences of the allegation being substantiated;
- Know the full details of an allegation and the name of the person or persons laying the allegation, prior to any meetings held to discuss the allegation;
- Be given sufficient prior notice of any meetings to be held under these procedures which the student is to attend to enable preparations and the arrangement of representation if required.
- Have a support person or advocate (including legal representation), of the student's choice present at any meeting. This right must be notified to the student in writing at the time notice is given of any meeting.
- Be given a full opportunity of offering an explanation for the alleged conduct in a face to face meeting with the person or persons responsible for deciding the outcome of any stage of the disciplinary procedures, prior to any decision being made.
- Attend class for courses they are enrolled in unless the NMIT Contact person deems this inappropriate

due to the nature of the misconduct allegation.

Where serious misconduct is alleged the following actions may be taken:

- After consultation with the Head of School, the Programme Leader has authority to suspend a student for up to 24 hours.
- The Group Manager has authority to **suspend** a student for up to five teaching days.
- The Chief Executive (CE) has authority to extend times by the minimum needed to meet unavoidable delays in following the Serious Misconduct Disciplinary Procedure.
- The student shall be informed of the procedure that will be followed and shall be given written details of the suspension including reason, start, duration and prohibitions during suspension.
- Where the alleged conduct infers criminal activity, the DPQLS will, at the time he/she considers appropriate, contact the Police and keep them informed on progress of the investigations.

The parties attending any meeting under these procedures shall be notified in advance of the roles of others attending (including support people, legal advisors).

Any issue, in the opinion of the person or body deciding on the outcome of an allegation, that remains ambiguous will be interpreted in favour of the student.

The Student Record will be retained after any written warning has expired, but all information relating to student misconduct will be removed from the Student Record and destroyed, once the student has completed the programme of study it relates to.

Excluded students may be withdrawn from any courses not yet started, and refunded associated fees as appropriate (Refer: *Withdrawal from NMIT Programmes and Courses*).

PROCEDURES

1. MISCONDUCT ASSESSMENT PROCEDURE	RESPONSIBILITY
1.1 Conduct an assessment of alleged misconduct by following 1.2 to 1.6. (Note - at any point NMIT Contact person may determine that the allegation be treated directly through the serious misconduct disciplinary procedure (3)).	NMIT Contact Person (steps 1.1 to 1.6 may be delegated to PL)
1.2 Document allegation and notify DPQLS.	Person making allegation
1.3 Notify student of alleged conduct, whether or not it is considered to be of a serious nature, and that a meeting will be arranged to assess the validity of the allegation. Advise or arrange suitable support or advocacy for the student as early as possible.	NMIT Contact Person
1.4 Arrange formal meeting with student: <ul style="list-style-type: none">- set meeting for mutually agreeable time <u>as soon as practicable</u>.- advise student as to who will be at the meeting and of their right	NMIT Contact Person

	<p>to bring a support person or advocate</p> <ul style="list-style-type: none"> - provide to the student the written allegation prior to meeting and a copy of the Student Misconduct Procedure. 	
1.5	<p>Meet with student</p> <ul style="list-style-type: none"> - advise student of all matters known to the NMIT Contact Person and relevant to the allegation. - give student opportunity to respond - call on others, if required, to clarify situation - document what is said at the meeting. 	NMIT Contact Person with appropriate staff member
1.6	<p>Determine whether there are sufficient grounds for the alleged misconduct to be treated as serious. Notify DPQLS of the outcome of the assessment procedure.</p> <p>If alleged misconduct is not considered to be serious then Procedure 2 applies. If it is considered to be serious then Procedure 3 applies.</p>	NMIT Contact Person
2.	STUDENT MISCONDUCT DISCIPLINARY PROCEDURE:	RESPONSIBILITY
2.1	<p>Decide outcome. Either:</p> <ul style="list-style-type: none"> - No further action <p>or - Initial written warning detailing:</p> <ul style="list-style-type: none"> - remedial action student is required to take. - required standard of conduct. - how student's conduct differs from required standard. - conditions student is required to meet. - that a final warning will result if standard not met. - duration of the warning (twelve months maximum). 	NMIT Contact Person
2.2	<p>Prepare written Summary of Student Misconduct Enquiry (Appendix B) <u>and have the student sign it</u>. If the student does not sign, note the summary: "delivered, not attested". Place signed Summary of Student Misconduct Enquiry and copy of written allegation <u>on the Student Record</u> and give a copy to the student.</p>	NMIT Contact Person
2.3	<p>If standard required as set out in the initial warning is not met follow steps 1.2 to 1.6 except that the outcome of not meeting stated conditions shall be:</p> <ul style="list-style-type: none"> - final written warning including details as required in 2.1 for the initial warning. <p>or</p>	NMIT Contact Person

