

STUDENT MISCONDUCT PROCEDURE

Section	Problem Resolution		
Approval Date	18.10.2013	Approved by	Directorate
Next Review	13.02.2017	Responsibility	Chief Executive
Last Reviewed	13.02.2016	Key Evaluation Question	6

PURPOSE

To ensure:

- › Students have a clear understanding of what constitutes student misconduct and the consequences of student misconduct.
- › Staff members of Nelson Marlborough Institute of Technology (NMIT) have clear and consistent procedures to follow when dealing with instances of student misconduct.
- › Students are treated fairly and consistently when student misconduct is alleged, and
- › That the principles of natural justice are adhered to.

SCOPE

The Student Misconduct Procedure applies to:

- › Students of NMIT (including students of NMIT training partners) whether:
 - (a) On NMIT premises; or
 - (b) Off campus on course related activities.
- › All situations where an allegation of student misconduct is made (from any source).
- › Situations where an allegation of student misconduct also involves the police.

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 part of a number of instances of misconduct committed by the same student. It is not necessary that the instance of misconduct is the same as previous instances of misconduct or similar in nature and/or degree to previous instances of misconduct.

The Student Misconduct Procedure **does not apply** to students failing to meet academic requirements. Refer to NMIT **Student Academic Support and Progression** policy.

The Student Misconduct Procedure does not replace specific programme regulations, which may also address matters such as what constitutes 'fit and proper' behavior and drug and alcohol criteria. The **Complaints Procedure** shall be followed to resolve student complaints where the matter does not involve alleged student misconduct.

DEFINITIONS

Advocate	A person that speaks on behalf of the student.
Allegation	An allegation of misconduct made against a student of NMIT (including students of NMIT training partners)
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 (including a programme delivered by NMIT training partners). 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.
External Regulations	A set of principles, rules or law that are set by an organisation other than NMIT, that apply to the programme a student is enrolled on.
Director	A member of the Directorate responsible for a group of Programme Areas.
Independent Person	<p>For the purpose of this procedure an Independent Person is an NMIT senior manager who is one of the Panel members under the Serious Misconduct Disciplinary Procedure.</p> <p>The NMIT senior manager must be a member of the NMIT Institute Leadership Team, be impartial and have received training on the NMIT Student Misconduct Procedures.</p> <p>The NMIT senior manager will perform the role of an Independent Person for a period of two years. A pool of at least three trained staff members will be available to perform the role of an Independent Person at any given time.</p>
Manager (Programme Area)	The Curriculum Manager for a group of Programmes. A Manager reports directly to a Director.
Misconduct	Means ‘misconduct’ or ‘serious misconduct’ as the context requires.
NMIT Contact Person	For the purpose of this procedure means a Manager who is not from the programme area where the student is enrolled, or a Business Support Team Leader / Manager. The NMIT Contact Person is appointed by a Director.
Panel	The group convened to conduct an official hearing under the Serious Misconduct Disciplinary Procedure.
SANITI Student President	Represents and works for and on behalf of students. The SANITI Student President sits on NMIT Council, NMIT Academic Board and sub-committees of the Academic Board, ensuring the student voice is heard at all levels of NMIT.
Student	The person against whom an allegation has been made.
Student Case File	<p>The file in relation to the misconduct disciplinary procedure [held by the NMIT Contact Person].</p> <p>The file in relation to the serious misconduct disciplinary procedure [securely held in the office of the Chief Executive].</p>

Support Person	<p>Person or group able to provide support or advice to the student (e.g. NMIT Student Advisor; student or staff association/union member; friend or family member).</p> <p>A support person's role is to empower the student to speak for themselves with knowledgeable support. A support person cannot speak on behalf of the student.</p>
Suspension	<p>Temporary removal of a student studying at NMIT for a set period of time as a result of alleged student misconduct. Suspension conditions may be set that vary depending on the nature and seriousness of the alleged student misconduct.</p>
Training Partner(s)	<p>Organisation(s) or individual(s), with whom NMIT has a contracted arrangement, who provides delivery of training on behalf of NMIT, to NMIT students.</p>

PRINCIPLES

Those involved in the *Student Misconduct Procedure* must observe the utmost confidentiality so as to protect individual privacy. All information relating to the allegation will remain confidential to those parties involved in the case and will not be divulged to outside parties or agencies, with the exceptions:

- Of any cases relating to criminal activity or activities which contravene any external regulations.
- To allow NMIT to take legal advice; and the complainant and the Student to take legal advice.

