

Non-Academic Misconduct Policy and Procedure

Purpose	This policy addresses the Australian Institute of Technology & Commerce (AITC) approach to Non-Academic Misconduct and how it will deal with allegations of Non-Academic Misconduct.
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Related documents	<p>AITC Student Access and Usage of Facilities Policy AITC Student Grievance Mediation Policy and Procedure AITC Student Code of Conduct AITC Aboriginal and Torres Strait Islander Peoples Policy AITC Student Support, Welfare and Wellbeing Policy AITC Bullying, Harassment and Discrimination Policy AITC Access and Usage of Resources Policy AITC Academic Integrity Policy AITC Student Feedback Policy AITC Student Consultation Policy AITC Student Learning Support Policy AITC Student Grievance Mediation Policy</p>
Authority	Approved by Council

1. Purpose

This Policy and Procedure outlines the approach of the Australian Institute of Technology and Commerce (AITC) to Non-Academic Misconduct and how it will deal with allegations of Non-Academic Misconduct.

2. Scope

This Policy and Procedure refers to AITC, its staff, students, affiliates and contractors.

3. Definitions

Academic Integrity means pursuing academic endeavours in an honest and ethical manner, ensuring that information, theories, written text and ideas that are not original are acknowledged and referenced appropriately.

Academic Misconduct means pursuing academic endeavours in a dishonest and unethical manner, with the intention of circumventing the assessment process and gaining an unfair

advantage. Examples of Academic Misconduct include: assisting another person to engage in Academic Misconduct; cheating; collusion; contract cheating; falsifying data used in the course of academic endeavours; plagiarism; and providing falsified or fabricated documents to obtain credits and/or recognised prior learning.

Misconduct means inappropriate, unacceptable, improper, wrong or potentially unlawful conduct or behaviour, for example harassment and bullying.

Non-Academic Misconduct means all forms of Misconduct outside Academic Misconduct.

4. Policy Intent

All allegations and Academic Misconduct will be dealt with through the *Student Academic Integrity Policy*. This Policy deals with allegations and occurrences of Non-Academic Misconduct.

Any breach of the following AITC Policies constitute *Non-Academic Misconduct: Access and Usage of Resources Policy; Bullying, Harassment and Discrimination Policy; Code of Conduct Policies; Conflict of Interest Policy; Delegations of Authority Policy; Equal Employment Opportunity Policy; and Student Support, Welfare and Wellbeing Policy*.

Other specific forms of Non-Academic Misconduct include, but are not limited to:

- a breach of confidentiality or privacy requirements or obligations in respect of AITC or its staff and students;
- unreasonably interfering with the freedom of other persons to pursue their studies, carry out their functions or participate in their engagement at AITC;
- harassing or engaging in any other form of improper or discriminatory behaviour towards another student, AITC staff, visitors to AITC;
- intimidating or assaulting another student, AITC staff, visitor or any other person at the AITC facilities or while that person is engaged in any activity related to their engagement with AITC;
- breaching the terms or conditions of a penalty imposed for student misconduct;
- behaving improperly or inappropriately, in a class, meeting or other activity in or under the control or supervision of AITC or on AITC premises or facilities, or on any other premises or facilities to which the student has access for AITC purposes, or while pursuing any activity related to their enrolment at AITC;
- publishing any material which is abusive, offensive, vilifying, harassing, discriminatory or inappropriate about AITC, another student, or AITC staff, in any forum or media, including but not limited to print, internet, social media, email, digital or electronic communications and broadcasting forums;
- acting dishonestly in relation to an application for admission to AITC;
- altering or attempting to alter any document or record of AITC or causing or attempting to cause any unauthorised alteration of such a document or record;
- altering or falsifying any document that AITC requires from the student (e.g. medical certificate, professional authority form or other supporting documentation);
- misusing any AITC property in a manner which is illegal, or which is or will be detrimental to the rights or property of others;
- stealing, destroying, damaging or causing loss or cost in respect of any property, whether that property belongs to AITC or any other person;
- sexual harassment, which includes any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature;
- indecent assault, which includes any assault that has a sexual connotation, sexual assault as defined under the New South Wales and Australian law.

All allegations and findings of Non-Academic Misconduct will be entered into the Non-Academic Misconduct Register. The CEO's Office (or delegate) will maintain Non-Academic Misconduct Register and provide regular reports to the Council on allegations and occurrences of Non-Academic Misconduct.