	<ul style="list-style-type: none"> - referral to DPQLS for initiation of Serious Misconduct Procedure if the alleged misconduct is considered sufficiently serious. 	
2.4	<p>Student Exclusion</p> <p>If standard required as set out in the final warning is not met:</p> <ul style="list-style-type: none"> - Ensure a fair and equitable process has been followed in consultation with DPQLS. - Decide appropriate outcome for the student in consultation with DPQLS. This may include exclusion from NMIT. - Advise the student in writing of the outcome including the requirement for normal re-entry criteria to be met once any period of exclusion expires. Place a copy on the Student Record. 	NMIT Contact Person
2.5	<p>Withdraw student from any courses not yet started, and refund associated fees as appropriate (Refer: <i>Withdrawal from NMIT Programmes and Courses</i>).</p>	Programme Area Leader to initiate
2.6	<p>Remove and destroy all information relating to student misconduct from the Student Record once the programme of study it relates to is complete.</p>	Programme Area Leader

3	STUDENT SERIOUS MISCONDUCT DISCIPLINARY PROCEDURE	RESPONSIBILITY
3.2	<p>Advise DPQLS immediately serious misconduct is alleged.</p> <p>Provide written report to DPQLS and the student. Include details of alleged conduct, the result of the initial assessment and recommend whether further action under the Serious Misconduct Disciplinary Procedures is required.</p>	NMIT Contact Person
3.3	<p>If further action under Serious Misconduct Disciplinary Procedures is not recommended, then take action in accordance with 2.1 of the Misconduct Disciplinary Procedures.</p> <p>Advise student and the person/s who made allegation of this outcome.</p>	NMIT Contact Person
3.4	<p>If further action under the Serious Misconduct Disciplinary Procedures is recommended, convene a panel comprising DPQLS, Student Advisor and the Student Representative on Council.</p>	DPQLS
3.5	<p>Hold a confidential hearing after receiving report in accordance with 3.2 from NMIT Contact Person.</p> <p>The panel should meet separately with the NMIT Contact Person, the person/s making the allegation and the student.</p> <p>The student may to be present to hear the allegation in person if they</p>	Panel

	<p>so wish.</p> <p>All matters under consideration by the panel in determining an outcome in respect of the enquiry must be put to the student.</p> <p>Other parties should be interviewed if further information is required.</p> <p>Minutes should be taped and recorded verbatim and a copy sent to the student.</p>	
3.6	If the serious misconduct is substantiated the outcome will usually be exclusion from NMIT for a minimum period of six months.	
3.7	Sign written Summary of Student Misconduct Enquiry (Appendix B)	Panel (DPQLS) to coordinate)
3.8	<p>Inform the student in writing of:</p> <ul style="list-style-type: none"> • panel decision with signed Summary of Student Misconduct Enquiry attached. • that once any exclusion period expires normal re-entry criteria and any additional special requirements are required to be met. • the right and grounds of appeal. • Request that student sign and return a copy of the Summary of Student Misconduct Enquiry. If student does not sign then sign summary as “delivered not attested”. 	DPQLS
3.9	Place copy of NMIT Contact Person’s report, letter to student, any panel reports and signed Summary of Student Serious Misconduct Enquiry on the Student Record.	NMIT Contact Person
3.10	Withdraw student from any courses not yet started, and refund associated fees as appropriate (Refer: <i>Withdrawal from NMIT Programmes and Courses</i>).	Programme Area Leader to initiate
3.11	Remove and destroy all information relating to student misconduct from the Student Record once the programme of study it relates to is complete.	Programme Area Leader

APPEALS

Appeals shall be only on the grounds that the disciplinary procedures have not been correctly followed and shall be made in writing to the Chief Executive within two weeks of receiving the “Summary of Student Misconduct Enquiry”. The appeal must state specific details of how the disciplinary procedures have not been correctly followed.

