

TITLE: STUDENT DISCIPLINE
DOC ID: NMIT/IR/11
APPROVED FOR USE: CEO - Brian MacDonald

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EDITION: N/A
DATE: 27/01/2010

****Resolution of the Board, the 31st day of August, 2009 pursuant to clause 19 of the Institute Constitution.***

1. DEFINITIONS

In this Rule definitions contained in the Constitution shall apply, together with the following definitions, unless inconsistent with the context or the subject matter.

- 1.1 **“Authorised”** means authorised by the Chief Executive Officer or his/her delegate.
- 1.2 **“Institute campus”** shall mean and include each and every designated area occupied by the Northern Melbourne Institute of Technical and Further Education and all buildings and structures thereon.
- 1.3 **“Committee”** means the Student Discipline Committee, a committee appointed by the Chief Executive Officer.
- 1.4 **“Chief Executive Officer”** shall be the person appointed by NMIT Board as the Chief Executive of Northern Melbourne Institute of Technical and Further Education.
- 1.5 **“Exclusion/suspension”** means the removal for a specified time period of a persons right to enter, to remain and to participate in all or specified parts of the precincts of the Institute and all or specified facilities, classes, examinations, tests and other activities of or under the control of the Institute and “exclude/suspend” shall have a similar meaning.
- 1.6 **“Expulsion”** means the permanent removal of a persons right to be a student of the Institute and to enter and to be in any of the precincts of the Institute and “expel” shall have a similar meaning.
- 1.7 **“Misconduct”** means any conduct that is prejudicial to the good order and discipline of the Institute, impairs the reasonable freedom of other persons to pursue their studies or research or work at the Institute or to participate in the life of the Institute, or is likely to bring the Institute into unjustified disrepute and without limiting the generality of the foregoing includes -
 - 1.7.1 Failure to comply with any reasonable instruction of a member of the NMIT Board or staff of the Institute whether pursuant to the Institute Rules or generally, including:
 - (i) any instruction given to a student to identify him/herself by the production of an identity card or otherwise; or
 - (ii) any instruction relating to safety.

- 1.7.2 Wilful or negligent damage to or removal of or any other wrongful interference with any property:
- (i) of the Board wheresoever situated; or
 - (ii) of any student or member of the staff of the Institute within the precincts of the Institute; or
 - (iii) of any person, firm or corporation within the precincts of the Institute.
- 1.7.3 Any assault upon any person within or near the precincts of the Institute.
- 1.7.4 Any wilful false representation whether oral or written on a matter concerning or affecting the student in his/her capacity as a student.
- 1.7.5 Grossly negligent or wilful conduct that adversely affects the due conduct of the business of the NMIT Board, or the Institute or the work of any person in that person's capacity as a student or member of the staff of the Institute.
- 1.7.6 Wilfully entering any part of the precincts of the Institute or any other place to which students may have access for the purposes of tuition when not entitled to do so or having so entered refusing to leave when requested to do so.
- 1.7.7 Wilful failure to comply with:
- (i) any Institute Rule; or
 - (ii) any rule, order or authorised notice,
- in or relating to the whole or any part of the precincts of the Institute.
- 1.7.8 Knowingly publishing any confidential information of or held by the Institute.
- 1.7.9 Conduct within the precincts of the Institute that is disorderly or interferes with the comfort or convenience of any person who is acting lawfully and entitled to be present.
- 1.7.10 Conduct within the precincts of the Institute that constitutes bullying, harassment or sexual harassment and which continues after the student has been clearly advised of the nature of the offending behaviours, conduct or language. Harassment is any unwelcomed or unreciprocated behaviour that is reasonably likely in all the circumstances to offend, insult, humiliate or intimidate another person. Sexual harassment is any unwelcomed and unreciprocated conduct of a sexual nature that is reasonably likely in all the circumstances to offend, insult, humiliate or intimidate another person.