The **principles of natural justice** shall apply, as outlined below:

1. The student will be given all relevant information regarding the allegation, a reasonably adequate opportunity to prepare and present evidence, and to respond to the arguments presented
2. The person/s deciding on the allegations will be impartial and make a decision based on a balanced and considered assessment of the information
3. Decisions regarding allegations are based on logical proof or evidence

Based on the above **a student has the right to:**

- › Be advised **which procedure NMIT intends to follow** in dealing with the allegation and the potential consequences if substantiated;
- › **Know all relevant details of an allegation** including the name of the person making the allegation, prior to any meetings held to discuss the allegation;
- › **Be given sufficient notice of any meetings** they need to attend regarding the allegation to enable them to prepare their response or arrange any representation.
- › **Have a support person and/or advocate** (including legal representation) of their choice present at any meeting. The student must be notified of this right, in writing, when notice is given of any meeting.
- › Be given a **full opportunity to offer 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 on** unless the NMIT Contact Person at his/her absolute discretion deems this inappropriate due to the nature of the misconduct allegation.
- › Be **given the option** or right to sit in on all formal meetings and evidential collection, and to ask questions of witnesses at a designated time.

RESPONSIBILITIES

All NMIT staff (including NMIT training partners), CE and NMIT Council members are expected to initiate this procedure should they identify alleged student misconduct/serious misconduct.

A **Director** is responsible for appointing a NMIT Contact Person.

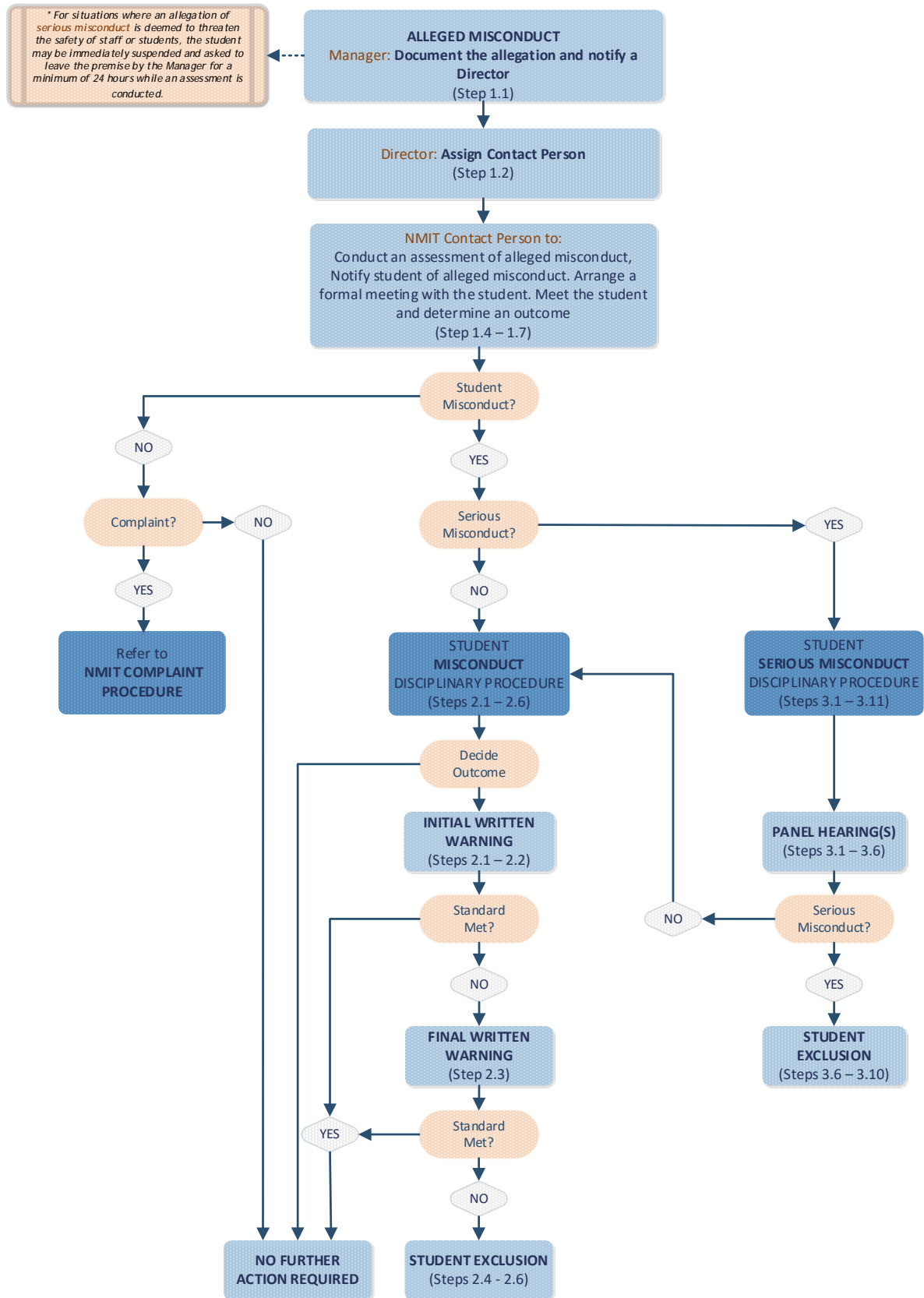
If the **NMIT Contact Person** requires advice regarding which procedure applies, they should consult the **Director of Academic and Quality** who will, after taking advice as he/she considers necessary, identify the disciplinary procedure to be followed.

