

Misconduct Policy

Purpose

This policy establishes the principles and processes by which Macleay College will deal with allegations of academic or non-academic misconduct committed by a student or group of students enrolled in a course of study at Macleay College. The purpose of this policy is to provide:

- a fair and equitable framework for determining alleged instances of academic and non-academic misconduct
- procedures for reporting and investigating alleged instances of academic and non-academic misconduct
- procedures for determining penalties for confirmed instances of academic and non-academic misconduct

Scope

This policy applies to all students enrolled in a course of study at Macleay College. This policy also applies to college staff when dealing with allegations of misconduct or implementing a decision by Macleay College to suspend or cancel a student's enrolment due to misconduct.

Related Policies

This policy should be read in conjunction with the following college policies:

- Assessment Policy
- Computer Network and Internet Access, Use & Safety Policy
- Deferral, Suspension or Cancellation of Enrolment Policy
- Grievances & Appeals Policies

All college policies and any associated forms referenced in this document can be downloaded from the myHandbook section of the myMacleay Student Portal (Moodle) via <http://mymacleay.edu.au/>.

Definition of Key Terms

"Academic Misconduct" means all circumstances where students attempt to cheat, plagiarise or act dishonestly when undertaking assessment tasks, or assisting fellow students to do so.

"Cancellation" means forced withdrawal from the enrolled course of study activated by Macleay College as a result of misconduct by the student

"Cheating" means seeking to obtain an unfair advantage in an examination or in other written or practical work required to be submitted or completed by a student for assessment

"Collusion" means unauthorised collaboration on assessable written, oral or practical work with another person or persons

"Non-Academic Misconduct" means any behaviour which is contrary to a policy of the college or to generally accepted social standards.

"Plagiarism" means to take and use another person's ideas and/or manner of expressing them and pass them off as one's own by failing to give appropriate acknowledgement

"Student" means a person enrolled in a course of study at a Macleay College campus

"Suspension" means a forced finite break from studies which is activated by Macleay College as a result of misconduct by the student

Principles

In assessing an instance of alleged misconduct, the following principles will be observed:

- Students must be judged innocent of any misconduct until such time as they have admitted to it or evidence is found of such behaviour.
- Any misconduct in the past cannot be regarded as evidence that the student has again behaved dishonestly.

Each case of misconduct will be treated separately.

Academic Misconduct

All students are expected to maintain high standards of academic honesty and integrity.

Macleay College sets an assessment task for completion with the expectation that it is either:

- the sole effort of the student; or
- the sole efforts of a designated group of students who hand in a joint piece of work.

A student may discuss general principles with others in order to understand a topic or base their assessment on an outline in the course material but is responsible for submitting an individual piece of work. If a student works with another student to complete an individual assessment task and submits that work as their own work it is considered to be collusion.

It is the responsibility of the student to acknowledge all sources used in an assignment or work submitted for assessment. Failure to do so is considered plagiarism. In group assignments each member of the group is jointly responsible for the integrity of the assignment.

Students are considered guilty of cheating if they act in a way that gives them an unfair academic advantage. Students may be guilty of this if they copy another student's work, or in any way mislead their teachers or Head of Faculty about their ability, knowledge or skills.

The penalty for confirmed instances of collusion, plagiarism and cheating, will be dealt with according to the severity of the instance and any damage, or potential damage, to the reputation of Macleay College.

All new students at Macleay College must complete the online Academic Honesty module to help them understand the policies and how they apply to their work within the first three weeks of their commencement.

The electronic text-matching software Turnitin will be used to check all written assessments for plagiarism and referencing issues. It highlights any common text and provides a similarity score with other submitted documents. All submitted written assessments will be saved in the Turnitin library for future cross checking. The lecturer will decide whether the text that has been identified as matching constitutes plagiarism (not Turnitin).

