

# CENTRE FOR ENGLISH TEACHING - STUDENT DISCIPLINE PROVISIONS 2017

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## 1 Purpose and application

- (1) These procedures govern the management of misconduct matters relating to:
  - (a) any CET student; or
  - (b) any former CET student, where the alleged misconduct occurred while they were a CET student.
- (2) These procedures apply to:
  - (a) CET;
  - (b) CET staff and affiliates;
  - (c) CET students; and
  - (d) former CET students.

## 2 Commencement

These procedures commence on 28<sup>th</sup> August 2017.

## 3 Interpretation

- (1) In these provisions:

<b>CET</b>	means the Centre for English Teaching, which is a part of the University of Sydney.
<b>CET student</b>	a student enrolled in a course taught and administered by CET.
<b>misconduct</b>	has the meaning specified in clause 4.
<b>research misconduct</b>	has the meaning given in clause 18 of the University's <a href="#">Research Code of Conduct 2013</a> .
<b>University</b>	means the University of Sydney.
<b>University lands</b>	includes any land or roads occupied or used in connection with the University, including the whole or part of any building or structure and any land or roads occupied or used in connection with the whole or part of any building or structure.
<b>University student</b>	means a means a person who: <ul style="list-style-type: none"><li>• is currently admitted to candidature in an award course at the University; or</li><li>• is a non-award student, exchange student or study abroad student enrolled in a unit of study at the University.</li></ul>

## 4 Misconduct

- (1) Misconduct includes, but is not limited to:
- (a) conduct on the part of a CET student or former CET student that:
    - (i) prejudices the good order and government of CET or the University;
    - (ii) prejudices the good order or academic standing of CET or the University;
    - (iii) impairs the reasonable freedom of other individuals to pursue their studies, research or work at CET or the University, or to participate in the life of CET or the University;
  - (b) conduct which would constitute a breach of the:
    - (i) [Code of Conduct for Students](#); or
    - (ii) [Policy on the Use of University Information and Communications Technology Resources](#);
  - (c) conduct which, if engaged in by a University student, would constitute a breach any of the following University policies:
    - (i) the [Bullying, Harassment and Discrimination Prevention Policy 2015](#);
    - (ii) the [Privacy Policy 2013](#);
    - (iii) the [University of Sydney \(Student Discipline\) Rule 2016](#).

**Note:** All University rules, policies and procedures are publicly available from the University [Policy Register](#).
  - (d) conduct which, if engaged in by a University student, would constitute research misconduct;
  - (e) conduct which, if engaged in by a University student, would constitute a breach of the University's [Academic Honesty in Coursework Policy 2015](#) including but not limited to:
    - (i) engaging another person to complete or contribute to an assessment in place of the CET student, whether for payment or otherwise;
    - (ii) submitting for work for assessment that has been completed by another person or to which another person has made a significant contribution, whether for payment or otherwise;
    - (iii) completing or contributing significantly to an assessment for another CET or University student, whether for payment or otherwise;
    - (iv) submitting fraudulent medical or other documentation; or
    - (v) disrupting an examination, improperly communicating with other people during an examination, or communicating confidential examination content to other people;
  - (f) intimidating, assaulting, vilifying, abusing, threatening or endangering (including by electronic means):
    - (i) another member of the CET or University community, including but not limited to staff, affiliates and visitors to University lands;
    - (ii) a member of the public, where the CET student is engaged in an activity organised by or in connection with CET or the University;
  - (g) misusing any CET or University facility or resource in a manner that is unlawful or is detrimental to the rights or property of others;



- (h) damaging, destroying, stealing removing or misappropriating CET or University property;
  - (i) engaging in unlawful or criminal activity on University lands;
  - (j) altering, falsifying or fabricating any document or record of CET or the University;
  - (k) knowingly providing false or misleading information to a staff member or affiliate of the University
  - (l) failing to comply with any order or direction reasonably and lawfully made or given by a CET or University staff member or affiliate under the [University of Sydney Act 1989](#), the [University of Sydney By-Law 1999](#), or any University rule, policy or procedures;  
**Note:** All University rules, policies and procedures are publicly available from the University [Policy Register](#).
  - (m) refusing to identify themselves, or to produce a student ID card, when asked lawfully to do so by an identified staff member or affiliate of the University;
  - (n) failing to leave a class, a building, or a specified part of University lands, as required by a University staff member or affiliate in accordance with these provisions;
  - (o) failing to comply with any conditions set by the Director, CET under these provisions; and
  - (p) a breach of the terms or conditions of a penalty imposed under these provisions.
- (2) A person who attempts to engage in conduct that constitutes misconduct is guilty of misconduct.

