

Student General Misconduct Policy and Procedure

1. Purpose

The purpose of this policy and procedure is to-

- discourage student behaviour which the Institute considers inappropriate;
- formally define general misconduct;
- provide procedural standards for the management of general misconduct;
- define the process for the hearing of misconduct cases; and provide for the imposition and enforcement of penalties.

2. Scope

This policy applies to all students of MIT.

3. Definitions

Term	Definition
Executive Dean	is the Head of the Academic Department of MIT to whom the Heads of School report.
Academic Registrar	Academic Registrar means the person holding the position of Group General Manager within the Institute. Academic Registrar's office includes MIT staff reporting to the Academic Registrar.
Advocate	an independent person who can provide a student with advice about the process and assist the student with the submission and presentation of his/her case.
Board	the Board of Directors of the Institute.
Computing and network facilities	includes, but is not limited to, computers, computer systems, email and other communications networks and information facilities together with associated software, files and data storage and retrieval.
Disciplinary Committee	Means the committee established under clause 6.5.2

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Term	Definition
Exclusion	means denial of access to all or specified Institute premises, facilities, activities, units, lectures, tutorials or incidents of Institute life and 'exclude' has a corresponding meaning.
Executive Management Team	is a Committee of Management and the primary operational body of MIT, assisting the CEO. When sitting to hear appeals under this policy and procedure an executive team member who has had a prior involvement in the matter forming the subject of the appeal, or where for any other reason it would be inappropriate, will not be a member of the Executive Management Team.
Group General Manager	means the person holding the position as Group General Manager within the Institute, or his/her nominee, and includes the person holding the position as Campus Director for the Sydney campus.
General Misconduct (or misconduct)	includes, but is not limited to, conduct or behaviour by a student which <ul style="list-style-type: none"> • causes injury to any person or which endangers the safety of any person; • improperly uses Institute property, premises or information or improperly uses the property or information of others on Institute premises; • engages in illegal activity or activity prohibited by the Institute's rules and policies (e.g. computer hacking or infringing copyright) or stealing or misappropriating Institute property or information; • interferes with, endangers or causes damage to, or loss of, any Institute property or information (including library books, or computing and network facilities, or by deliberately releasing computer viruses or in some other way) or information; • disrupts any Institute activity or inhibits the ability of any person to participate in any Institute activity on or off Institute premises; • is in breach of Institute rules, policies or procedures or, in their capacity as a student of the Institute, practicums or placements agreements; • fails to follow reasonable directions of an employee of the Institute or any reasonable direction or request of a security officer employed or contracted by the Institute;

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Term	Definition
	<ul style="list-style-type: none"> • causes any person on or in the immediate vicinity of any Institute premises on reasonable grounds to feel intimidated, threatened or in fear of being attacked or to hold reasonable fears for his or her safety or physical or psychological well-being; • is lewd or obscene; • incites or persuades any other person to engage in behaviour or conduct which amounts to general misconduct; • occurs in a situation where the student is a member of a group which engages in general misconduct of the kind described above and the student has not taken all reasonable steps to dissociate from the group as soon as practicable after becoming aware of the group conduct; • divulges confidential or personal information relating to any Institute matter, staff member or student (e.g. employment records, in-camera committee discussions) in circumstances where there is no reasonable or lawful excuse for doing so; • behaves inappropriately in an activity, in a facility in or under the control or supervision of the Institute; • refuses or is unable to identify him/herself or produce a Student ID card when asked to do so by staff of the Institute (e.g. security officer, examination invigilator); • knowingly provides false or misleading information to staff of the Institute; • uses taped, recorded or videotaped lectures, tutorials or other classes in a way that infringes another person's privacy or the Institute's or any other person's intellectual property rights (e.g. by publishing or distributing a recording without permission); • behaves in a manner that prejudices the reputation of the Institute; • fails to comply with a penalty imposed under this policy.
<p>Head of School</p>	<p>the relevant Head of School of Business or the Head of School of Information Technology and Engineering, or his/her nominee.</p>

