

Procedure Information	
Related to Policy No:	E-1.45
Approved by:	Executive Committee
Approval Date:	October 16, 2019
Executive Responsible:	Vice President Student Affairs
Administrator Responsible:	Director Student Services
Date of Next Review:	October 2024

## STUDENT (NON-ACADEMIC) CONDUCT PROCEDURES

### Definitions

**1. Student (Non-Academic) Misconduct** (herein referred to as misconduct) includes but is not limited to:

- Uttering verbal abuse, intimidation or harassment;
- Engaging in conduct that threatens or endangers the health, safety, well-being of any person;
- Discrimination based on any of the protected grounds under BC Human Rights Code;
- Engaging in unwelcome or persistent conduct that the student knows, or reasonably ought to have known, would cause another person to feel demeaned, intimidated, or harassed;
- Disrupting the ability of others to learn, or the ability of the instructor to teach;
- Bringing unfounded complaints with malicious or frivolous intent;
- Providing false information to any other member of the College community;
- Theft, attempted theft, or intentional or reckless damage to property;
- Tampering with college equipment or facilities;
- Using College facilities, equipment, or services for inappropriate and/or unauthorized activities.
- Creating a condition that unnecessarily endangers or threatens destruction of College property or property that is not their own;
- Possessing or trafficking of any controlled and unpermitted drugs or substances as outlined in the Substance Use and Abuse Policy #AD-HR-1.24;
- Unauthorized storing, possessing or using real or replica firearms or other weapons, explosives (including fireworks), ammunition, or toxic or otherwise dangerous materials;
- Using electronic devices, online communication, or social media to engage in negative or harmful interpersonal interactions.

**2. Student** is a person registered in any course or program offered by the College of New Caledonia. Persons are still considered Students if they withdraw after allegedly violating this policy or have been subject to involuntary withdrawal. Those who are not

officially enrolled for a particular term but who have a continuing relationship with the College or who have been notified of their acceptance for admission are also considered Students.

3. **Complainant** is the individual who makes an allegation of misconduct. The College may take steps under this policy as the Complainant.
4. **Respondent** is the Student alleged to have violated this policy.
5. **Investigator** is the individual investigating the allegation of misconduct on behalf of the College. The College may appoint an Investigator who is external to the College.
6. **Investigation** is an information gathering and assessment process used to determine the nature and circumstances of alleged misconduct.
7. **Corrective measures** are imposed by the College to address, correct, or mitigate student (non-academic) conduct violations. More than one corrective measure may be imposed at one time. Corrective measures include but are not limited to: coaching, community service, educational project or assignment, letter of apology, letter of reprimand, official warning, loss of college privilege, mediation/conflict resolution, no contact directive, no trespass directive, verbal warning, temporary or permanent removal from residence, behavioral contract, and temporary or permanent suspension from a course, program, or the College. Details of any corrective measure imposed will be saved to the Student's permanent file.
8. **Behavioral Contract** outlines the conditions under which a Student remains enrolled, or is permitted to re-enroll in the College as long as the Student abides by the conditions of the contract and with the understanding that further violations would result in further corrective measures.
9. **Removal from a course or program** is the involuntary removal of a Student from their current course or program for the balance of the semester, a specified period of time, indefinitely, or permanently. This includes a failing grade(s) (Fail "F" or Unsuccessful "U") in all registered courses.
10. **Suspension** is an involuntary separation of the Student from the College for a specified period of time, indefinitely, or permanently. This includes being assigned a failing grade (Fail "F" or Unsuccessful "U") in all registered courses.

## **Procedures**

### **Informal Resolution**

The College recognizes that many disputes or incidents can be resolved informally by mutual agreement without submitting an allegation under this policy. Wherever possible, members of the College Community are encouraged to use respectful and direct communication to resolve such disputes or incidents informally by way of apology, conciliation, education, consultation, or mediation.