## 5 Penalties

- (1) The Director, CET, may impose one of following penalties for breach of these provisions, subject to the requirements of the [Education Services for Overseas Students Act 2000 \(Cth\) National Code Part D, Standard 13](#):
- (a) suspension from course; or
  - (b) cancellation of enrolment.
- (2) A cancellation may be imposed with immediate effect if there are extenuating circumstances relating to the student's welfare or the welfare of others with whom the student may come into contact. These include, but are not limited to:
- (a) a CET student aged under 18 refusing to maintain approved care arrangements;
  - (b) a CET student being missing;
  - (c) a CET student having medical concerns, severe depression or psychological issues which cause the Director, CET to fear for the student's wellbeing or that of others with whom the student may come into contact; or
  - (d) a CET student being at risk of committing a criminal offence.
- (3) The Director, CET or their nominee may request Campus Security to remove a CET student from a class, building or any part of University lands if there are extenuating circumstances relating to the CET student's welfare, or the welfare of others with whom the student may come into contact.

- (a) A person making such a request to Campus Security must report the removal and the circumstances in which it occurred to the Director, CET, and the Deputy Vice-Chancellor (Registrar) within 24 hours of the removal.
- (4) When imposing a penalty for misconduct on a CET student or former student, the Director, CET must take into account:
  - (a) any previous record of misconduct by the person;
  - (b) previous penalties imposed on the person for misconduct;
  - (c) the timing of any admission by the person of the misconduct; and
  - (d) any relevant mitigating circumstances.
- (5) The Director, CET may take into account such other relevant matters as they consider appropriate.

## **6 Disciplinary process**

- (1) CET students and former students are entitled to procedural fairness in the management of allegations of misconduct, including in any appeal.
- (2) A CET staff member will not hear and decide an allegation of misconduct if they:
  - (a) are personally and substantially involved in any aspect of the allegation; or
  - (b) have a current or prior personal or professional relationship with the CET student or former student.
- (3) If a CET Education Manager or Deputy Director is precluded from investigating an allegation, another CET Education Manager or Deputy Director will investigate it.
- (4) If a nominee of the CET Director is precluded from managing an allegation, the CET Director will appoint another nominee to manage it.
- (5) If the CET Director is precluded from managing an allegation, the CET Director will appoint a nominee to manage it.
- (6) For the purposes of clause 6(2), a CET staff member will not be personally and substantially involved in any aspect of an allegation by reason only of the fact that they have dealt with it or some other allegation under these provisions.
- (7) **Reporting and receiving allegations of misconduct**
  - (a) Any person may, by written report, inform a CET Education Manager of any alleged misconduct by a CET student or former student.
  - (b) Reports should be made to the CET Education Manager in whose portfolio the CET student or former student is or was studying.
  - (c) The CET Education Manager must:
    - (i) inform a CET Deputy Director of the report as soon as possible; and
    - (ii) acknowledge receipt of the report, in writing, within 10 working days.
  - (d) The CET Education Manager must, within five working days, decide:
    - (i) if extenuating circumstances of the kind referred to in section 5(2) exist; and
    - (ii) whether the reported conduct warrants investigation.
  - (e) If the CET Education Manager decides that extenuating circumstances exist:



- (i) the CET Education Manager must immediately inform a CET Deputy Director;
    - (ii) the CET Deputy Director must immediately inform the CET Director; and
    - (iii) any investigation must be conducted by a CET Deputy Director.
  - (f) If the CET Education Manager decides that the report does not warrant investigation they must inform:
    - (i) the CET Deputy Director, of the determination and reasons for it; and
    - (ii) the person making the report, of the determination.
  - (g) If the CET Education Manager decides that the report does warrant investigation, they must:
    - (i) inform the CET Deputy Director of the determination and reasons for it; and
    - (ii) subject to subclause 6(4)(e)(iii), conduct an investigation consistently with these provisions.
  - (h) If the relevant CET Education Manager has, or might reasonably be perceived as having, a conflict of interests in conducting an investigation, a CET Deputy Director must appoint another person to conduct the investigation.
- (8) **Notice of alleged misconduct**
- (a) Prior to commencing an investigation, the CET Education Manager must, within 10 working days of receipt of the report, provide the CET student or former student with written notice of the following:
    - (i) the allegation;
    - (ii) a description of the penalty or range of penalties likely to be imposed if the conduct is admitted or is proven to be misconduct;
    - (iii) a request that the person respond in writing, within 10 working days of the date of the notice;
    - (iv) an invitation to the person to attend a preliminary meeting, informing them that they may bring a support person or representative to it; and
    - (v) a copy of, or electronic link to, these provisions.
- (9) **Preliminary meeting**
- (a) At the preliminary meeting the CET Education Manager must:
    - (i) explain the allegation;
    - (ii) explain the penalty or range of penalties likely to be imposed if misconduct is admitted or proven; and
    - (iii) invite the CET student or former student to respond to the allegation.
  - (b) If the CET student or former student admits engaging in conduct that constitutes misconduct, and accepts the penalty likely to be imposed, the Director, CET will, after consultation with the CET Education Manager:
    - (i) impose a penalty in relation to that conduct; or
    - (ii) decide that no further action will be taken.



- (c) If the CET student or former student does not admit engaging in conduct that constitutes misconduct, the CET Education Manager will require that an investigation be conducted.
  - (d) A CET student or former student may admit in writing at any time after the preliminary meeting that they have engaged in conduct that constitutes misconduct. If so:
    - (i) any investigation or hearing being undertaken by or on behalf of CET in relation to that conduct will cease; and
    - (ii) the Director, CET will impose a penalty in relation to that conduct; or
    - (iii) the Director, CET will decide that no further action will be taken.
- (10) **Misconduct investigation**
- (a) Misconduct investigations will be conducted by a CET Education Manager or CET Deputy Director.
  - (b) Misconduct investigations should, where possible, be concluded within 10 working days of the decision to investigate.
  - (c) When conducting an investigation, an investigator will:
    - (i) give the CET student or former student copies of any documents relating to the allegations;
    - (ii) give the CET student or former student an opportunity to respond in writing and in person to the allegations and any documents provided;
    - (iii) invite the CET student or former student to bring a support person or representative to any meeting; and
    - (iv) allow the CET student or former student to provide any documentary information, or names of any witnesses who can provide information, relevant to the allegations.
  - (d) A decision by an investigator not to interview a witness, or a refusal by a witness to be interviewed, for the purposes of the investigation will not invalidate the outcome of the investigation.
  - (e) At the conclusion of the investigation, the investigator will provide a report to the Director, CET setting out:
    - (i) findings of fact relevant to the alleged conduct; and
    - (ii) any findings of misconduct.
- (11) **Investigation outcome**
- (a) The Director, CET may accept or reject the findings set out in the investigation report and decide to:
    - (i) take no further action;
    - (ii) issue a warning; or
    - (iii) impose a penalty for misconduct, if misconduct is found.
  - (b) The Director, CET will inform the CET student or former student in writing of the outcome.
  - (c) If the Director, CET decides to impose a penalty, they must give the student:
    - (i) written notice of the finding;
    - (ii) written notice of the penalty;



- (iii) written notice of the right to appeal; and
  - (iv) a copy of the investigation report.
- (d) If the CET student or former student does not lodge an appeal in accordance with these provisions, the CET Director will impose the penalty.