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Term	Definition
high risk misconduct	is conduct that that involves a high risk of: <ul style="list-style-type: none">• physical or psychological injury to a student or to any other person or the public, or• damage to Institute premises or to the property of any person or any public property.
Institute or MIT	means the Melbourne Institute of Technology.
premises	means land and/or buildings. Institute premises includes – <ol style="list-style-type: none">a) any premises owned or occupied by the Institute;b) any premises on which research, workshops, camps, field placements, examinations and any other study activities controlled or supervised by the Institute are carried out;c) any premises on which clinical, professional, practical work or vocational placements forming part of a course or subject offered by the Institute take place; andd) any other premises deemed to be Institute premises by the Board.
student	includes- <ul style="list-style-type: none">• a person who is enrolled in a course, a unit or a group of units at or offered by the Institute;• a person who is enrolled in a course, unit or group of units at or offered by an affiliated educational establishment which is approved as an award course, unit or group of units by the Board;• a student of another institution who is granted temporary or on-going rights of access to Institute premises and facilities;• a person who was a student at the time of any alleged general misconduct or academic misconduct;• a person who became a student after having allegedly done so by misleading or false means;• a person who is on leave of absence from or who has deferred enrolment in a course, unit or group of units at or offered by the Institute or by an affiliated educational establishment.

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Term	Definition
threatening or inappropriate behaviour	Includes- <ul style="list-style-type: none"> • an uttered, written or gestured threat to kill or harm a person other than the person making the threat; • an uttered, written or gestured threat to self-harm or suicide; • an uttered or written threat to damage property; • any act of physical violence or property damage; • stalking (repeated, unwanted contact which can arouse apprehension and • fear); • bullying (repeated, unreasonable behaviour in the workplace or at • Institute premises); • sexual harassment (unwelcome sexual conduct of any kind); • all other behaviour that implies danger, risk or harm; • and may be delivered directly face to face, or by email, or social media

4. Policy Statement

4.1. This policy and its procedure outline the approach to the oversight of good order at the Institute, and include the process for the monitoring of, and accountability for, breaches of general misconduct or threatening or inappropriate behaviour. A staff member or student of the Institute may report a complaint of general misconduct by a student to the student’s Head of School or to the Executive Dean or the Academic Registrar.

The Student Charter provides the Institute’s expectations with regard to student conduct:

- To be honest, trustworthy and work diligently;
- To show and earn the respect of others;
- To be aware of, and comply with, relevant policies and procedures;
- To communicate and keep MIT informed on relevant matters; and
- To actively engage with the MIT community and industry professions.

4.2. Disruptive behaviour

4.2.1. Any staff member in charge of:

- any teaching or assessment session;
- a class or meeting conducted by, or for, the Institute;
- an Institute premises or area; or

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- any other activity within the precincts of the Institute may, through their supervisor and with the approval of the Group General Manager, require a student whose behaviour is disrupting Institute activities, damaging property, or endangering others to leave the premises for a period not exceeding 14 days. The staff member will report in writing both the incident with a detailed description of the behaviour and the action taken, including any additional supporting documentation, to the Group General Manager as soon as practicable.

5. Responsibilities

5.1. The Institute-

MIT has an ongoing commitment to foster a safe, supportive and orderly learning environment. The Institute also has the responsibility to encourage respect for each other, and other peoples' possessions, together with the promotion of health and safety across the Institute.

5.2. Group General Manager and Executive Dean -

The Group General Manager and Executive Dean will provide a fair and consistent approach to managing cases of general misconduct within the Institute.

5.3. Head of School-

Heads of School have a responsibility to-

- ensure classes and meetings are conducted in a non-threatening manner with students treated fairly and without discrimination, and with appropriate recognition of the diversity of a student's cultural background.
- be proactive in preventing all forms of harassment, discrimination and/or intimidation.

5.4. Staff-

All staff have a responsibility to cultivate, with their students, a climate of mutual respect for the safety and wellbeing of the MIT community.

5.5. Students-

Students will be expected to treat all staff and fellow students with courtesy and respect, and to care for the Institute premises including all Institute property, equipment and internet facilities. Students should also be aware of, and comply with, Institute policies and procedures.