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- 1.7.11 Conduct directed towards a student or member of staff that constitutes cyber bullying, and which continues after the student has been clearly advised of the nature of the offending behaviours, conduct or language. Cyber bullying is a form of bullying or harassment which is carried out through an internet service such as email, chat room, discussion group, instant messaging or web pages. It can also include bullying or harassment through mobile phone technologies such as SMS.
- 1.7.12 Unauthorised or illegal interference with or access to any computer resources and/or records or data, which are either the property of the Institute or accessible through Institute resources, as defined in the Institute Network Access Policy or other Institute computer access policy in place from time to time.
- 1.7.13 Wilfully cheating or attempting to cheat or knowingly assisting any other student to cheat or attempt to cheat at or in respect of any examination, test, assignment or other means of assessment conducted by or on behalf of the Institute.
- 1.7.14 Acts of plagiarism which involve the wilful failure to acknowledge the sources of information used in work submitted for assessment that continue after the student has been clearly advised of the breach and provided with information and resources to avoid future acts of plagiarism. Plagiarism is using all or part of someone else's work and presenting it as one's own.
- 1.7.15 Possessing, using or trafficking in a Drug of Addiction or Drug of Dependence within the meaning of the Crimes Act 1958 or the Drugs Poisons and Controlled Substances Act 1981 or any Act in substitution thereof.
- 1.7.16 Failure by or within the required date or period to pay or otherwise to observe any fine or other penalty imposed under any Institute Rules.
- 1.7.17 Failure by or within the required date or period to pay any fee or charge payable under any Institute Rules.
- 1.7.18 Conviction of a criminal offence committed within the precincts of the Institute or in any way related to the Institute or any student or member of the staff.
- 1.8 **“Precincts of the Institute”** means and includes all Institute campuses, and all places and buildings outside Institute campuses used by the Institute for the purposes of the Institute, whether occupied by the Institute solely or in conjunction with or by others, and all places to which a student or students have access from time to time for the purpose of tuition, study or in connection with any educational program of the Institute or for student services or for social or recreational purposes.

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1.9 In construing this Rule the singular shall where the context admits include the plural and words signifying the male gender shall include the female gender and vice versa.

2. DISCIPLINARY POWERS OF THE CHIEF EXECUTIVE OFFICER (CEO), DIRECTORS, ASSOCIATE DIRECTORS, MANAGERS, HEADS OF DEPARTMENT, MEMBERS OF THE TEACHING STAFF AND MEMBERS OF THE LIBRARY STAFF

2.1 The NMIT Board has delegated power, subject to this Rule, to the CEO, Directors, Associate Directors, Managers, Heads of each Department, Program Coordinators within Teaching Departments, Higher Education Staff including Heads of Programs and Lecturers and members of the Teaching Staff and Library Staff to impose summarily any of the penalties hereunder prescribed where, in the opinion of the CEO, Directors, Associate Directors, Managers, Heads of Departments, Higher Education Heads of Programs, Program Coordinators and specified members of the Teaching / Lecturing and Library Staff (as the case may be), a student is guilty of Misconduct and the imposition of a penalty is warranted.

The application of a penalty will be the result of investigations undertaken by the CEO, Directors, Associate Directors, Managers, Heads of Departments, Higher Education Heads of Programs, Program Coordinators and specified members of the Teaching/Lecturing and Library staff (as the case may be) on the basis of the principles of natural justice and procedural fairness.

2.1.1 The Chief Executive Officer (CEO)

- (i) Where the misconduct is such that, in the opinion of the CEO, warrants such action - Expel the student or impose any other penalty prescribed in (ii), (iii) or (iv).
- (ii) Demand compensation from the student.
- (iii) Suspend the student for a specified time period.
- (iv) Impose a fine not exceeding \$800.00
- (v) Reprimand the student.

2.1.2 A Director

Each of the powers contained in (ii), (iii), (iv) and (v) of 2.1.1.

2.1.3 An Associate Director or Manager

- (i) Exclude a student for a period of up to one semester.
- (ii) Reprimand the student.

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2.1.4 The Head of any Department or any Higher Education Head of Program

- (i) Exclude a student for a period of up to two weeks.
- (ii) Reprimand the student.

2.1.5 A Program Coordinator within a Teaching Department

- (i) Exclude a student for a period of up to one week.
- (ii) Reprimand the student.

2.1.6 Any Member of the Teaching or Lecturing Staff

- (i) For Misconduct generally, exclude the student from the precincts of the Institute for a period of up to one working day or, particularly exclude the student from the remainder of any class or next class, lecture or tutorial for which the staff person has responsibility.