5. Student Non-Academic Misconduct

The behavioural expectations of AITC of their students are outlined in the *AITC Student Code of Conduct* and each student will also be provided a copy of the *AITC Student Grievance Mediation Policy* when commencing their studies. Furthermore, information associated with misconduct will be guided by the *AITC Records and Information Management Policy*.

If the Non-Academic Misconduct is deemed to be not serious then the penalties may include;

- reprimand and/or caution of the student;
- require the student to apologise to anyone who was the target of the Misconduct;
- require the student to attend counselling to address their behaviour;
- suspend the student from a unit or a course;
- require the student to refrain from contact with specified people;
- restrict or deny access to some or all the AITC campus;
- restrict or deny access to AITC resources; and;
- require the payment for the cost of the damage, or a contribution towards the cost of the damage, caused by the Misconduct to an amount of up to \$1,000.

If the Misconduct is deemed to be serious then penalties need Academic Board approval and these may include;

- suspension the student from AITC;
- exclusion of student from AITC and updating of the record in Provider Registration and International Student Management System (PRISMS) system;
- referral of the matter to the New South Wales Police or another authority for investigation; and;
- payment of the cost of the damage, or a contribution towards the cost of the damage, caused by the Misconduct for an amount over \$1,000.

Further details on Procedures associated with Student Non-Academic Misconduct are presented in the Appendix to this Policy.

6. Staff Non-Academic Misconduct

AITC considers Staff committing Non-Academic Misconduct or breaching any of AITC's Policies as an extremely serious issue. Staff are expected promote and to uphold standards of behaviour and be an example for students. Staff are expected to understand AITC's expectations for both staff and students under the various Policies including the *AITC Staff Code of Conduct*, *AITC Bullying, Harassment and Discrimination Policy*, *AITC Equal Employment Opportunity Policy*, *AITC Health and Wellbeing Policy*, *AITC Student Welfare and Wellbeing Policy*, *AITC Records and Information Management Policy*, and, *AITC Staff Grievance Mediation Policy and Procedure*.

Further details on Procedures associated with Staff Non-Academic Misconduct are presented in the Appendix to this Policy.

Appendix

Procedures

1. Student Non-Academic Misconduct

1.1 Responding to Student Non-Academic Misconduct

If AITC staff suspects or been informed that a student has committed or may be committing Student Non-Academic Misconduct, they should assess the situation and take appropriate actions. Where applicable, the staff member should provide the student with reasonable instructions to achieve the following;

- ensure the safety of the student or of any other person involved;
- prevent damage to or the destruction of AITC property or facilities;
- ensure that the student acts in a calm and reasonable manner; prevent further disruption to classes and;
- maintain good order.

The staff member will use their discretion to determine the appropriate course of action depending on the circumstances. Where the student has been disruptive, the staff member may choose to caution the student and remind them of the behavioural expectations of AITC (Student Code of Conduct), and potential consequences of continuing to behave inappropriately.

Where the student's behaviour demands a more significant response, the staff member may ask the student to leave the AITC facilities. The staff member should inform the CEO if this situation arises and this should only occur when the staff member has reasonable grounds to suspect that the student is committing Student Non-Academic Misconduct.

Examples of situations where it is appropriate to request a student leave the campus include; -

- the student continually disrupts classes;
- he/she is angry, aggressive or inappropriate behaviour indicating a risk of violence, physical interactions or altercation between the student and anyone else, and;
- the student's anger and aggression results in physical damage to property.

The staff member will use their discretion to determine the period that the student is excluded from the campus.

If there is a significant and immediate risk to the safety or wellbeing of the student or any other person, the staff member should contact the appropriate authorities to provide assistance. If this occurs, the situation must be escalated and the reported to the CEO immediately and will be entered in the Critical Incidents Register.

1.2 Reporting of Student Non-Academic Misconduct

Where any staff suspect or detect student Non-Academic Misconduct, they will need to determine the appropriate immediate action to be taken. AITC will investigate allegations or occurrences of Student Non-Academic Misconduct and take the appropriate actions if a student is found guilty of Misconduct.

If the matter can be resolved informally, the staff member must inform the CEO and provide details of the occurrence, suspicion or allegations. The CEO (or delegate, e.g. Registrar) must record this in the Misconduct Register.

Where the staff member determines that the matter should be investigated further, he/she must report the allegations or occurrences of Student Non-Academic Misconduct to the CEO (or the delegate).