## **7 Appeals**

- (1) A CET student or former student may appeal against either or both of:
- (a) a finding by the investigator that they are guilty of misconduct; or
  - (b) a decision to impose a penalty.
- (2) An appeal may only be made on one of the following grounds:
- (a) The finding of misconduct is unreasonable, and cannot be supported, having regard to the relevant evidence.
  - (b) The finding of misconduct was:
    - (i) made in breach of the requirements of procedural fairness;
    - (ii) made in breach of a material requirement of these provisions;
    - (iii) based on a material misunderstanding of the meaning or effect of all or any part of these provisions; or
    - (iv) based on a material mistake as to the facts.
  - (c) New evidence has become available to the CET student or former student, which:
    - (i) is relevant;
    - (ii) was not available or known to the CET student or former student at the time of responding to the allegations; and
    - (iii) could reasonably be expected to affect the finding of misconduct or the penalty imposed.
  - (d) The penalty to be imposed is excessive or inappropriate.
- (3) An appeal must be:
- (a) made in writing; and
  - (b) received within 20 working days of the date of notice of outcome of the investigation.
- (4) An appeal may be delivered electronically.
- (5) Unless there are extenuating circumstances of the kind referred to in section 5(2), a CET student may continue their studies until the appeal is decided.
- (6) On receipt of an appeal, the Director, CET will convene a CET Student Misconduct Appeal Panel.
- (7) A Student Misconduct Appeal Panel must consist of at least three and not more than five people, including:
- (a) one or more CET Deputy Directors (excluding any involved in investigating or managing the allegations);
  - (b) one or more CET Education Managers (excluding any involved in investigating or managing the allegations);

- (c) at least one male and one female member.
- (8) A Student Misconduct Appeal Panel may also include a University staff member external to CET.
- (9) The Chair of the Student Misconduct Panel must be a CET Deputy Director.
- (10) The Chair must send written notification to the appellant at least 10 working days prior to the date of the hearing, providing the following information:
  - (a) the members of the Panel;
  - (b) the date, time and location of the hearing;
  - (c) the requirement for the appellant to attend (by teleconference if physical attendance is not possible);
  - (d) the appellant's right to bring a support person or representative;
  - (e) the appellant's right to make oral and written submissions (as relevant) about:
    - (i) the grounds for appeal;
    - (ii) the alleged misconduct;
    - (iii) the evidence on which the allegation of misconduct is based; and
    - (iv) the penalty.

## **8 Conduct of appeal hearings**

- (1) Appeal hearings must be conducted in private.
- (2) A support person or representative has no right to be heard, except with the consent of the Chair of the Student Misconduct Panel.
- (3) The Director, CET will designate a person to attend an appeal hearing on behalf of CET and:
  - (a) present the evidence on which the allegation of misconduct is based; and
  - (b) (as relevant) make submissions about:
    - (i) the alleged misconduct; and
    - (ii) the penalty.
- (4) The Student Misconduct Panel:
  - (a) will determine its own procedures;
  - (b) is not bound by the rules of evidence; and
  - (c) may inform itself on any matter relevant to the grounds of appeal, in any manner that it thinks fit;provided that it acts consistently with the requirements of procedural fairness.
- (5) All members of the Panel must be present in person at the hearing, but an appellant may attend by telephone or video connection (or equivalent) if they are unable to attend in person.
- (6) The Chair has power to require any CET staff member or any CET student to participate in an appeal hearing, but no person is obliged to answer any question.
- (7) The Chair must determine any question relating to the admissibility of evidence, procedural fairness or any other question of law.



## 9 Failure to attend an appeal hearing

- (1) If a CET student or former student fails to attend an appeal hearing the Student Misconduct Panel may:
  - (a) adjourn the hearing; or
  - (b) decide the matter in their absence.
- (2) If an appeal hearing is adjourned, the Chair must provide the CET student or former student with written notice that:
  - (a) the hearing is adjourned;
  - (b) the new date, time and location of the adjourned hearing; and
  - (c) that the adjourned hearing will proceed on that date notwithstanding any further absence of the CET student or former student.