If a student has been excluded from any class on more than two occasions the student will, upon exclusion for Misconduct on a subsequent offence, automatically be referred to the relevant Head of Department or Head of Program for action, which may include exclusion from the precincts of the Institute for a period of up to two weeks.

- (ii) Reprimand the student.

2.1.7 The Member of the Library Staff Present at the Time

Exclude the student from the use of the facility for the remainder of the day.

3. REFERRAL FOR FURTHER DISCIPLINARY ACTION

- 3.1 When any staff member under sub-clauses 2.1.4 to 2.1.7 (inc) considers that in addition to any other summary penalty which he/she may impose, the alleged Misconduct of a student is such as to warrant reference to the appropriate Associate Director for further disciplinary action, he/she shall do so.
- 3.2 When an Associate Director or Manager considers that in addition to any other summary penalty which he/she may impose, the alleged Misconduct of a student is such as to warrant reference to a Director or the CEO (as the case may be) for further disciplinary action, he/she shall do so.

4. REPORTING OF SUMMARY PENALTY

- 4.1 A summary penalty imposed under sub-clause 2.1.7 shall be reported in writing or by e-mail by the person imposing the penalty to the Manager Student Services not later than the next working day, who shall keep an ongoing record of all such penalties and will forward the details of the penalty to the Director Programs as deemed appropriate.

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- 4.2 A summary penalty imposed under 2.1.5 or 2.1.6 shall be reported in writing or by e-mail to the relevant Head of Department not later than the next working day, who shall keep an ongoing record of all such penalties and will forward the details of the penalty to the Director Programs as deemed appropriate.
- 4.3 A summary penalty imposed under sub-clauses 2.1.1 to 2.1.4 inclusive shall be reported in writing or by e-mail to the Director Programs not later than the next working day, who shall keep an ongoing record of all such penalties and who shall inform the student concerned in accordance with sub-clause 14.1.

5. MISCONDUCT RELATED TO STUDENT ASSESSMENT

- 5.1 For Misconduct related to assessment in a subject the CEO, after consultation with the Director Programs, Associate Director and/or Head of Department concerned, may grade the student as having failed in that subject or may vary the student's assessment in that subject.
- 5.2 Where a penalty is imposed under sub-clause 5.1, the student shall be given written notice by the Director Corporate Services of such penalty. Unless the student concerned, within five (5) business days of receipt of such notice, gives notice in writing to the Director Corporate Services of appeal against such penalty, the Director Corporate Services shall formally notify the student of failure or variation in grade in the subject and adjust the student's record accordingly.

6. COMPENSATION FOR DAMAGE

- 6.1 The NMIT Board, Committee or the CEO may, in addition to any other penalty imposed, require a student to pay to the Institute compensation for damage to NMIT Board property caused by him/her.
- 6.2 The certificate of the Chief Finance Officer as to the value of the property damaged shall be conclusive.

7. REVIEWS BY THE CHIEF EXECUTIVE OFFICER

- 7.1 Subject to clause 13 any student upon whom a summary penalty has been imposed under sub-clauses 2.1.2 to 2.1.4 (inclusive), may request in writing the CEO or his/her delegate to review the summary penalty imposed. Such request must be given within two (2) business days of receipt of notification of the penalty.
- 7.2 All such reviews under sub-clause 7.1 shall be undertaken and determined by the CEO or his/her delegate as soon as reasonably convenient.
- 7.3 The decision of the CEO or his/her delegate on review of the penalty imposed shall be final.

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8. APPEALS TO THE STUDENT DISCIPLINE COMMITTEE

- 8.1 Subject to clause 13 any student upon whom a penalty has been imposed under sub-clause 2.1.1 may appeal to the Committee. The decision of the Committee in relation to such an appeal shall be final.
- 8.2 All appeals under sub-clause 8.1 shall be heard and determined by the Committee as soon as reasonably convenient.

