

# General Misconduct Policy and Procedure

## Policy Purpose

The purpose of this policy is to underscore the Think: Colleges' position on ensuring students' educational experience at a one of the Think: Colleges is hallmarked by a cooperative learning environment and is free of harassment and discrimination. This policy provides a definition of general misconduct and several types of discrimination so that there can be no misunderstanding as to a student's roles and responsibilities with regard to their general conduct whilst studying with Think: Colleges. The purpose of this policy is to ensure that procedures exist to deal with general misconduct and allow complaints of harassment and/or discrimination to be dealt with and resolved within Think: Colleges, without limiting any person's entitlement to pursue resolution of their complaint with a relevant statutory authority. This statement forms part of Think: Colleges' broader strategy of promoting excellence, rewarding good performance and providing a challenging, rewarding, and fun environment.

## Policy Scope

This policy applies to all employees, contract workers, agents, employment position applicants, enrolled and prospective students engaged at Think: Colleges.

## Definitions

Refer to *Glossary of Terms*.

## Policy Content

Think: Colleges has a desire and a responsibility to provide a safe learning environment for its students and staff, and recognise excellence and good behaviour. As a consequence, guidelines must provide students with information about what constitutes misconduct, or unacceptable behaviour.

To this end, Think: Colleges is committed to publishing information about what constitutes student general misconduct so that all members of its learning community share a joint understanding about what is and is not acceptable behaviour. Detailed procedures have also been developed to ensure instances of alleged misconduct are handled swiftly and fairly, with students having recourse to an appeal process. Think: Colleges reserves the right to involve law enforcement agencies for matters of serious misconduct (e.g., assault, drug use, theft and property damage).

Think: Colleges ensures that its practices, policies and procedures are free from direct or indirect discrimination on all relevant legislative grounds as defined by, but not limited to, the following Commonwealth and State legislation:

- NSW Anti-Discrimination Act (1977)
- Racial Discrimination Act (1975)
- Sex Discrimination Act (1984)
- Disability Discrimination Act (1992)
- Age Discrimination Act (2004)

Harassment or unlawful discrimination against staff or students by any member of Think: Colleges is unacceptable. Unlawful sexual harassment is one form of harassment, which the law does not allow. Unlawful sexual harassment includes, but is not limited to:

- pressure or demands for dates or sexual favours;
- unnecessary familiarity - for example, deliberately brushing against a person or constantly staring at a person;
- unwanted physical contact - for example, touching or fondling;
- sexual jokes or innuendo;
- offensive telephone calls, e-mails and SMS messaging.

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- offensive sexual gestures;
- unwelcome comments or questions about a person's sex life;
- display or circulation of sexual material, including magazines, posters or pictures and messages; or
- sexual assault

Other types of unlawful harassment include, but are not limited to:

- verbal abuse or comments that put down or stereotype people because of their race, sexuality, pregnancy, disability, etc;
- jokes based on race, sexuality, pregnancy, disability, etc;
- mimicking someone's accent, or the habits of someone with a disability;
- offensive gestures based on race, sexuality, pregnancy, disability, etc;
- ignoring or isolating a person or group because of their race, sexuality, pregnancy, disability, etc; or
- display or circulation of racist or other offensive material.

### **Procedure for implementation**

During all stages of the General Misconduct procedure, the Think: College at which the grievance arose ("the College") will take all reasonable steps to ensure that all students and/or staff involved will not be victimised or discriminated against. The reasons and full explanation in writing for decisions and actions taken will be provided to both the complainant and/or respondent at every stage of the grievance process, if requested. There is no cost to the complainant for utilising this grievance procedure.

#### Harassment and Anti-discrimination

Think: Colleges will treat any reports and complaints of harassment and unlawful discrimination seriously. All Heads of College have the responsibility in ensuring that this policy is adhered to and in taking appropriate action in circumstances where they become aware of existing or possible harassment or unlawful discrimination.

Staff or students may also refer their complaint of harassment and discrimination to an external body, such as the Anti-Discrimination Board of NSW or the Human Rights and Equal Opportunity Commission at any time. At any stage, strategies used to resolve a grievance may include, but need not be limited to, mediation, counselling or conciliation meetings between the parties.

#### **1. Informal Discussion**

Students are encouraged initially to attempt to resolve the grievance informally in the following ways:

- Talking directly with the person concerned to resolve the problem. (e.g. lecturer or administrative staff)
- Seeking the assistance of the Student Support Manager, Program Director, Division Manager, supervisor, or trusted colleague

Student informal grievances should be recorded in The Student Records Management System. If the grievance remains unresolved or if an informal discussion is not appropriate, the student has access to the following formal grievance procedures which is published in the Student/Staff Handbook and on the Think: Colleges website.