The **NMIT Contact Person** shall ensure that the person making the allegation is kept informed of the progress and outcome of the allegation.

Students shall comply with the *Student Charter*, and *Student Rules* and the *Programme Regulations* on which they are enrolled. These documents should be read in conjunction with these procedures.

NMIT shall not be responsible for any costs incurred by the student, the support person or the advocate.

OVERVIEW OF STUDENT MISCONDUCT PROCEDURE



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

- › Date
- › Name of person making the allegation
- › Preferred contact details eg. phone (home or other) and/or email address
- › Name of the student
- › Title of the programme the student is enrolled on
- › Details of the allegation and any supporting documents attached

Any changes to the nature of an allegation need to be put in writing.

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

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 Case File will be retained after any written warning has expired, but all information relating to student misconduct will be removed from the Student Case File and destroyed once the student has completed the programme of study it relates to, or 12 months from the final decision, whichever is the greater.

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

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

- › For situations where an allegation of serious misconduct is deemed to **threaten the safety** of staff or students, the student may be immediately suspended (by the Manager responsible for the programme the student is enrolled on) and asked to leave the premises. The student must remain off the premises for **at least 24 hours** while the alleged misconduct is dealt with through due process.
- › The Director of Learning has authority to **suspend** a student for another five teaching days. (In addition to, and following, the 24-hour suspension instigated by the Manager.)
- › The Chief Executive (CE) has authority to extend times by the minimum needed as a result of unavoidable delays.
- › The student shall be informed of the procedure that will be followed and shall be given written details of the suspension including reason, start date, duration and prohibitions during suspension.
- › Where criminal activity is inferred, the Director of Academic and Quality will, at the time he/she considers appropriate, contact the Police and keep them informed on progress of the investigations.

STEP	MISCONDUCT ASSESSMENT PROCEDURE	RESPONSIBILITY
1.1	Where student misconduct is alleged , document the allegation and notify a Director. <i>For situations where an allegation of misconduct is deemed to threaten the safety of staff or students, the student may be immediately suspended, by the Manager, and asked to leave the premises for no less than 24 hours.</i>	Manager
1.2	Assign an NMIT Contact Person.	Director
1.3	Conduct an assessment (steps 1.4 to 1.7) Note: At any point the NMIT Contact person, in consultation with the Director, may determine that the allegation be treated directly through the serious misconduct disciplinary procedure (Step 3).	NMIT Contact Person
1.4	Notify student of alleged misconduct , 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
1.5	Arrange formal meeting with student: <ul style="list-style-type: none"> › Agree on communication method and ensure correct email / phone details › Set meeting for mutually agreeable time as soon as practicable. › Advise student as to who will be at the meeting and of their right to bring a support person and/or advocate. › Provide to the student: <ul style="list-style-type: none"> a. The written allegation at least 2 days prior to meeting or at a time parties agree to; and b. Advice on potential consequences should the allegation be substantiated; and c. All relevant details of the allegation including the name of the person making the allegation and any evidence that will be presented at the meetings. › Provide a copy of the Student Misconduct Procedure and any other relevant documents. 	NMIT Contact Person
1.6	Meet with student <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 (eg. the person making the allegation, fellow students) if required, to clarify situation › Record and document what is said at the meeting. 	NMIT Contact Person
1.7	Determine whether there are sufficient grounds for the alleged misconduct to be treated as serious. Notify Director of Academic and Quality and the student of the outcome of the assessment procedure. <p>If it is decided the allegation of misconduct is not substantiated, then no further action shall be taken and both parties (student and the person making the allegation) are notified.</p> <p>If the allegation of misconduct is upheld but it is decided that the misconduct is not considered to be serious then go to</p> <ul style="list-style-type: none"> › STEP 2 – MISCONDUCT DISCIPLINARY PROCEDURE <p>If alleged misconduct is considered to be serious then go to:</p> <ul style="list-style-type: none"> › STEP 3 – SERIOUS MISCONDUCT DISCIPLINARY PROCEDURE 	NMIT Contact Person