9. METHOD OF APPEAL TO THE STUDENT DISCIPLINE COMMITTEE

- 9.1 Any appeal by a student to the Committee shall be exercised by the student delivering to the office of the CEO during ordinary office hours and within five (5) business days of the date of receipt of notification of the decision appealed against, a written and signed notice of appeal.
- 9.2 A written notice of appeal shall contain:
- (i) the name of the officer or body that made the decision;
 - (ii) brief details of the alleged Misconduct;
 - (iii) an outline of the grounds of the appeal;
 - (iv) a statement of whether or not the student proposed to appear and to be heard or to provide a written submission or both;
 - (v) whether the student wishes to be either represented or have an observer present at the hearing, a statement to that effect, together with the name, address and occupation of either the proposed representative or observer.
 - (vi) the number of witnesses to be called by the student to give evidence, together with the names and status of each witness.

10. STUDENT DISCIPLINE COMMITTEE

- 10.1 The Committee shall be formed by the CEO as required.
- 10.2 The Committee shall comprise three (3) members - the Chairperson (appointed under 10.3) and two other members of staff.
- 10.3 The CEO shall appoint a senior management member of staff as Chairperson of the Committee.
- 10.4 The CEO shall appoint a Secretary to the Committee. The Secretary shall not take part in the deliberations of the Committee or vote on any issue.

INSTITUTE RULE

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- 10.5 No person who is directly involved in a matter referred to the Committee may serve as a member or act as Secretary to that Committee which hears the matter.
- 10.6 The Committee shall, subject to this Rule, regulate its own procedure in respect of any hearing.
- 10.7 The decisions of the Committee on any matter shall be by a majority vote, with each member entitled to one vote.

11. STUDENT DISCIPLINE COMMITTEE HEARINGS

- 11.1 The Committee shall when hearing any appeal made to it:
 - 11.1.1 Satisfy itself that the student concerned has been given not less than five (5) business days prior notice in writing of the hearing.
 - 11.1.2 Give the student concerned the right to be heard either orally or in writing or both and the right to hear the evidence given against the student and to question any persons giving evidence against the student and the right to call witnesses and otherwise to produce evidence.
- 11.2 At the hearing of any appeal before the Committee, the student concerned may be accompanied by either an observer being an enrolled student or a member of the staff of the Institute or may be represented provided that the representative agrees to comply and continues to comply with the procedures of and with all reasonable directions given by the Committee or its Chairperson from time to time.
- 11.3 The Committee may proceed to hear and determine any matter of appeal at the notified time notwithstanding the failure of the student concerned to appear or otherwise to exercise any of his/her rights under this Rule.
- 11.4 A report of all proceedings of the Committee shall be placed before the CEO within three (3) business days after the meeting of the Committee.

12. DETERMINATION OF APPEALS

- 12.1 When determining any appeal, the Committee may:
 - (i) uphold the appeal; or
 - (ii) dismiss the appeal.
- 12.2 Should the Committee dismiss the appeal it may either:
 - (i) confirm the penalty previously imposed; or
 - (ii) recommend to the CEO an alternative penalty in lieu of the penalty previously imposed.

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12.3 Where an appeal is upheld in whole or in part, opportunity will be given to the student, so far as may be practicable, to make up any academic ground lost during any period of exclusion.

13. SUSPENSION OF PENALTY

13.1 Pending the determination of any review or appeal:

- (i) any penalty imposed upon the student shall at the CEO's discretion, be suspended; and
- (ii) at the CEO's discretion, the student shall not be entitled to receive any award.

14. NOTICE OF PENALTY AND / OR DECISION

14.1 Where a penalty is imposed under sub-clauses 2.1.1, 2.1.2, 2.1.3, 2.1.4, the student concerned shall be given a notice in writing by the Director Programs or his/her delegate that includes:

- (i) brief details of the Misconduct for which the penalty was imposed;
- (ii) the provision of this Rule under which the penalty was imposed;
- (iii) a statement of the penalty including particulars of any compensation payable under 6.1;
- (iv) the date on which the penalty was imposed;
- (v) the office at and the date by which any fine imposed must be paid;
- (vi) a statement that the student may apply for a suspension or deferment of any penalty imposed including time in which to pay any fine or other monetary sum;
- (vii) a statement that this Rule confers certain rights of review or appeal and should therefore be consulted by the student.

14.2 Upon determination of any review or appeal against the imposition of any penalty, the student concerned shall, as soon as practicable, be given advice in writing by the CEO, regarding the result of the review or appeal.