#### **2. Detection and, where appropriate, investigation**

Where a lecturer or staff member believes that general misconduct has occurred, such a belief may only be acted upon where there is concrete evidence of general misconduct and/or witnesses. Lecturers are to consult with their Program Director on actions to be taken for each case. It may be the case that the scope and source of the general misconduct are not apparent and require further investigation. Lecturers are to interview the student(s) involved to clarify details.

### 3. Reporting and recording

The lecturer or general staff member must present a written report to the Program Director, who will review the evidence. If the Program Director concurs with the lecturer or staff member's findings, then the additional comments by the Program Director will be recorded in the report. The report to the Head of College (or delegated nominee) will be filed in the office of the Head of College (or delegated nominee) so that he/ she may monitor what occurs subsequently to ensure that the rights and confidentiality of all parties are upheld, and that due process is followed. The report and the actions taken will be recorded in the student's Student Records Management System file by the Head of College (or delegated nominee).

The Program Director is required to check the relevant student records to ascertain whether the student has previously been found guilty of general misconduct, and to inform the Head of College (or delegated nominee).

The Head of College (or delegated nominee) will be informed of the progress and outcome of any subsequent action, and will maintain a record of the case for future reference.

### 4. Review and adjudication

The lecturer or general staff member and the Program Director will review the alleged general misconduct to determine its severity. If both the lecturer or general staff member and the Program Director are in agreement, a decision will be made as to the precise nature of the academic misconduct, its severity, and, based on the advice of the Head of College (or delegated nominee), where it is a repeat occurrence of general misconduct. Should the lecturer or general staff member and the Program Director disagree on any of these issues, the Head of College (or delegated nominee) will be called on to participate in the review and to make a finding on each issue.

### 5. Penalty

#### Intention of general misconduct

Where a Think: Colleges staff member or lecturer determines that a student has the intention to engage in general misconduct, the staff member may use their discretion to determine if the matter of the student's misconduct can be managed with a verbal warning to the student to change their behaviour and/or surrendering any unauthorised materials.

#### Initial and minor general misconduct

Students who receive two or more verbal warnings or where the staff member determines a student's misconduct cannot be managed with a verbal warning will be required to report to their Head of College (or delegated nominee) with the reporting staff member to recommend further disciplinary action. The Head of College (or delegated nominee) can take appropriate action to solve the matter. These actions may include (but are not limited to):

- a. For students for whom this is the first visit to the Head of College (or delegated nominee), a first official written warning signed by the Program Director and copied to the Head of College (or delegated nominee) is given to the student with a copy filed in the student's file
- b. For students for whom this is not the first visit to the Head of College (or delegated nominee), other action may be required (e.g. a learning contract; regular reporting to the Head of College (or delegated nominee)). Actions to be taken will be documented and given to the student with a copy filed in the student's file.

A *letter of warning* signed by the Program Director and copied to the Head of College (or delegated nominee) will be sent to the student informing the student that a subsequent finding of minor or significant general misconduct may result in suspension or expulsion.

#### Initial and significant or repeated general misconduct

Where a Think: Colleges staff member or the Head of College (or delegated nominee) determines that the student's misbehaviour goes beyond that which can be managed by a warning or other action listed above, then the staff member or Head of College (or delegated nominee) will activate the College's

complaints handling process. Examples of that type of misconduct include bullying, harassment, victimisation, assault, allegations of theft and/or property damage. At this point, penalties available to the Head of College (or delegated nominee) include suspension and expulsion. If a student is suspended, the Head of College (or delegated nominee) may allow the student to continue to work on assignments off campus.

Refer to the *Non Academic Grievance Policy and Procedure* for details on the College's complaints handling process and the *Suspension and Expulsion Policy and Procedure* for details on suspension and expulsion.

## 6. Appeal

A student may appeal the decision of the Head of College (or delegated nominee), and lodge a formal non academic grievance as per the *Non Academic Grievance Policy and Procedure*. The outcome of the grievance as per this procedure will be final.

<b>Responsibility</b>	Head of College Think: Colleges staff and lecturers
<b>Record Management</b>	Staff and student files
<b>Reference</b>	Non Academic Grievance Policy and Procedure Suspension and Expulsion Policy and Procedure Glossary of Terms
<b>Policy applies to</b>	All Think: Colleges staff and students
<b>Policy Developed By</b>	Academic Director
<b>Policy Endorsed By</b>	Academic Board
<b>Policy Complies with</b>	AUQA, HESA, National Code 2007 and AQTF 2007
<b>Version Number</b>	2.1
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