Students are able to report allegations or occurrences of Student Non-Academic Misconduct to any AITC staff member and if this occurs, the allegation must be reported to the relevant supervisor who must then report the matter to the CEO. The CEO (or the delegate) will then determine who will investigate the matter.

Where an allegation or occurrence of Non-Academic Misconduct is investigated, the student's enrolment status will remain unchanged until the matter has been finalised unless there is an immediate risk to any staff or students, or to the student his/herself. Only after the completion of the investigation can AITC impose sanctions or take disciplinary action affecting the student's enrolment status.

Discretion and confidentiality must be paramount when investigating allegations and occurrences of Student Non-Academic Misconduct.

The process for the investigation and resolution for allegations of Student Non-Academic Misconduct are as follows:

1. Appoint an investigating officer and gather evidence.
2. Arrange and invite the student to attend a meeting.
3. Conduct the investigation meeting.
4. Finalise decision, record the disciplinary action outcome and inform the student.
5. Impose penalties recommended by investigating officer. Disciplinary action may require Council approval.

1.3 Appointment of an investigating officer and gathering evidence

Once the CEO (or the delegate) has determined an investigation is warranted, they will appoint an appropriate investigating officer. The role of the investigating officer is to gather the relevant evidence and information, investigate the allegation or occurrence of Student Non-Academic Misconduct and make a determination which includes any disciplinary action to be taken.

In determining the appropriate investigating officer, the CEO (or the delegate) must consider the nature and the related potential conflict of interest of the alleged Student Non-Academic Misconduct. They must also consider the experience and seniority of the investigating officer to ensure that they are capable of undertaking an investigation based on the seriousness of the alleged Misconduct.

Once the investigating officer is appointed, the investigating officer must collect evidence required to make a decision. Evidence can include; verbal or written statements from staff; verbal or written statements from students; video, photographic or audio evidence from AITC security system; video, photographic or audio evidence from staff or students' electronic devices; emails, texts or other forms of electronic communications; social media posts; and Police reports.

Once the investigating officer has collected and collated the evidence, they must assess if there is sufficient evidence to proceed with an investigation. If there is not enough evidence to warrant proceeding with the investigation, the investigation will be terminated, and the investigating officer will provide a report and have the details recorded in the Non-Academic Misconduct Register.

1.4 Arranging and inviting the student for a meeting.

If the investigating officer determines that there is sufficient evidence to proceed with the investigation, they must arrange a meeting with the student.

The student must be given at least ten (10) business days' notice of the intended meeting. The invitation will be sent via email and text message. The student will be asked to respond to the invitation within five (5) business days of receiving the invitation. In arranging the meeting, the investigating officer must provide the following to the student;

- the date, time and location of the meeting;
- AITC staff who will attend the meeting;
- the nature and specific details of the alleged Non-Academic Misconduct and the potential penalties of Non-Academic Misconduct;
- what evidence is being considered;
- copies of the *Code of Conduct* and *Bullying, Harassment and Discrimination Policy*;
- copy of any other relevant Policies and Procedures under which the alleged breach may have occurred;
- advise that they will be given the opportunity to present their case, that the interview will be conducted with mutual respect and that inappropriate behaviour will not be tolerated;
- the invitation to the student to provide a written submission and/or evidence, at least two (2) business days prior to the scheduled meeting, that will be considered at the meeting;
- advise that the student has the right to have a support person (who is not a legal representative) attend the meeting with them; and;
- provide the student with a copy of the *Student Support, Welfare and Wellbeing Policy*.

If the student does not respond within five (5) business days of receiving the invitation, a reminder email and text message will be sent. The investigating officer will also attempt to call and speak to the student. These contact attempts will be recorded in the student's file.

If there has been no contact from the student at the date and time of the scheduled meeting, the investigating officer will refer the matter to the CEO (or the delegate) who will determine if there is a finding of Non-Academic Misconduct and what penalty will be applied. This will be recorded on the Non-Academic Misconduct Register as well on the student's file.

The student will receive notification of the outcome via email and a letter in the mail within five (5) business days of the CEO (or the delegate) making a decision. The student will also be provided a copy of the *Student Grievance Mediation Policy* and informed of their rights of appeal under that Policy.

1.5 Conducting the investigation meeting

If the student has responded and attended the interview, the investigating officer must consider the following before making a determination; all evidence gathered by the investigating officer; any written submission made by the student; any evidence provided by the student; any statement made by the student or anyone else during the interview; the age, knowledge and experience of the student; and; the nature, seriousness and recurrence of any alleged Non-Academic Misconduct of the student.