Non-Academic Misconduct

All students enrolled in a course of study at Macleay College are expected to act with honesty and integrity. Non-academic misconduct is characterised by a student or group of students behaving contrary to generally accepted standards of behaviour and includes but is not limited to, conduct by which a student knowingly or recklessly:

- a) engages in dishonest or fraudulent activity or makes a dishonest, fraudulent or false statement or representation to another person, in the course of any dealings with the college or member of college staff
- b) causes or threatens personal injury or harm of any kind to another person
- c) attacks, harasses, intimidates, stalks or bullies or threatens to attack, harass, intimidate, stalk or bully another person
- d) disrupts or causes unreasonable interruption to the orderly conduct of the college, lecture, tutorial or any other college learning activity
- e) fails to comply with or contravenes a Commonwealth Act or breaches any National or State statute, regulation or rule while on campus, using campus facilities and/or equipment or engaging in a college activity
- f) breaches a college policy, code of conduct, procedure or guideline to which a student is subject as a condition of enrolment in a course of study at Macleay College
- g) fails to comply with a reasonable direction of a member of college staff
- h) causes or threatens or behaves in a manner likely to cause damage to, destroy, loss of, interference with or obstruction of the use of, the property of Macleay College or another person
- i) alters or destroys Macleay College documents or records
- j) mars the good name of the college or may bring the college into disrepute
- k) encourages, persuades or incites any other person to engage in conduct or behaviour constituting non-academic misconduct;
- l) or otherwise acts in an inappropriate manner

Macleay College will report all criminal acts committed by a student or group of students to the relevant authorities.

Procedures

1. Reporting an allegation of misconduct

Responsible: Any Macleay College student or member of staff

Any student or member of college staff (the complainant) may report an alleged act of academic or general misconduct by a student. An allegation of misconduct must be submitted in writing by lodging a **Misconduct Report** to the student's Head of Faculty outlining the details of the breach of conduct (ie. the act of misconduct). The Head of Faculty has the discretion to investigate an allegation of misconduct made against a student enrolled in their program of responsibility. Where the complainant is a Head of Faculty they will submit the allegation of misconduct in writing by lodging a **Misconduct Report** to the Dean (and copy to the Registrar).

2. Preliminary enquiry into complaint of alleged misconduct

Responsible: Macleay College Head of Faculty (or Dean's nominee)

A Head of Faculty receiving Misconduct Report will investigate the complaint of alleged misconduct, unless the Head of Faculty has a conflict of interest. Where the Head of Faculty has a conflict of interest in conducting a preliminary investigation, the Dean will appoint a senior leader of the college (Dean's Nominee) to investigate the allegation. The referral of a Misconduct Report by the Dean does not in any way invalidate the Misconduct Report.

The Head of Faculty (or Dean's Nominee) will acknowledge receipt of the Misconduct Report in writing, and then has seven working days to determine whether the alleged misconduct warrants investigation. If the Head of Faculty (or Dean's Nominee) determines the conduct:

- a) does not warrant investigation, no further action will be taken. The complainant will be notified of the outcome in writing. The student will be notified of the allegation made against them, the name of the complainant making the allegation, the enquiries made and the outcome of the allegation in writing.
- b) warrants investigation, the Head of Faculty will proceed with the investigation as outlined in **Step 3 Investigation of alleged misconduct** below.

3. Investigation of alleged misconduct

Responsible: Macleay College Head of Faculty (or Dean's Nominee)

Where the Head of Faculty (or Dean's Nominee) determines the conduct warrants investigation, they shall elect to conduct the investigation or refer the written complaint to the Grievance & Appeals Committee.

a) **Head of Faculty (or Dean's Nominee) elects to conduct the investigation into the allegations**

The Head of Faculty (or Dean's Nominee) will send written notification to the student advising the intention to conduct an investigation into the allegations as referred to in the written complaint. The written notification will include the following information:

- the details of the allegation of misconduct
- the name of the complainant making the allegation
- any preliminary enquiries made on receipt of the written complaint and the outcomes
- an invitation to respond the allegations in writing

The student will be invited to submit a written statement in response to the allegation and identify any individuals who may have directly witnessed this situation and should be interviewed as part of the investigation. The written statement, any evidence and list of witnesses must be submitted to the Head of Faculty (or Dean's Nominee) within five working days of the date of the notification of the allegation. The Head of Faculty (or Dean's Nominee) may grant an extension of time to respond where the student requires additional time to seek advice.