### **Balance of Probabilities Standard of Proof**

Allegations of misconduct will be reviewed and where appropriate investigated by the Director of Student Services or designate(s) to determine whether or not this policy has been violated. Decisions are made using the balance of probabilities standard of proof. This means that the information collected during the investigation must show that it is more likely than not that a policy violation occurred in order for the Investigator to find that a Student is responsible for misconduct.

### **Submission of an Allegation of Misconduct**

Where informal resolution is not possible or appropriate, a College Community member or other person(s) who believes that a Student has committed misconduct may submit an allegation in writing to the Director of Student Services or designate using the Student (Non-Academic) Conduct Incident Report Form. Complainants are encouraged to submit allegations as soon as possible after the incident occurs. College Community members are encouraged to access support from Human Resources, Student Services, Aboriginal Resource Centres, International Education, the CNC Student Union, or other departments as appropriate when submitting or responding to an allegation, or at any stage of the process.

Potential incidents of misconduct may be reviewed or investigated by the College, even in absence of an allegation.

### **Interim Measures**

The College may impose interim measures before an investigation is concluded where immediate action is required to protect College community members' health or safety, or College property. Interim measures will be determined on a case-by-case basis. When the health or safety of Complainants or others is potentially at risk, the College will inform them of relevant restrictions imposed on the Respondent.

### **Preliminary Review of an Allegation**

When an allegation of misconduct is submitted, the DSS, RP, or designate will review the allegation and may decline to proceed with an investigation in cases where they are of the opinion that:

- a) there is insufficient information to proceed with the investigation;

- b) the allegation falls within the jurisdiction of another College policy, procedure or regulation and it is more appropriate to proceed under that policy;
- c) the allegation(s) does not constitute a violation of, or is outside the scope of the Student (Non-Academic) Misconduct policy;
- d) an unreasonable amount of time has elapsed since the alleged incident such that it would preclude resolution of the allegation;
- e) the allegation has been or should be addressed by another process; or
- f) the allegation is trivial, false, frivolous, or vexatious.

Where the Director of Student Services or designate declines to proceed with investigating an allegation under this policy, they will notify the Complainant in writing of the decision within five (5) business days of receiving the allegation and will include the rationale for the decision not to investigate.

Where the Director of Student Services or designate decides to proceed with an investigation, they will notify the Complainant in writing within five (5) business days of receiving the allegation.

### **Notification of Investigation**

Where an allegation of misconduct has been made against a Student and it is determined that an investigation will be undertaken, within five (5) business days of the allegation, the Respondent will be provided in writing with:

- a) a notice of the allegation sufficient to allow the Respondent to understand the nature of the allegation (subject to any redactions made in response to health or safety concerns), including the material details of the allegations being made;
- b) a summary of pertinent information regarding the alleged misconduct;
- c) a timeline for providing relevant documentation;
- d) a proposed interview date and time (including notice of the right to reschedule within reasonable timeframes and under reasonable circumstances);
- e) information on available support services;
- f) access to a copy of the Student (Non-Academic) Conduct policy, procedures, and other relevant College policies or documents.

### **Investigation**

As part of the investigation, the Investigator will gather and review relevant information and may conduct interviews as appropriate with the Complainant, pertinent College staff, and any witnesses to the alleged incident.

The Investigator will conduct an interview with the Respondent to review the allegation and the information collected in the investigation. The Respondent may bring a support person to the interview.

A decision may be made based on available information in a case where the Respondent does not attend a scheduled interview or otherwise cooperate with the investigation.

### **Corrective Measures**

In cases of confirmed misconduct, corrective measures may be applied independently or in combination. In determining appropriate corrective measures as a result of confirmed misconduct, consideration may be given to factors including:

- a) the seriousness and impact of the Respondent's conduct on the Complainant or other individuals, College Community, a College activity or event, or the College's reputation or property;
- b) whether the incident is isolated;
- c) whether the incident was inadvertent or deliberate;
- d) whether other College policies were violated;
- e) related financial costs; and/or
- f) any other mitigating factors.

Where, after completing the investigation, the Investigator has concluded on a balance of probabilities that misconduct has occurred and corrective measure(s) may be appropriate, the Director of Student Services or designate may apply corrective measures up to, but not including, suspension. Only the President may suspend a Student from the College.