The investigating officer must allow the student a fair and reasonable opportunity to make his/her case and provide evidence. The investigating officer must act in a professional manner and treat the student with respect. The student will also be expected to act in a reasonable and respectful manner.

The meeting is to be documented in accordance with the *Records and Information Management Policy*.

1.6 Finalise decision, record outcome and inform student

Once the investigating officer has considered all of the evidence, submissions and verbal statements, they are required to make a determination. The final determination must include whether the investigating officer believes the student is guilty of committing Non-Academic Misconduct, and any penalties that will be imposed if there is a finding of Non-Academic Misconduct.

The student will receive notice of the decision with the reasons via email and a letter to state the penalties imposed as well as the timeframes in the mail within five (5) business days of the investigating officer making a final determination. The student will also be provided a copy of the *Student Code of Conduct and the Student Grievance Mediation Policy* and informed of their rights of appeal.

The staff member who initiated the investigation will be informed of the outcome via email within five (5) business days of the investigating officer making a final determination.

The investigating officer will notify the CEO (or the delegate) of the final determination within five (5) business days. The CEO (or the delegate) must record the details appropriately in the Non-Academic Misconduct Register.

1.7 Penalties that can be imposed by investigating officer

If there is a finding of Non-Academic Misconduct, and the Misconduct is not deemed to be serious, the penalties should reflect the nature and gravity of the Misconduct. The investigating officer may impose the following penalties;

- reprimand and/or caution of the student;
- require the student to apologise to anyone who was the target of the Misconduct;
- require the student to attend counselling to address their behaviour;
- suspend the student from a unit or a course;
- require the student to refrain from contact with specified people;
- restrict or deny access to some or all the AITC campus;
- restrict or deny access to AITC resources; and;
- require the payment for the cost of the damage, or a contribution towards the cost of the damage, caused by the Misconduct of up to \$1,000.

1.8 Penalties that require Board approval

If there is a finding of Non-Academic Misconduct, and the Misconduct is serious, the penalties should reflect the nature and gravity of the Misconduct. Certain penalties related to more serious Misconduct will require Board approval. The investigating officer may recommend (through the CEO) that the Board consider the following penalties;

- require the payment for the cost of the damage, or a contribution towards the cost of the damage, caused by the Misconduct over \$1,000;
- suspend the student from AITC;
- exclude student from AITC, update the record in Provider Registration and International Student Management System (PRISMS); and/or;
- refer the matter to the New South Wales Police or another authority for investigation.

1.9 Right of Appeal

Students have the right to lodge an appeal with the investigation officer, where:

- There is new evidence now available that was not available to the Non-Academic Misconduct investigation earlier;
- There is evidence that there has been a breach of a fair and reasonable investigation.

An appeal must be lodged within 10 working days of receiving the investigation decision notice. The student must ensure the submission of an appeal is completed in full and state the ground of the appeal with the evidence documentation.

The investigation officer will report the appeal application to CEO, and the internal meeting will be held to determine whether the appeal can be heard. The decision will be notified to student in writing within 5 working days of receiving student's appeal application, and the hearing date will be advice in the email where an appeal hearing is allowed.

The hearing of the Non-Academic Misconduct Appeal will be conducted within 30 working days from the date notified to student that the appeal hearing is allowed.

2. Staff Non-Academic Misconduct

AITC considers staff committing Non-Academic Misconduct or breaching any of AITC's Policies as an extremely serious issue.

Staff are expected promote and to uphold standards of behaviour and be an example for students. Staff are expected to understand AITC's expectations for both staff and students under the various Policies including the *Code of Conduct*, *Bullying, Harassment and Discrimination Policy*, *Equal Employment Opportunity Policy* and *Staff Welfare and Wellbeing Policy (Staff)* and *Student Support Welfare and Wellbeing Policy (Students)*.

Findings of Staff Non-Academic Misconduct may result in one of the following disciplinary actions for the staff member; issued with a warning letter; is closely supervised for a period of time; is required to attend remedial training; is suspended from employment; or; is terminated from employment.

Other appropriate outcomes are possible, at the discretion of the CEO. In making a decision regarding disciplinary action for a finding of Staff Non-Academic Misconduct, the decision maker must take into account all factors of the incident. The severity of the disciplinary action must reflect the nature and recurrence of the Staff Non-Academic Misconduct.