REPLACEMENT AUTHORITIES

The following are authorised to act in the absence of those designated with "responsibility" in the disciplinary procedures.

Position	Replacement
Chief Executive (CE)	Director to Planning, Quality and Learner Services* or Group Manager
Student Support Advisor	Programme Area Leader I from Programme Area not directly involved
Student Representative on Council	Other Student Association Executive Member
Programme Area Leader	Delegated Academic Staff member from the same Programme Area.
Director of Planning, Quality and Learner Services	Curriculum and Quality Manager
Director of Corporate Services & Finance	Director of Planning, Quality and Learner Services*

*If otherwise involved the Acting Deputy Chief Executive shall appoint a replacement Manager.

REFERENCES

INTERNAL

Student Charter
Student Rules
Student Problem Resolution Framework
Complaints Procedure
Student Academic Counselling and Exclusion
Programme Regulations
Withdrawal from NMIT Programmes and Courses

EXTERNAL

Education Act 1989, Section 224 (13)

EXAMPLES OF MISCONDUCT AND SERIOUS MISCONDUCT

The following list is not definitive. In addition to the conduct specified below there will be other conduct that in NMIT's opinion is misconduct or serious misconduct.

The misconduct will be regarded as serious if by its nature and/or degree it:

adversely affects (or has the potential to adversely affect) the safety of other students or staff of NMIT,

or,

is likely to bring the name of NMIT or its quality standards into disrepute or,

involves behaviour considered to be seriously inappropriate for a student of NMIT

or,

is recurring misconduct, not necessarily for the same offence.

- * Falsification of application documents or NMIT records.
- * Misuse of drugs or alcohol on NMIT premises or during off campus course related activities.
- * Possession of illegal substances on NMIT premises.
- * Unauthorised possession of NMIT property.
- * Damage to NMIT property.
- * Violence, intimidation or harassment of any kind against another person on NMIT premises or during off campus course related activities.
- * Removal or possession of another person's property without permission.
- * Damage of another person's possessions or work.
- * Misuse of fire or safety equipment.
- * Acts seriously affecting hygiene or safety.
- * Misuse or damage of electronic data or communication systems.
- * Access, or attempted access to classified NMIT information or computer systems without authorisation.
- * Access, or attempted access to the computer user area of any other user, regardless of any permission given or implied.
- * Copying NMIT Software.
- * Conviction of any criminal offence carried out whilst on NMIT premises or during off campus course related activities.
- * Conduct which is likely to bring the student or NMIT into disrepute.
- * Breaches of the Student Charter.
- * Copying, falsification or plagiarism of a summative assessment and other forms of cheating.
- * A breach of confidentiality.
- * Unauthorised removal of property from a work based training situation.
- * Carrying a weapon
- * Abusive language or behaviour causing offence to another person on NMIT premises or during off campus course related activities.
- * Misuse or unauthorised use of NMIT property (or other property whilst on off campus course related activities).
- * Posting offensive notices within NMIT premises.
- * Failure to observe safety rules.

APPENDIX A - STUDENT MISCONDUCT PROCEDURE

- * Restricting or preventing another student or staff member from carrying out his/her work or studies.
- * Waste of time or material.
- * Smoking on Campus.
- * Failure to observe security requirements
- * Refusal to carry out the reasonable instructions of a tutor or other NMIT staff member.
- * Recurring minor matters.

SUMMARY OF STUDENT MISCONDUCT ENQUIRY

Student's Name:		Year of Programme:	
Nature of allegation			
Name of person making the allegation:			
Contact phone no:		Date allegation received:	
Process followed: (include dates, names of those involved and specific clause references to the Student Misconduct Procedure).			
Summary:			
Outcome:			
Date:			

Misconduct:					
NMIT Contact Person:		Signature:		Date:	

Serious Misconduct:					
Panel Member Name:		Signature:		Date:	
Panel Member Name:		Signature:		Date:	
Panel Member Name:		Signature:		Date:	
Panel Member Name:		Signature:		Date:	

I confirm that I have read this summary:	
Signed (Student):	Date:

If unsigned by student: Delivered not attested.	
Signed (Student):	Date