The Office of the Registrar may place a hold on a Respondent's registration account if needed to ensure compliance with corrective measures.

### **Suspension of a Student**

Where, after completing the investigation, Investigator confirms on a balance of probabilities that misconduct has occurred and an appropriate corrective measure may include suspension, the Director of Student Services or designate will forward the appropriate information to the Vice President Student Affairs or designate for review. The Vice President Student Affairs or designate will review the information and make a recommendation to the President, as appropriate. Decisions on suspension from the College will be determined by the President.

When a suspension is imposed under this policy, the President (or designate) will inform the appropriate individuals and departments.

### **Notice of Decision**

The decision, corrective measures, and reasons for decisions will be communicated to the Respondent within ten (10) business days of the conclusion of the investigation.

## **Timelines**

In rare and extenuating circumstances, the College may not be able to adhere to the timelines set out in these procedures. In this case, the timelines may be extended and the Student will be notified.

## **Appeals**

Appeals of corrective measures up to but not including suspension from the College are made to the Vice President Student Affairs or designate, who will decide the appeal. An appeal of the President's decision to suspend a Student from the College is made to the Chair of the CNC Board of Governors (Board Chair).

A Student may appeal corrective measures within five (5) business days of the notice of decision being communicated, provided that there are sufficient grounds for appeal. An extension of time to submit an appeal may be granted in reasonable circumstances as determined by the Vice President Student Affairs or designate, or the Board Chair, as appropriate.

For all appeals, corrective measures will remain in place until the appeal has been decided.

## **Grounds for Appeal**

A Respondent may not appeal a decision based solely on disagreement with the corrective measure(s) imposed. Appeals can be made on the following grounds:

- (a) The procedures outlined in this policy were not followed by the original decision-maker, and this has resulted in the Student not receiving a fair hearing.  
or:
- (b) Relevant evidence has become available that was not reasonably available at the time of the original decision and there is a strong probability that the evidence would have a significant effect on the decision.

## **Appeal Procedures - Corrective Measures Not Including Suspension**

Corrective measures may be appealed, in writing, using the Student (Non-Academic) Conduct Appeal Form. The VPSA or designate will review the written statement of appeal and all other material submitted, and will determine if there are sufficient grounds to proceed with the appeal.

If the grounds for appeal are not met, the VPSA or designate will notify the student and the process concludes. If the grounds for appeal are met, the balance of probabilities will be used to determine if the alleged violation is more likely than not to have occurred based on the evidence.

The decision of the VPSA or designate will be final and will be communicated to the Student in writing within ten (10) business days of receipt of the Student's appeal.

## **Appeal Procedures - Suspension from the College**

Suspension from the College may be appealed, in writing, using the Student (Non-Academic) Misconduct Application for Appeal Form.

The Board Chair will review the written statement of appeal and all other material submitted, and will determine if there are sufficient grounds to proceed with the appeal.

If grounds for appeal are not met, the Board Chair will notify the Student and the process concludes. If the Board Chair has determined that there are grounds for appeal, the Board Chair will proceed with the appeal.

### **Re-admission to College**

Students who have been removed from a course or program, or suspended for student misconduct, must have the prior written approval of the Director of Student Services or designate for removals, or the President for suspensions. There may be restrictions or conditions imposed as deemed necessary to ensure appropriate conduct of a student being re-admitted.

### **Links to Other Related Policies, Forms, Documents and Websites**

Student (Non-Academic) Conduct Incident Report Form

Student (Non-Academic) Conduct Appeal Form

Academic Conduct Policy #E-1.29 and related procedures

Student Sexual Misconduct Policy #E-1.41 and related procedures

Respectful Workplace Policy #AD-HR-1.10 and related procedures

Substance Use and Abuse Policy #AD-HR-1.24

Social Media Accounts Policy #AD-CO-4.09

### **Procedure Amendment Log**

<b>Amendment Number:</b>	<b>Date:</b>
0	October 2019 (Previously Standards of Conduct: Student Responsibility and Accountability)
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