3. Investigation of alleged misconduct (contd)

a) Head of Faculty (or Dean's Nominee) elects to conduct the investigation (contd)

In conducting the investigation, the Head of Faculty (or Dean's Nominee) has the authority to request any student or member of college staff attend an interview to assist with the investigation however no person called is obliged to answer any question posed to them. The meeting date must not be set before the seven working days allowed for submission of the written response to the allegation. Ideally, the meeting date will be set at seven working days from the notification of the allegation to allow consideration of their written statement in advance of the interview.

The Head of Faculty (or Dean's Nominee) will reach a decision within twenty-one working days of the date of the written notification to the student, unless granted an extension of time by the Dean for further investigation or for the college to seek advice. Where the student was granted an extension of time to respond to the written notification, this same period of time will apply to Macleay College.

b) Head of Faculty (or Dean's Nominee) elects to refer to a Misconduct Advisory Panel

Responsible: Misconduct Advisory Panel

The Head of Faculty (or Dean's Nominee) will appoint a three person Misconduct Advisory Panel to hear matters of misconduct where it has been decided that the allegations warranted investigation. The purpose of Panel is to:

- a) act on behalf of the Head of Faculty (or Dean's Nominee) by making enquiries to determine whether or not an act of misconduct has occurred
- b) recommend to the Head of Faculty (or Dean of Nominee) penalties to be imposed for misconduct

The Panel shall comprise of at least one male and one female and will include one senior leader, and one member of faculty or operational staff.

The Head of Faculty (or Dean's Nominee) will appoint members of the Panel however no person with a conflict of interest may be appointed to the panel. The Head of Faculty will also appoint a Head of Panel who will have the deciding vote.

The Panel will convene within seven working days of receipt of the request and will send written notification to the student advising the intention to conduct an investigation into the allegations as referred to in the written complaint. The written notification will include the following information:

- the details of the allegation of misconduct
- the name of the complainant making the allegation
- any preliminary enquiries made on receipt of the written complaint and the outcomes
- an invitation to respond the allegations in writing
- inform the student they may be accompanied by a support person at interview

The student will be invited to submit a written statement in response to the allegation and identify any individuals who may have directly witnessed this situation and should be interviewed as part of the investigation. The written statement, any evidence and list of witnesses must be submitted to the Panel within five working days of the date of the notification of the allegation. The Panel may grant an extension of time to respond where the student requires additional time to seek advice.

In conducting the investigation, the Panel has the authority to request a meeting with any student or member of college staff to assist with the investigation however no person called is obliged to answer any question posed to them.

The Panel shall conclude its enquiry, reach a recommendation and report to the Head of Faculty (or Dean's Nominee) within twenty working days of convening, unless granted an extension of time by the Dean for further investigation or for the college to seek advice. Where the student was granted an extension of time to respond to the written notification, this same time will apply to the Panel.

4. Penalties arising from the act of misconduct

Responsible: Macleay College Head of Faculty (or Dean's Nominee)

Where the college has completed investigations into the allegation of misconduct, the Head of Faculty (or Dean's Nominee) will make one of the following decisions:

- a) declare the student not guilty of misconduct; or
- b) declare the student guilty of misconduct, and will activate one of the following outcomes:
 - take no further action against the student
 - caution or reprimand the student
 - require the student to pay compensation to Macleay College equal to the cost of restoring or replacing an item damaged as a result of the misconduct
 - a reduction of marks or the receiving a grade of NN (Fail) for assessment tasks or as a final grade
 - a period of probation requiring regular meetings of review with the Head of Faculty
 - suspend the student from the use of a specific facility or equipment
 - suspend the student's enrolment for a finite period of no more than twelve months in accordance with the college ***Deferral, Suspension or Cancellation of Enrolment Policy***;
 - cancel the student's enrolment in accordance with the college ***Deferral, Suspension or Cancellation of Enrolment Policy***;
 - or a combination of the above penalties.