Where an allegation or occurrence of Staff Non-Academic Misconduct is investigated, the staff member's employment status will remain unchanged until the matter has been finalised unless there is an immediate risk to the health and wellbeing of staff. Only after finalisation of the investigation can AITC impose sanctions or take disciplinary action affecting the staff member's employment status.

Discretion and confidentiality must be paramount when investigating allegations and occurrences of Staff Non-Academic Misconduct.

All allegations or occurrences of Staff Non-Academic Misconduct must be reported to the CEO immediately. The CEO must record all allegations or occurrences of Staff Non-Academic Misconduct in the Non-Academic Misconduct Register. All allegations or occurrences of Staff Non-Academic Misconduct will be dealt with through the following procedure; commence investigation of the alleged Staff Non-Academic Misconduct; gather required evidence; arrange and invite staff member for a meeting; conduct the investigation meeting; and finalise decision, record outcome and inform the staff member.

2.1 Commence investigation of the alleged Staff Non-Academic Misconduct

Allegations of Staff Non-Academic Misconduct will be investigated by the CEO or the investigation officer who is delegated by CEO. The CEO must record all allegations or occurrences of Staff Non-Academic Misconduct in the Non-Academic Misconduct Register and report this to the Council.

The CEO must determine whether there is merit to the allegation of Staff Non-Academic Misconduct. Where there is sufficient evidence to warrant an investigation, the CEO will coordinate any evidence or parties that can provide statements.

2.2 Gather required evidence

The CEO must gather any evidence that may be relevant to the alleged Staff Non-Academic Misconduct. The CEO may also conduct interviews with anyone who may be able to assist them in making a determination.

2.3 Arrange and invite the Staff member to a meeting

The CEO will arrange a meeting with the staff member.

The staff member must be given at least ten (10) business days' notice of the intended meeting. The invitation will be sent via email and text message. The staff member will be asked to respond to the invitation within five (5) business days of receiving the invitation.

In arranging the meeting, the CEO must provide the following details to the staff member;

- the date, time and location of the meeting;
- who will attend the meeting;
- the nature and specific details of the alleged Staff Non-Academic Misconduct and the potential penalties for a finding of Non-Academic Misconduct;
- evidence to be considered, and where appropriate, provide copies;
- a copy of the *Code of Conduct* and *Bullying, Harassment and Discrimination Policy*;
- a copy of any other relevant Policies and Procedures under which the alleged breach may have occurred;
- advice that they will be given the opportunity to present his/her case, that the interview will be conducted with mutual respect;
- advice that the staff member can provide a written submission and/or evidence at least two (2) business days prior to the scheduled meeting which will be considered at the meeting; the include
 - the nature of the case
 - who was/were involved
 - when and how the case occurred
 - any other information relevant
- advice that the staff member has the right to have a support person present (not a legal representative).

2.4 Conduct the investigation meeting

At the meeting, the CEO must consider the following before making a determination:

- all evidence gathered;
- any written submission made by the staff member;
- any evidence provided by the staff member;
- any statement made by the staff member or anyone else during the meeting;
- the age, experience, position and seniority of the staff member; and;

- the nature, seriousness and recurrence of any alleged Staff Non-Academic Misconduct by the staff member.

The CEO must allow the staff member a fair and reasonable opportunity to make his/her case and provide evidence. The CEO must act in a professional manner and treat the staff member with respect. The staff member will also be expected to act in a reasonable and respectful manner.

Minutes of the meeting must be agreed by all the parties and provided to the staff member within five (5) business days, and the minutes must be documented in accordance with *Records and Information Management Policy*.

2.5 Finalise decision, record outcome and inform the Staff member

Once the CEO has considered all of the evidence, submissions and verbal statements, they are required to make a determination. The final determination must include whether the CEO believes the staff member is guilty of committing Staff Non-Academic Misconduct, and any penalties that will be imposed if there is a finding of Staff Non-Academic Misconduct.

The staff member will receive notice of the decision via email and a letter in the mail within five (5) business days of the CEO making a final determination. The staff member will also be provided a copy of the *Staff Grievance Mediation Policy* and informed of their rights of appeal under that Policy.

The CEO must record the details appropriately in the Misconduct Register in accordance with *Records and Information Management Policy*.

Where disciplinary action involves suspension or termination of employment that is determined by the CEO, this must be reported to the Council. Suspension or termination of employment can only occur after the Staff member has exhausted the internal review process.