## 10 Appeal outcome and notice

- (1) A decision of the Student Misconduct Panel requires a simple majority.
- (2) The Panel may uphold or dismiss an appeal.
- (3) If the Panel upholds an appeal, it may, in its absolute discretion and as relevant:
  - (a) quash the finding that the CET student or former student is guilty of misconduct, and substitute a new finding;
  - (b) quash the decision to impose a penalty, and decide to:
    - (i) take no further action;
    - (ii) issue a warning; or
    - (iii) substitute a new penalty.
- (4) If the Panel dismisses an appeal:
  - (a) the finding that the CET student or former student is guilty of misconduct will stand;
  - (b) the decision to impose a penalty will stand; and
  - (c) CET will take such corrective action as is appropriate and practicable.
- (5) As soon as possible, and not later than 15 working days, following the hearing the Panel will give the CET student or former student and the Director, CET written notice of:
  - (a) the outcome of the appeal;
  - (b) any penalty to be imposed;
  - (c) reasons for the Panel's decision; and
  - (d) the CET student or former student's right to appeal to the NSW Ombudsman, with the requirement that evidence of such an appeal must be provided to CET within 10 working days; and
  - (e) the penalty commencement date, where applicable.

## **11 External appeals to the NSW Ombudsman**

If the CET student or former student appeals to the NSW Ombudsman:

- (a) If the NSW Ombudsman upholds the appeal, the Director, CET (or nominee as appropriate) shall follow the instructions of the Ombudsman in the matter;
- (b) If the NSW Ombudsman does not uphold the appeal, the Director, CET will impose the penalty or penalties decided by the CET Student Misconduct Panel.

## **12 Notices**

- (1) Any notice given to a CET student or former student for the purposes of these provisions is sufficient if it is:
  - (a) given to the CET student or former student in person;
  - (b) posted by registered or express post to the CET student or former student at the address last shown on their CET enrolment record as their postal address;
  - (c) delivered by courier to the CET student or former student at the address last shown on their CET enrolment record as their postal address;
  - (d) sent to a CET student by email at the email address last shown on their CET enrolment record.
- (2) A notice is deemed to have been received:
  - (a) if sent by email, 24 hours after the time it was sent;
  - (b) if sent by registered or express post to an address within Australia, on the third working day after it was sent;
  - (c) if sent by registered or express post to an address outside Australia, on the seventh working day after it was sent;
  - (d) if delivered by courier, on the date recorded in the courier's records as the date of delivery.

## **13 Recordkeeping**

- (1) The Director CET (or nominee) will keep a record of:
  - (a) all findings of misconduct; and
  - (b) all penalties imposed on a CET student or former student.
- (2) The Director CET (or nominee) will keep information about allegations of misconduct, including details of investigations, appeals and outcomes, on a confidential file.

## **14 Extension of time limits**

- (1) The Director CET, in their absolute discretion, may extend a time limit under these provisions.
- (2) When deciding whether to extend a time limit, the Director, CET will take into consideration:

- (a) the reason for any request for an extension;
  - (b) the period of the extension; and
  - (c) any prejudice that will be caused by granting the extension.
- (3) The Director CET may extend a time limit retrospectively.
- (4) The Director CET will not extend a time limit for any longer than is reasonably necessary.

## NOTES

### Centre for English Teaching – Student Discipline Provisions 2017

Date adopted: 14<sup>th</sup> August 2017

Date commenced: 28<sup>th</sup> August 2017

Approved by: Katherine Olston, Acting Director CET

Signature:

Review date: 13<sup>th</sup> August 2022

Rescinded documents: None

Related documents:

*Education Services for Overseas Students Act 2000 (Cth)*

*Ombudsman Act 1974 (NSW)*

*Education Services for Overseas Students Act 2001 (Cth)*  
*National Code*

*University of Sydney Act 1989*

*University of Sydney By-Law 1999*

*University of Sydney (Student Discipline) Rule 2016*

*Academic Honesty in Coursework Policy 2015*

*Bullying, Harassment and Discrimination Prevention Policy 2015*

*Code of Conduct for Students*

*Policy on the Use of University Information and Communications  
Technology Resources*

*Privacy Policy 2013*

*Research Code of Conduct 2013*

## AMENDMENT HISTORY

**Provision      Amendment**

**Commencing**