Where a penalty will be imposed for the act of misconduct, the Head of Faculty (or Dean's Nominee) will:

- a) advise the Head of Faculty for the faculty in which the student is enrolled (where the Dean's Nominee was responsible for the investigation process)
- b) notify the complainant who made the allegation in writing
- c) notify the student in writing of the decision and outcome, and their right to appeal

Any criminal act will be reported to the relevant authorities.

For international students only:

Where the penalty imposed will change the Confirmation of Enrolment (CoE) recorded for an international student, Macleay College will report the changes to the Department of Immigration & Border Protection (DIBP) via PRISMS which may affect the student's visa and length of stay in Australia. In this event, the student will be advised of the same in the written notification letter outlining the college decision.

5. Appeal the decision, the penalty or severity of the penalty

Responsible: Student and the Appeals Committee

Students wishing to appeal against the decision, the penalty imposed or the severity of the penalty imposed should refer to the college **Grievance & Appeals Policies**. The appeal will be heard by the Appeals Committee in accordance with the following conditions:

- a) A student may not appeal the decision to take no further action or to caution or reprimand.
- b) The Appeals Committee will hear the appeal against the decision, the penalty to be imposed or the severity of the penalty to be imposed where it was decided that an act of misconduct had occurred.
- c) The Appeals Committee shall comprise of the Dean, at least one male and one female and one student member and one staff member. No person who served on the Misconduct Advisory Panel for the same misconduct investigation may serve on the Appeals Committee for the appeal.
- d) The appellant will be invited to appear before the Appeals Committee to present their case in person. The appellant may be assisted by an adviser however the adviser may not be called to give evidence or be a practicing barrister or solicitor.
- e) Macleay College will be invited to appear before the Appeals Committee to present their case in person. The college may be assisted by an adviser however the adviser may not be called to give evidence or be a practicing barrister or solicitor.
- f) The decision of the Appeals Committee is final and there is no further avenue for appeal within the college. Appellants who are dissatisfied with the decision of the Appeals Committee must lodge an external appeal as outlined in the college **Grievance & Appeals Policies**.

All matters of the appeal procedure will be in accordance with the college **Grievance & Appeals Policies**.

6. Enforcing the penalty

Responsible: Macleay College Head of Faculty (or Dean's Nominee)

Where the student has chosen not to appeal, the Head of Faculty (or Dean's Nominee) will arrange for the penalty to be imposed and will advise the complainant, the student and the Dean of the same in writing. The Head of Faculty (or Dean's Nominee) will also advise any college member of staff responsible for the enforcement of the penalty.

Where the Appeals Committee has chosen to uphold the appeal or vary the penalty imposed by the Head of Faculty (or Dean's Nominee), the Dean will arrange for the penalty to be imposed and will advise the appellant, the student and the Head of Faculty (or Dean's Nominee) of the same in writing. The Head of Faculty (or Dean's Nominee) will also advise any college member of staff responsible for the enforcement of the penalty.

A copy of the Misconduct Report, decision and outcomes will be kept on the student file.

For international students only:

Where the decision of the appeal will change the Confirmation of Enrolment (CoE) recorded for an international student, Macleay College will report the changes to DIBP via PRISMS which may affect the student's visa and length of stay in Australia. In this event, the student will be advised of the same in the written notification letter outlining the college decision.

Approvals:

Next Policy Review Cycle: April 2019

This policy was last formally reviewed in 2014 and scheduled for formal review in April 2016. As part of the college Policy Review Cycle, this policy was endorsed by the Teaching & Learning Committee at their meeting of 7 June 2016 and ratified by the Academic Board at their meeting of 22 June 2016.