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5.6. Academic Registrar-

The Academic Registrar is responsible for the scheduled review of this policy and procedure, together with the operational implementation of this policy and procedure and for reporting to the Academic Board at least once a year as to the origins, numbers and outcomes of students who are guilty of general misconduct.

6. Procedure

6.1. General Misconduct

The procedure for dealing with allegations of general misconduct, including a misconduct hearing, shall be as contained in this clause 6 and for Level 1 Minor Misconduct and Level 2

Serious Misconduct shall include the procedural standards and operational requirements contained in the process table (below at sub-clause 6.4).

The levels of minor and serious general misconduct determine the available penalties under clause 7.

6.2. Threatening or inappropriate behaviour

Threatening or inappropriate behaviour by students, staff or visitors undermines the Institute's capacity to provide a safe learning and work environment. Such behaviour may be affected by the individual's stress, mental state, alcohol or illicit drug consumption.

If a staff member or student feels unsafe as a result of threatening or inappropriate behaviour by a student, they should ask the student to leave. If the student refuses, then all others in the room should leave and MIT security staff should be called.

Where there is concern for the health and wellbeing of the student exhibiting threatening or inappropriate behaviour, the counselling service should be called.

Depending on the type of threatening or inappropriate behaviour exhibited, consequential action may be initiated under this policy and procedure or under other relevant Institute Policy and Procedures.

Disclosure

A staff member or student who becomes aware of behaviour that breaches expectations of conduct by MIT students, or other concerning behaviour by a student, will report the matter to the Group General Manager. Notification should include sufficient information to allow for the evaluation of the allegation.

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6.3. Assessment of Level of Misconduct

- 6.3.1. When general misconduct is identified, the level of general misconduct should first be determined by the Group General Manager under the following criteria:
- **Level 1 Minor Misconduct** is where there are minor breaches of behaviour, as expected of MIT students. Minor misconduct is determined by the Group General Manager.
 - **Level 2 Serious Misconduct** is where there is a serious breach in behaviour, that is considered deliberate, reckless and/or involves an illegal act or one that impacts on the health and/or safety of other people. Level 2 includes a repeated occurrence of Level 1 general misconduct. Serious misconduct is reported to the Group General Manager for referral to the Discipline Committee for determination.
 - **High Risk Misconduct** is where there is a high risk of serious misconduct resulting in physical or psychological injury or damage to property.
- 6.3.2. The Group General Manager may report the misconduct to the police and any action subsequently taken by the police will not influence any action that the Institute might take. The Group General Manager shall at all times have the authority to determine whether an investigation into a report of general misconduct will continue, or if it is to be deferred pending the outcome of the police investigation.

6.3.3. High Risk Misconduct

Notwithstanding any other provision in this policy or procedure, where the conduct is assessed as high risk the CEO may determine that a student is subject to immediate suspension to protect against further high risk misconduct.

The CEO:

- is not required to conduct a hearing for the student before making the decision,
- may inform him or herself in any way in relation to any matter, and
- may impose terms and conditions on the executive suspension.

The CEO's decision continues to operate until revoked, varied or expired.

The CEO must within 24 hours of the decision to executively suspend the student provide written notice to the student:

- of the decision, any terms and conditions of the decision, and a summary of the reasons for the decision,

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- of the right to appeal to a Board of Directors' Appeals Committee, within five
- working days of the date of the written notice, and
- a copy of this policy and procedure.

6.3.4. Appeal for High Risk Misconduct

A student excluded under clause 6.3.3, may appeal in writing to the Secretary to the Board of Directors. The Chair of the Board of Directors will nominate two independent members of the Board of Directors to form a Board of Directors' Appeal Committee to hear the appeal.

The student will be given notice in writing not less than five (5) working days before the date of the appeal hearing, stating:

- the date, time and place of the appeal hearing,
- that the student has the right to:
 - be heard;
 - make a written submission;
 - be accompanied by a support person who is not a legal practitioner;
 - be present throughout the hearing;
 - call any persons as witnesses; and
 - engage an interpreter

provided that if the student intends to be accompanied by support person or to call other persons as witnesses the student will notify the Secretary to the Board of Directors in writing of the names of such persons no less than one (1) working day before the date of the hearing.

the student will not be present when the Board of Directors' Appeals Committee is considering its decision.