STEP	MISCONDUCT DISCIPLINARY PROCEDURE:	RESPONSIBILITY
2.1	<p>Issue an 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. › Condition/s student is required to meet and related timeframes. › That a final written warning will result if conditions not met within the prescribed timeframe. › Duration of the warning (twelve months maximum). 	NMIT Contact Person
2.2	<p>Prepare written summary of Student Misconduct Enquiry (Appendix A) <u>and have the student sign it</u>. If the student does not sign, note the summary: "delivered, not attested". Place Summary of Student Misconduct Enquiry and copy of written allegation on the <u>Student Case File</u> and give a copy to the student.</p>	NMIT Contact Person
2.3	<p>If the standard required as set out in the initial written warning is met within the prescribed timeframe, no further action is required.</p> <p>If it is alleged the standard required as set out in the initial written warning has not been met within the prescribed timeframe, follow Misconduct Assessment Procedure steps 1.4 to 1.7, except that the outcome of not meeting stated standards shall be:</p> <ul style="list-style-type: none"> › Final written warning including details as required in 2.1 for the initial written warning. or › Referral to Director of Academic and Quality for initiation of Serious Misconduct Procedure if the alleged misconduct is considered sufficiently serious. 	NMIT Contact Person
2.4	<p>If the standard required as set out in the final written warning is met within the prescribed timeframe, no further action is required.</p> <p>If it is alleged the standard required as set out in the final written warning is not met within the prescribed timeframe:</p> <ul style="list-style-type: none"> › Ensure a fair and equitable process has been followed in consultation with Director of Academic and Quality. › Decide appropriate outcome for the student in consultation with the Director of Academic and Quality. 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 and the right and grounds of appeal. Place a copy on the Student Case File. 	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>	Manager
2.6	<p>Remove and destroy all information relating to student misconduct from the Student Case File once the programme of study it relates to is complete or twelve months from the final decision, whichever is the greater.</p>	Manager

STEP	SERIOUS MISCONDUCT DISCIPLINARY PROCEDURE	RESPONSIBILITY
3.1	<p>Advise Director of Academic and Quality immediately of alleged serious misconduct</p> <p>Provide written report to Director of Academic and Quality and the student. Include details of alleged serious misconduct, the result of the initial assessment and recommend whether further action under the Serious Misconduct Disciplinary Procedure is required.</p>	NMIT Contact Person
3.2	Determine if further action is required under the Serious Misconduct Disciplinary Procedure.	Director of Academic and Quality
3.3	<p>If further action under the Serious Misconduct Disciplinary Procedure is not recommended:</p> <ul style="list-style-type: none"> › Take action in accordance with 2.1 of the Misconduct Disciplinary Procedure. › Advise student and the person/s who made allegation of this outcome. 	NMIT Contact Person
3.4	<p>If further action under the Serious Misconduct Disciplinary Procedure is recommended</p> <ul style="list-style-type: none"> › Convene a panel comprising of Director of Academic and Quality or delegate, SANITI Student President and an Independent Person. 	Director of Academic and Quality
3.5	<p>Hold a confidential panel meeting after receiving report in accordance with 3.1 from NMIT Contact Person.</p> <ul style="list-style-type: none"> › The panel should meet individually with the NMIT Contact Person, the person/s making the allegation and the student. › The student has the right to be present to hear the allegation in person if they so wish. In some instances, to mitigate distress, the Panel may agree to the use of audio technology. › The Student is entitled to have a support person and/or advocate present at the panel meeting. › All matters under consideration by the panel in determining an outcome in respect of the enquiry must be put to the student. › Other parties should be interviewed if further information is required. › Proceedings should be recorded and a copy made available to the student. 	Panel
3.6	If the allegation of serious misconduct is substantiated the outcome will be exclusion from NMIT for a minimum period of six months.	
3.7	Sign written Summary of Student Misconduct Enquiry (Appendix A)	Panel (Director of Academic and Quality 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 that 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”. 	Director of Academic and Quality

3.9	Place copy of NMIT Contact Person's report, letter to student, any panel reports and Summary of Student Serious Misconduct Enquiry on the Student Case File .	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>).	Manager to initiate
3.11	Remove and destroy all information relating to student misconduct from the Student Case File once the programme of study it relates to is complete, or within twelve months from the final decision, whichever is the greater.	Manager

APPEALS

Appeals by the Student 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 10 working days 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 of Academic and Quality or other Director
Director	Director of Academic and Quality
SANITI Student President	Senior Student Association Executive Member
Director of Academic and Quality	Director of Learner Services
Manager	Senior staff member

REFERENCES

LEGAL

Legal Opinion:	Pitt & Moore	29/07/2013
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INTERNAL

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

EXTERNAL

Education Act 1989, Section 224 (13)

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. <div style="text-align: right;">Date:</div>