The Board of Directors' Appeals Committee will hear the appeal and after giving the student, and such other persons as it considers appropriate, an opportunity to be heard will:

- uphold the appeal;
- dismiss the appeal, or
- make such other decision as it considers appropriate.

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6.4. Process table- General Misconduct

Level 1 Minor misconduct

Process	Responsibility	Timeline
<p>(a) Report identified misconduct to the Group General Manager.</p> <p>(b) Check the evaluation of the level of misconduct. Serious misconduct must be elevated to Level 2 and reported to the Executive Dean.</p> <p>(c) Group General Manager checks General Misconduct Register for any previous instances of misconduct.</p> <p>Notify student of report.</p>	Any staff member or student of MIT Group General Manager	Within 5 working days of detection
<p>(d) Investigate report. Ensure the student is kept up to date.</p> <p>(e) Provide notification of outcome to student in accordance with clause 7 Penalties.</p> <p>(f) If the outcome is not accepted by the student, advise them of the opportunity to seek a review by the Executive Dean.</p>	Group General Manager	Within 7 days
<p>(g) Where the Executive Dean reviews the matter and the misconduct is confirmed, the Executive Dean may reaffirm the penalty or impose another, or an additional penalty or penalties, in accordance with clause 7 Penalties.</p>	Executive Dean	Within 10 working days
<p>(h) Provide written information on the misconduct details and outcomes for the student file and copied to the Academic Registrar's office.</p>	Group General Manager, or in the case of review the Executive Dean	Within 7 days
<p>(i) Record information about misconduct details and outcome in General Misconduct Register.</p>	Academic Registrar's office	Within 7 days

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Level 2 Serious misconduct

Process	Responsibility	Timeline
a) Report identified serious misconduct to the Group General Manager. Acknowledge report of misconduct. The Group General Manager checks the General Misconduct Register for any previous misconduct.	Any staff member or student of MIT	Within 5 working days of detection
b) Constitute the Discipline Committee to investigate the report as follows: <ul style="list-style-type: none"> Conduct a hearing and determine penalty in accordance with clause 7 Penalties, And notify student of penalty in writing including the opportunity to seek a review by the Executive Management Team. 	Academic Registrar's office	Within 10 working days of the acknowledgment
c) Determine penalty in accordance with clause 7 Penalties and notify student of penalty in writing including the opportunity to seek a review by the Executive Management Team.	Discipline Committee	Within 7 days of determining penalty
d) Where the EMT reviews the matter and the misconduct is confirmed, the EMT may reaffirm the penalty or impose another, or an additional penalty or penalties, in accordance with clause 7 Penalties.	EMT	Within 10 working days
e) Provide written information on misconduct details and outcomes for the student file and copied to the Academic Registrar's office.	Discipline Committee, or in the case of review the EMT	Within 7 days
(f) Record information about misconduct details and outcome in General Misconduct Register.	Academic Registrar's office	Within 7 days

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6.5. The Hearing

6.5.1. Natural Justice

The principles of natural justice shall apply to general misconduct hearings and management including:

- all parties to an investigation and hearing of general misconduct shall have the right to be heard and are entitled to be accompanied to a hearing by a support person or an Advocate, but that person cannot be a legal practitioner.
- all relevant submissions and evidence shall be considered;
- matters that are not relevant shall not be taken into account;
- and the decision maker shall not be biased or appear to be biased
- the Institute will maintain confidentiality . Personally identifiable information concerning the student should be available where needed, but only for the purposes of addressing the process within the Institute and should be actively protected from disclosure, unless the student expressly consents to its disclosure or its release is required by law.
- the Institute will make special arrangements and/or provide support for students with specific needs.
- a student may seek advice from an independent person knowledgeable about the process and aware of potential outcomes;
- where the student believes any decision has been reached by a misapplication of Institute policies or procedures-

International Students may lodge a complaint with
the Overseas Students Ombudsman
GPO Box 442 Canberra
ACT 2601
Tel: 1300 362 072
Website: <http://www.oso.gov.au>
Email: overseas.students@ombudsman.gov.au

Domestic Students may apply for external review, for example using Resolution Institute to source an external mediator.

Website: <https://www.resolution.institute>

Email: infoaus@resolution.institute

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6.5.2. The Disciplinary Committee

- (a) There is a Disciplinary Committee (“Disciplinary Committee”) comprised of:
 - the Executive Dean (or his/her nominee)
 - one (1) member of the academic staff appointed by the Chair of the Academic Board.
- (b) The chair of the Disciplinary Committee is the Executive Dean.
- (c) The secretary will be nominated by the Academic Registrar (or his/her nominee) and is non-voting.
- (d) Wherever possible membership of the Disciplinary Committee will ensure gender representation.
- (e) A person will not be appointed a member of the Disciplinary Committee who has had any involvement in the matter forming the subject of the hearing, or where for any other reason it would be inappropriate for the person to be a member.
- (f) A quorum of the Disciplinary Committee is two.

6.5.3. Conduct of hearing

- (a) The Disciplinary Committee must conduct a hearing in the manner that it considers appropriate in accordance with the requirements of procedural fairness.
- (b) The student is entitled to be accompanied by a support person who is not a legal practitioner.
- (c) At the hearing, the Disciplinary Committee must –
 - give the student a copy of, or an opportunity to inspect, all material evidence associated with the allegation (if not already provided); and
 - give the student a reasonable opportunity to appear before the Disciplinary Committee – to answer the allegations, and in particular, to comment on the substantive material on which the allegation is based; and consider any written or oral statements made by the student in relation to the allegation; and
 - maintain order in the hearing and, for this purpose, the Disciplinary Committee has the power to order the removal of a person, including a student or the person accompanying the student (if any).
 - In considering a case, the Disciplinary Committee must make a decision based on findings of facts that are established on sound reasoning and relevant evidence.

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7. Penalties

The decision-maker (Group General Manager, the Disciplinary Committee, Executive Dean or EMT, as the case may be) shall determine the penalty for misconduct as set out in the penalty table below. The penalty shall be determined in his or her discretion, and prior to setting the penalty the decision-maker shall consider –

- a) the nature and extent of misconduct;
- b) the length of tertiary experience;
- c) the student’s disciplinary record;
- d) whether the decision-maker believes the student did not intend to commit the misconduct
- e) whether there is evidence of a deliberate and premeditated decision to engage in misconduct;
- f) the impact of the conduct on other people; or
- g) whether there are any mitigating circumstances.

Penalty Table- General Misconduct

Level and Types/Examples	Penalty Examples
<p>Level 1-Minor Misconduct</p> <p>Eg. Improper use of Institute property, disrupts Institute activity, breach of Institute rules or policies, failure to follow direction of Institute staff, divulges confidential or personal information.</p>	<p>A written warning; Suspension from a Unit; Restrict or deny access to Institute facilities; Require reimbursement of damages;</p>
<p>Level 2- Serious Misconduct</p> <p>Where there is more than one instance of minor misconduct;</p> <p>Usually applies where there is substantial misconduct.</p> <p>E.g. Injury to person or persons, damage to property, causes any person to feel intimidated or threatened, incites misconduct in others, engages in an illegal act or activity.</p>	<p>A written warning; Suspension from a Unit or Course; Restrict or deny access to Institute facilities; Excluded and enrolment terminated; Require reimbursement of damages;</p>

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Level and Types/Examples	Penalty Examples
Level 3- High Risk Misconduct Where there is a high risk of physical or psychological injury or damage to property. e.g. Threats involving weapons, explosives, chemical or biological substances. Violent behaviour.	At the discretion of the CEO.

8. Implementation and Communication

This policy and procedure will be implemented and communicated through the Institute via:

- Announcement on the Institute’s webpage;
- Internal circulation to staff; and
- Staff professional development.

9. Supporting Documents

Legislative Context:

MIT Statutes and Regulations, Policies and Procedures (under review)

MIT Employee Manual

Acknowledgments:

Australian Universities legislation and policy

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